

THE HOUSE OF REPRESENTATIVES
Tuesday, February 26, 2008

Committee Substitute for
House Bill No. 2605

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2605 - By: MCCULLOUGH AND DERBY of the House.

(Workers' compensation – Workers' Compensation Commission – codification
– recodification -
effective dates)

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

- 1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 2357.301 of Title 68, unless there is created a duplication in
3 numbering, reads as follows:
- 4 A. As used in this section:
- 5 1. “Qualified employer” means a sole proprietor, general partnership, limited
6 partnership, limited liability company, corporation or other legally recognized business
7 entity;
- 8 2. “Small employer” means a sole proprietor, general partnership, limited
9 partnership, limited liability company, corporation or other legally recognized business
10 entity with fewer than fifty (50) employees;

1 3. “Large employer” means a sole proprietor, general partnership, limited
2 partnership, limited liability company, corporation or other legally recognized business
3 entity with fifty (50) or more employees;

4 4. “Qualified person” means any person whose occupation is an in-house safety
5 officer or workers’ compensation case worker; and

6 5. “Qualified wage cost” means either payments in the form of contract labor for
7 which the payor is required to provide a Form 1099 to the person paid, or wages subject
8 to withholding paid to a part-time employee or full-time employee for wages, salary or
9 other remuneration paid to such person, exclusive of any employer-provided retirement
10 benefit, employer-provided medical or health care benefit, reimbursement for travel,
11 meals, lodging or any other expense reimbursed to the qualified person.

12 B. For taxable years beginning after December 31, 2008, there shall be allowed a
13 credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma
14 Statutes for qualified wage costs incurred with respect to a qualified person by a
15 qualified employer.

16 C. The credit authorized by subsection B of this section shall be in the amount of
17 Five Thousand Dollars (\$5,000.00) for small employers and up to, but not exceeding,
18 Fifty Thousand Dollars (\$50,000.00). The credit for large employers shall be determined
19 on a sliding scale based upon the qualified wage cost of that employer.

20 D. The credit authorized by this section shall not be used to reduce the tax liability
21 of the taxpayer to less than zero (0).

1 E. Any credit not used may be carried over, in order, to each of the five (5)
2 subsequent taxable years.

3 F. No credit otherwise authorized pursuant to this section shall be claimed by a
4 qualified employer based upon qualifying wage costs with respect to a qualified person
5 after the fifth taxable year for which any credit authorized by this section is claimed
6 based upon qualified wage costs with respect to such qualified person, regardless of the
7 total number of employers claiming a credit authorized by this section.

8 G. The provisions of this section shall not prohibit a qualified employer from
9 claiming a credit for qualified wage costs if the qualified person to whom remuneration or
10 compensation was paid previously worked for any other qualified employer who claimed
11 credit authorized by this section.

12 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 154 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 When information is furnished by CompSource Oklahoma to the National Council
16 on Compensation Insurance, Incorporated (NCCI), all information shall be accurate,
17 complete and truthful. CompSource Oklahoma shall provide certain data to all
18 information released to NCCI.

19 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 301 of Title 85, unless there is created a duplication in numbering,
21 reads as follows:

22 A. This act shall be known and may be cited as the "Workers' Compensation Law".

1 B. The primary purposes of the workers' compensation laws are to pay timely
2 temporary and permanent disability benefits to all legitimately injured workers who
3 suffer an injury or disease arising out of and in the course of their employment, to pay
4 reasonable and necessary medical expenses resulting therefrom, and then to return the
5 worker to the work force; to improve workplace safety through safety programs; to
6 improve health care delivery through use of managed care concepts; to encourage the
7 return to work of injured workers; to deter and punish frauds of agents, brokers,
8 solicitors, employers, and employees relating to procurement of workers' compensation
9 coverage or the provision or denial of benefits; to curtail the rise in medical costs
10 associated with the provision of workers' compensation benefits; and to emphasize that
11 the workers' compensation system in this state must be returned to a state of economic
12 viability.

13 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 302 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 As used in this act:

17 1. "Carrier" means any stock company, mutual company, or reciprocal or
18 interinsurance exchange authorized to write or carry on the business of workers'
19 compensation insurance in this state. Whenever required by the context, the term
20 "carrier" shall be deemed to include duly qualified self-insureds or self-insured groups;

1 2. "Child" means a natural child, a posthumous child, a child legally adopted prior
2 to injury of the employee, a stepchild, an acknowledged illegitimate child of the deceased
3 or of the spouse of the deceased, and a foster child;

4 3. "Commission" means the Workers' Compensation Commission;

5 4. a. "Compensable injury" means:

6 (1) an accidental injury causing internal or external physical harm
7 to the body or accidental injury to prosthetic appliances,
8 including, but not limited to, eyeglasses, contact lenses, or
9 hearing aids, arising out of and in the course of employment and
10 which requires medical services or results in disability or death.

11 An injury is "accidental" only if it is caused by a specific incident
12 and is identifiable by time and place of occurrence, or

13 (2) an injury causing internal or external physical harm to the body
14 and arising out of and in the course of employment if it is not
15 caused by a specific incident or is not identifiable by time and
16 place of occurrence, if the injury is:

17 (a) caused by rapid repetitive motion. Carpal tunnel
18 syndrome is specifically categorized as a compensable
19 injury falling within this definition,

20 (b) a back or neck injury which is not caused by a specific
21 incident or which is not identifiable by time and place of
22 occurrence, or

1 (c) hearing loss which is not caused by a specific incident or
2 which is not identifiable by time and place of occurrence.

3 b. "Compensable injury" includes, but is not limited to:

- 4 (1) "mental illness", which means an illness as provided for in
5 Section 15 of this act,
6 (2) "heart" or "cardiovascular injury", "accident", or "disease", which
7 means an injury, accident, or disease as provided for in Section
8 16 of this act,
9 (3) a "hernia", which means an injury as provided for in Section 70
10 of this act, or
11 (4) an "adverse reaction", which means a reaction experienced by
12 any employee of the Department of Health and Human Services
13 or any employee of a hospital licensed by the Department
14 related to vaccination with Vaccinia vaccines for smallpox,
15 including, but not limited to, the Dryvax vaccine, regardless of
16 whether the adverse reaction is the result of voluntary action by
17 the injured employee.

18 c. "Compensable injury" does not include:

- 19 (1) injury to any active participant in assaults or combats which,
20 although they may occur in the workplace, are the result of non-
21 employment-related hostility or animus of one, both, or all of the
22 combatants and which assault or combat amounts to a deviation

1 from customary duties; furthermore, except for innocent victims,
2 injuries caused by horseplay shall not be considered to be
3 compensable injuries,

4 (2) injury incurred while engaging in or performing, or as the result
5 of engaging in or performing, any recreational or social activities
6 for the personal pleasure of the employee,

7 (3) injury which was inflicted upon the employee at a time when
8 employment services were not being performed or before the
9 employee was hired or after the employment relationship was
10 terminated, or

11 (4) injury where the accident was substantially occasioned by the
12 use of alcohol, illegal drugs, or prescription drugs used in
13 contravention of the orders of a physician.

14 (a) The presence of alcohol, illegal drugs, or prescription
15 drugs used in contravention of orders of a physician shall
16 create a rebuttable presumption that the injury or
17 accident was substantially occasioned by the use of
18 alcohol, illegal drugs, or prescription drugs used in
19 contravention of orders of a physician.

20 (b) Every employee is deemed by his or her performance of
21 services to have impliedly consented to reasonable and
22 responsible testing by properly trained medical or law

1 enforcement personnel for the presence of any of the
2 aforementioned substances in the body of the employee.

3 (c) An employee shall not be entitled to compensation unless
4 it is proved by a preponderance of the evidence that the
5 alcohol, illegal drugs, or prescription drugs utilized in
6 contravention of the orders of the physician did not
7 substantially occasion the injury or accident.

8 d. The definition of "compensable injury" as set forth in this paragraph
9 shall not be deemed to limit or abrogate the right to recover for mental
10 injuries as set forth in Section 15 of this act or occupational diseases as
11 set forth in Sections 78 through 80 of this act.

12 e. A compensable injury must be established by medical evidence
13 supported by objective findings as defined in paragraph 16 of this
14 section.

15 f. **BURDEN OF PROOF.** The burden of proof of a compensable injury
16 shall be on the employee and shall be as follows:

17 (1) for injuries falling within the definition of compensable injury
18 under division (1) of subparagraph a of this paragraph, the
19 burden of proof shall be a preponderance of the evidence, or

20 (2) for injuries falling within the definition of compensable injury
21 under division (2) of subparagraph a of this paragraph, the
22 burden of proof shall be by a preponderance of the evidence, and

1 the resultant condition is compensable only if the alleged
2 compensable injury is the major cause of the disability or need
3 for treatment.

4 g. BENEFITS.

5 (1) When an employee is determined to have a compensable injury,
6 the employee is entitled to medical and temporary disability as
7 provided by this section.

8 (2) (a) Permanent benefits shall be awarded only upon a
9 determination that the compensable injury was the major
10 cause of the disability or impairment.

11 (b) If any compensable injury combines with a preexisting
12 disease or condition or the natural process of aging to
13 cause or prolong disability or a need for treatment,
14 permanent benefits shall be payable for the resultant
15 condition only if the compensable injury is the major
16 cause of the permanent disability or need for treatment.

17 (3) Under this subparagraph, benefits shall not be payable for a
18 condition which results from a non-work-related independent
19 intervening cause following a compensable injury which causes
20 or prolongs disability or a need for treatment. A non-work-
21 related independent intervening cause does not require
22 negligence or recklessness on the part of a claimant.

1 (4) Nothing in this subparagraph shall limit the payment of
2 rehabilitation benefits or benefits for disfigurement as set forth
3 in this section;

4 5. "Compensation" means the monetary award payable to the employee or to his or
5 her dependents in the form of a temporary total or permanent partial disability award
6 that shall be placed in a designated escrow account which shall be used for future
7 medical care or for any fees and costs associated with the vocational rehabilitation and
8 includes the allowances provided for in Section 57 of this act and funeral expenses;

9 6. "Death" means only death resulting from compensable injury as defined in
10 paragraph 4 of this section;

11 7. "Department" means the Oklahoma Insurance Department;

12 8. "Disability" means incapacity, because of a compensable injury, to earn, in the
13 same or any other employment, the wages which the employee was receiving at the time
14 of the compensable injury;

15 9. a. "Employee" means any person, including a minor, whether lawfully or
16 unlawfully employed in the service of an employer under any contract
17 of hire or apprenticeship, written or oral, expressed or implied, but
18 excluding one whose employment is casual and not in the course of the
19 trade, business, profession, or occupation of his or her employer and
20 excluding one who is required to perform work for a municipality or
21 county or the state or federal government upon having been convicted
22 of a criminal offense or while incarcerated.

- 1 b. The term "employee" shall not include any individual who is both a
2 licensee as defined in Section 858-102 of Title 59 and a qualified real
3 estate agent as that term is defined in Section 3508(b)(1) of the
4 Internal Revenue Code of 1986, including all regulations under the
5 Internal Revenue Code of 1986.
- 6 c. Any individual holding from the Commission a current certification of
7 noncoverage under this act shall be conclusively presumed not to be an
8 employee for purposes of this act or otherwise during the term of his or
9 her certification or any renewals thereof or until he or she elects
10 otherwise, whichever time period is shorter.
- 11 d. Any reference to an employee who has been injured, when that
12 employee is dead, shall also include his or her legal representative,
13 dependents, and other persons to whom compensation may be payable;
- 14 10. "Employer" means any individual, partnership, limited liability company,
15 association, or corporation carrying on any employment, the receiver or trustee of the
16 same, or the legal representative of a deceased employer;
- 17 11. "Employment" means:
- 18 a. every employment in the state in which three or more employees are
19 regularly employed by the same employer in the course of business
20 except:
- 21 (1) an employee employed as a domestic servant in or about a
22 private home,

- 1 (2) an employee employed to do gardening, maintenance, repair,
2 remodeling, or similar work in or about the private home or
3 residence of the person employing the employee,
4 (3) agricultural farm labor,
5 (4) a person for whom a rule of liability for injury or death arising
6 out of and in the course of employment is provided by the laws of
7 the United States,
8 (5) a person performing services for any nonprofit religious,
9 charitable, or relief organization,
10 (6) any person engaged in the vending, selling, offering for sale, or
11 delivery directly to the general public of any newspapers,
12 magazines, or periodicals, or any person acting as a sales agent
13 or distributor as an independent contractor of or for any
14 newspaper, magazine, or periodical, and
15 (7) any individual who is both a licensee as defined in Section 858-
16 102 of Title 59 of the Oklahoma Statutes and a qualified real
17 estate agent as that term is defined in Section 3508(b)(1) of the
18 Internal Revenue Code of 1986, including all regulations under
19 the Internal Revenue Code of 1986,
20 b. every employment in which two or more employees are employed by
21 any person engaged in building or building repair work,

- 1 c. every employment in which one or more employees are employed by a
2 contractor who subcontracts any part of his or her contract, and
3 d. every employment in which one or more employees are employed by a
4 subcontractor;

5 12. "Healing period" means that period for healing of an injury resulting from an
6 accident;

7 13. "Insurance Commissioner" means the Insurance Commissioner of the State of
8 Oklahoma;

9 14. a. "Major cause" means more than fifty percent (50%) of the cause.

10 b. A finding of major cause shall be established according to the
11 preponderance of the evidence;

12 15. "Medical services" means those services specified in Section 56 of this act;

13 16. a. (1) "Objective findings" are those findings which cannot come under
14 the voluntary control of the patient.

15 (2) (a) When determining physical or anatomical impairment,
16 neither a physician, any other medical provider, an
17 administrative law judge, the Workers' Compensation
18 Commission, nor the courts may consider complaints of
19 pain.

20 (b) For the purpose of making physical or anatomical
21 impairment ratings to the spine, straight-leg-raising tests

1 or range-of-motion tests shall not be considered objective
2 findings.

3 (3) (a) Objective evidence necessary to prove physical or
4 anatomical impairment in occupational hearing loss cases
5 may be established by medically recognized and accepted
6 clinical diagnostic methodologies, including, but not
7 limited to, audiological tests that measure air and bone
8 conduction thresholds and speech discrimination ability.

9 (b) Any difference in the baseline hearing levels must be
10 confirmed with a subsequent test within the next four (4)
11 weeks but not before five (5) days and being adjusted for
12 presbycusis.

13 b. Medical opinions addressing compensability and permanent
14 impairment must be stated within a reasonable degree of medical
15 certainty;

16 17. a. "State average weekly wage" means the state average weekly wage
17 determined annually by the Department of Labor in the preceding
18 calendar year pursuant to Section 2-104 of Title 40 of the Oklahoma
19 Statutes.

20 b. If, for any reason, the determination is not available, the Commission
21 shall determine the wage annually after reasonable investigation and
22 public hearing;

1 18. "Time of accident" or "date of accident" means the time or date of the occurrence
2 of the accidental incident from which compensable injury, disability, or death results;

3 19. "Wages" means the money rate at which the service rendered is recompensed
4 under the contract of hiring in force at the time of the accident, including the reasonable
5 value of board, rent, housing, lodging, or similar advantage received from the employer
6 and includes the amount of tips required to be reported by the employer pursuant to
7 Section 6053 of the Internal Revenue Code of 1954 and the regulations promulgated
8 pursuant thereto or the amount of actual tips reported, whichever amount is greater; and

9 20. a. "Widow" shall include only the legal wife of the decedent, living with or
10 dependent for support upon him at the time of his death.

11 b. "Widower" shall include only the legal husband of the decedent, living
12 with or dependent for support upon her at the time of her death.

13 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 303 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 A. Every employer and every employee, unless otherwise specifically provided in
17 this act, shall be subject to the provisions of this act and shall be bound by its provisions.
18 However, nothing in this act shall be construed to conflict with any valid act of Congress
19 governing the liability of employers for injuries received by their employees.

20 B. This act shall apply only to claims for injuries and death based upon accidents
21 which occur on or after November 1, 2008.

1 C. The Workers' Compensation Act in effect prior to November 1, 2008, shall
2 govern all rights in respect to claims for injuries and death based upon accidents
3 occurring prior to November 1, 2008.

4 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 304 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 If any part of this act is adjudged unconstitutional by the courts and the
8 adjudication has the effect of invalidating any payment of compensation under this act,
9 the period intervening between the time the injury was sustained and the time of the
10 adjudication shall not be computed as part of the time prescribed by law for the
11 commencement of any action against the employer in respect of the injury, but the
12 amount of any compensation paid under this act on account of the injury shall be
13 deducted from the amount of damages awarded in the action in respect to the injury.

14 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 305 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. The rights and remedies granted to an employee subject to the provisions of this
18 act, on account of injury or death, shall be exclusive of all other rights and remedies of
19 the employee, the legal representative of the employee, dependents, next of kin, or
20 anyone otherwise entitled to recover damages from the employer, or any principal,
21 officer, director, stockholder, or partner acting in the capacity as an employer, or prime
22 contractor of the employer, on account of the injury or death, and the negligent acts of a

1 coemployee shall not be imputed to the employer. No role, capacity, or persona of any
2 employer, principal, officer, director, or stockholder other than that existing in the role of
3 employer of the employee shall be relevant for consideration for purposes of this act, and
4 the remedies and rights provided by this act shall in fact be exclusive regardless of the
5 multiple roles, capacities, or personas the employer may be deemed to have.

6 B. 1. However, if an employer fails to secure the payment of compensation as
7 required by this act, an injured employee, or the legal representative of the injured
8 employee in case death results from the injury, may, at the option of the injured
9 employee, elect to claim compensation under this act or to maintain a legal action in
10 court for damages on account of the injury or death.

11 2. In a legal action, it shall not be necessary to plead or prove freedom from
12 contributory negligence, nor may the defendant-employer plead as a defense that the
13 injury was caused by the negligence of a fellow servant, that the employee assumed the
14 risk of employment, or that the injury was due to the contributory negligence of the
15 employee.

16 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 306 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. 1. a. Any person or entity who willfully and knowingly makes any material false
20 statement or representation, who willfully and knowingly omits or
21 conceals any material information, or who willfully and knowingly
22 employs any device, scheme, or artifice for the purpose of:

1 (1) obtaining any benefit or payment,
2 (2) defeating or wrongfully increasing or wrongfully decreasing any
3 claim for benefit or payment, or
4 (3) obtaining or avoiding workers' compensation coverage or
5 avoiding payment of the proper insurance premium, or who aids
6 and abets for any of said purposes, under this act,
7 shall be guilty of a felony and shall be punished by a fine of not less
8 than Five Hundred Dollars (\$500.00), nor more than Two Thousand
9 Dollars (\$2,000.00), or by imprisonment in the county jail for a term of
10 not less than one (1) year, or by both fine and imprisonment.
11 b. Fifty percent (50%) of any criminal fine imposed and collected under
12 this paragraph or paragraph 2 of this subsection shall be paid and
13 allocated in accordance with applicable law to the Death and
14 Permanent Total Disability Trust Fund administered by the Workers'
15 Compensation Commission.

16 2. It is to be understood that any person or entity with whom any person identified
17 in paragraph 1 of this subsection has conspired to achieve the proscribed ends shall, by
18 reason of such conspiracy, be guilty as a principal of a felony and shall be punished by a
19 fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand
20 Dollars (\$2,000.00), or by imprisonment in the county jail for a term of not less than one
21 (1) year, or by both fine and imprisonment.

1 B. A copy of paragraph 1 of subsection A of this section shall be placed on all forms
2 prescribed by the Workers' Compensation Commission for the use of injured employees
3 claiming benefits and for the use of employers in responding to such employees' claims
4 under this act.

5 C. Where the Workers' Compensation Commission or the Insurance Commissioner
6 finds that false statements or representations were made willfully and knowingly, that
7 material information was willfully and knowingly omitted or concealed, or that any
8 device, scheme, or artifice was willfully and knowingly employed for the purpose of:

9 1. Obtaining benefits or payments;

10 2. Obtaining, wrongfully increasing, wrongfully decreasing, or defeating any claim
11 for benefit or payment; or

12 3. Obtaining or avoiding workers' compensation coverage or avoiding payment of
13 the proper insurance premium under this act or that any other related criminal
14 violations were committed,

15 the chairman of the Workers' Compensation Commission or the Insurance Commissioner
16 shall refer the matter for appropriate action to the prosecuting attorney having criminal
17 jurisdiction in the matter.

18 D. 1. a. There shall be established within the Oklahoma Insurance Department a
19 Workers' Compensation Fraud Investigation Unit, funded by the
20 Commission, which will be headed and supervised by a director who
21 may also serve as the director of any other designated insurance fraud
22 investigation division within the Department, in which event the

1 compensation of the director shall be paid solely from the funds of such
2 insurance fraud investigation division.

3 b. (1) The unit designated in subparagraph a of this paragraph will
4 investigate workers' compensation fraud, additional criminal
5 violations that may be related to workers' compensation fraud,
6 and any other insurance fraud matters as may be assigned at
7 the discretion of the director.

8 (2) The Insurance Commissioner shall designate the personnel
9 assigned to the unit, who shall have the powers of specialized
10 law enforcement officers of the State of Oklahoma for the
11 purpose of conducting investigations under this subparagraph.
12 Personnel hired as specialized law enforcement officers shall
13 have a minimum of three (3) years of certified law enforcement
14 experience or its equivalent in national or military law
15 enforcement experience as approved by the Council on Law
16 Enforcement Education and Training.

17 2. The Insurance Commissioner and the deputies and assistants of the Insurance
18 Commissioner and the fraud director and the deputies and assistants of the fraud
19 director shall be vested with the power of enforcing this section and rendering more
20 effective the disclosure and apprehension of persons or entities who abuse the workers'
21 compensation system as established by the Legislature by making false or misleading
22 statements for the purpose of either obtaining, wrongfully increasing, wrongfully

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

1 decreasing or defeating the payment of benefits, obtaining or avoiding workers'
2 compensation coverage, or avoiding payment of the proper insurance premium.

3 3. It shall be the duty of the unit to assist the Insurance Commissioner and the
4 Department in the performance of duties, and, further, to determine the identity of
5 carriers, employers, or employees who within the State of Oklahoma have violated
6 subsection A of this section and report the violation to the Workers' Compensation
7 Commission and to the Insurance Commissioner, who shall, in turn, be responsible for
8 reporting the violation to the prosecuting attorney having criminal jurisdiction in the
9 matter.

10 4. a. With respect to the subject of any investigation being conducted by the
11 unit, the Insurance Commissioner and the deputies and assistants of
12 the Insurance Commissioner and the fraud director and the deputies
13 and assistants of the fraud director shall have the power of subpoena
14 and may:

- 15 (1) subpoena witnesses,
16 (2) administer oaths or affirmations and examine any individual
17 under oath, and
18 (3) require and compel the production of records, books, papers,
19 contracts, and other documents.

20 b. Subpoenas of witnesses shall be served in the same manner as if
21 issued by a district court.

- 1 c. (1) If any individual fails to obey a subpoena issued and served
2 pursuant to this section with respect to any matter concerning
3 which the individual may be lawfully interrogated, then upon
4 application of the Commissioner or fraud director, the district
5 court of the county where the subpoena was served may issue an
6 order requiring the individual to comply with the subpoena and
7 to testify.
- 8 (2) Any failure to obey the order of the court may be punished by
9 the court as a contempt.
- 10 d. If any person has refused in connection with an investigation by the
11 fraud director to be examined under oath concerning the affairs of that
12 person, then the fraud director is authorized to conduct and enforce by
13 all appropriate and available means any examination under oath in
14 any state or territory of the United States in which any officer,
15 director, or manager may then presently be to the full extent permitted
16 by the laws of the state or territory.
- 17 e. Any person testifying falsely under oath or affirmation in this state as
18 to any matter material to any investigation or hearing conducted
19 pursuant to subparagraph d of this paragraph, or any workers'
20 compensation hearing, shall upon conviction be guilty of perjury and
21 punished accordingly.

1 5. Fees and mileage of the officers serving the subpoenas and of the witnesses in
2 answer to subpoenas shall be as provided by law.

3 6. a. Every carrier or employer who has reason to suspect that a violation of
4 paragraph 1 of subsection A of this section has occurred shall be
5 required to report all pertinent matters relating to the violation to the
6 unit.

7 b. No carrier shall be liable to any employer or employee for any report,
8 and no employer shall be liable to any employee for a report unless it
9 knowingly and intentionally includes false information.

10 c. (1) Any carrier or employer who willfully and knowingly fails to
11 report any violation shall be guilty of a misdemeanor and upon
12 conviction shall be punished by a fine not to exceed One
13 Thousand Dollars (\$1,000.00) or by imprisonment for a period
14 not to exceed one (1) year, or by both fine and imprisonment.

15 (2) Fifty percent (50%) of any criminal fine imposed and collected
16 under this subparagraph shall be paid and allocated in
17 accordance with applicable law to the fund administered by the
18 Commission.

19 d. Although not mandated to report suspected violations of paragraph 1
20 of subsection A of this section by an employer or employee, any
21 employee who does make such a report shall not be liable to the
22 employer or employee whose suspected violations have been reported.

1 e. In addition, any immunity from liability provisions of the Oklahoma
2 Insurance Code applicable to the reporting of suspected fraudulent
3 insurance acts shall also be applicable to the reporting of information
4 under this paragraph.

5 E. 1. For the purpose of imposing criminal sanctions or a fine for violation of the
6 duties of this act, the prosecuting attorney shall have the right and discretion to proceed
7 against any person or organization responsible for violations, both organizational and
8 individual liability being intended by this act.

9 2. The prosecuting attorney of the district to whom a suspected violation of
10 subsection A of this section, Section 39 of this act, Section 43 of this act, or any other
11 criminal violations that may be related to a violation of this act, have been referred shall,
12 for the purpose of assisting the prosecuting attorney in the prosecutions, have the
13 authority to appoint as special deputy prosecuting attorneys, licensed attorneys at law in
14 the employment of the unit or any other designated insurance fraud investigation
15 division within the Department. The special deputy prosecuting attorneys shall, for the
16 purpose of the prosecutions to which they are assigned, be responsible to and report to
17 the prosecuting attorney.

18 F. It is the specific intent of this section that active investigatory files as
19 maintained by the Department and by the unit be deemed confidential and privileged
20 and not be made open to the public until the matter under investigation is closed by the
21 fraud director with the consent of the Insurance Commissioner, except that the active

1 investigatory files shall also be subject to any confidentiality provisions of the Oklahoma
2 Insurance Code that are applicable to the investigation of fraudulent insurance acts.

3 G. The Insurance Commissioner, with the cooperation and assistance of the
4 Workers' Compensation Commission, is authorized to establish rules and regulations as
5 may be necessary to carry out the provisions of this section.

6 H. Nothing in this section shall be deemed to create a civil cause of action.

7 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 307 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 A. 1. Any employer who willfully discriminates in regard to the hiring or tenure of
11 work or any term or condition of work of any individual on account of the claim by the
12 individual for benefits under this act, or who in any manner obstructs or impedes the
13 filing of claims for benefits under this act, shall be subject to a fine of up to Ten
14 Thousand Dollars (\$10,000.00) as determined by the Workers' Compensation
15 Commission.

16 2. This fine shall be payable to the Second Injury Trust Fund and paid by the
17 employer and not by the carrier.

18 B. 1. In addition, the prevailing party shall be entitled to recover costs and a
19 reasonable attorney fee payable from the fine.

20 2. Provided, however, if the employee is the nonprevailing party, the attorney fee
21 and costs shall, at the election of the employer, be paid by the employee or deducted from
22 future workers' compensation benefits.

1 C. The employer may also be guilty of a misdemeanor and shall be punished by a
2 fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the county jail
3 for a term not to exceed one (1) year, or by both fine and imprisonment.

4 D. This section shall not be construed as establishing an exception to the
5 employment-at-will doctrine.

6 E. A purpose of this section is to preserve the exclusive remedy doctrine and
7 specifically annul any inconsistent case law.

8 SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 308 of Title 85, unless there is created a duplication in numbering,
10 reads as follows:

11 A. No agreement by an employee to waive the right to compensation shall be valid,
12 and no contract, regulation, or device whatsoever shall operate to relieve the employer or
13 carrier, in whole or in part, from any liability created by this act, except as specifically
14 provided in this act.

15 B. 1. However, any officer of a corporation, sole proprietor, partner of a
16 partnership, member of a limited liability company, member of a professional
17 association, or self-employed employer who is not a subcontractor and who owns and
18 operates a business, may by agreement or contract exclude themselves from coverage or
19 waive their right to coverage or compensation under this act.

20 2. If the exclusion from coverage of the officer of a corporation, sole proprietor,
21 partner of a partnership, member of a limited liability company, member of a
22 professional association, or self-employed employer reduces the number of employees of

1 the business to fewer than three, the employer shall nevertheless continue to provide
2 workers' compensation coverage for the employees.

3 SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 309 of Title 85, unless there is created a duplication in numbering,
5 reads as follows:

6 A. No agreement by an employee to pay any portion of the premium paid by the
7 employer to a carrier or to contribute to a safety program as provided under Section 46 of
8 this act or a benefit fund or department maintained by the employer for the purpose of
9 providing compensation or medical services and supplies as required by this act shall be
10 valid.

11 B. Any employer who makes a deduction for the purposes provided in subsection A
12 of this section from the pay of any employee entitled to the benefits of this act shall be
13 guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred
14 Dollars (\$500.00), or by imprisonment in the county jail for a term not to exceed one (1)
15 year, or by both fine and imprisonment.

16 SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 310 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. The right to compensation shall not be assignable and shall not be subject to
20 garnishment, attachment, levy, execution, or any other legal process, except for child
21 support obligations and monies retained by the Department of Corrections.

1 B. Money compensation to dependents of a deceased employee shall not constitute
2 assets of the estate of the deceased employee and shall be payable to and for the benefit
3 of the dependents alone.

4 C. 1. After November 1, 2008, the Workers' Compensation Commission shall
5 forward monthly a computer tape listing the name, address, and social security number,
6 if available, on all persons for whom the Commission has established a file during the
7 preceding month to the Child Support Enforcement Division. The computer tape shall
8 also include the name of the workers' compensation carrier and the name of the
9 employer.

10 2. The same information shall be provided to individuals who apply for the
11 information with the Commission on an individual employee to an individual certifying
12 that they have an interest in the child support obligations of the employee on whom the
13 information is requested.

14 D. 1. Amounts withheld from weekly compensation benefits for child support
15 obligations shall not exceed twenty-five percent (25%) of the benefit amount.

16 2. Amounts withheld from a lump-sum settlement on a joint petition for child
17 support obligations shall not exceed fifty percent (50%) of the settlement amount.

18 E. Any amount withheld under subsection D of this section shall be paid through
19 the appropriate court payable to the person or agency to whom the obligation is payable.

20 F. Any amount withheld pursuant to the provisions of this section shall for all
21 purposes be treated as if it were paid to the employee as workers' compensation and paid
22 by the employee to the person or agency to whom the obligation is payable.

1 G. For purposes of this section, "child support obligations" is defined as only those
2 support obligations which are contained in a decree or order of the district court which
3 provides for the payment of money for the support and care of any child or children.

4 SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 311 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. Compensation to alien nonresidents of the United States or Canada shall be the
8 same in amount as provided for residents, except that alien nonresident dependents in
9 any foreign country shall be limited to the surviving wife or children or, if there is no
10 surviving wife or children, to the surviving father or mother whom the employee has
11 supported, either wholly or in part, for the period of one (1) year prior to the date of the
12 injury.

13 B. Upon its own motion or upon application of an interested party, the Workers'
14 Compensation Commission may order the payment of all future compensation to be paid
15 in one lump sum, which shall be equal to one-half (1/2) of the face value of all future
16 installments of compensation.

17 SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 312 of Title 85, unless there is created a duplication in numbering,
19 reads as follows:

20 Compensation due an injured employee or dependents of the injured employee shall
21 have the same preference as is allowed by law to an employee for unpaid wages.

1 SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 313 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. 1. A mental injury or illness is not a compensable injury unless it is caused by
5 physical injury to the employee's body, and shall not be considered an injury arising out
6 of and in the course of employment or compensable unless it is demonstrated by a
7 preponderance of the evidence; provided, however, that this physical injury limitation
8 shall not apply to any victim of a crime of violence.

9 2. No mental injury or illness under this section shall be compensable unless it is
10 also diagnosed by a licensed psychiatrist or psychologist and unless the diagnosis of the
11 condition meets the criteria established in the most current issue of the Diagnostic and
12 Statistical Manual of Mental Disorders.

13 B. 1. Where a claim is by reason of mental injury or illness, the employee shall be
14 limited to twenty-six (26) weeks of disability benefits.

15 2. a. In case death results directly from the mental injury or illness within a
16 period of one (1) year, compensation shall be paid to the dependents as
17 provided in other death cases under this act.

18 b. Death directly or indirectly related to the mental injury or illness
19 occurring one (1) year or more from the incident resulting in the
20 mental injury or illness shall not be a compensable injury.

1 SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 314 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. A cardiovascular, coronary, pulmonary, respiratory, or cerebrovascular accident
5 or myocardial infarction causing injury, illness, or death is a compensable injury only if,
6 in relation to other factors contributing to the physical harm, an accident is the major
7 cause of the physical harm.

8 B. 1. An injury or disease included in subsection A of this section shall not be
9 deemed to be a compensable injury unless it is shown that the exertion of the work
10 necessary to precipitate the disability or death was extraordinary and unusual in
11 comparison to the usual work of the employee in the course of the regular employment of
12 the employee, or alternately, that some unusual and unpredicted incident occurred which
13 is found to have been the major cause of the physical harm.

14 2. Stress, physical or mental, shall not be considered in determining whether the
15 employee or claimant has met the burden of proof.

16 SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 315 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. 1. At any time an application is made for workers' compensation, an employer
20 shall require the applicant for compensation to state whether or not the applicant has
21 child support obligations, if the obligations are current or past due, and to whom the
22 obligations are payable.

1 2. The application shall also include the name of the workers' compensation carrier
2 and the name of the employer.

3 B. The employer shall forward a copy of the application to the Child Support
4 Enforcement Division.

5 SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 316 of Title 85, unless there is created a duplication in numbering,
7 reads as follows:

8 A. 1. One (1) month before the beginning of any fiscal quarter, the Insurance
9 Commissioner shall provide to the Workers' Compensation Commission the estimated
10 funding need of the Workers' Compensation Fraud Investigation Unit of the Oklahoma
11 Insurance Department for the ensuing quarter.

12 2. The provided certification shall itemize each position to be utilized in the unit
13 and funded by the Commission and make estimates of all other budgetary line items
14 necessary to provide support to the unit.

15 3. This certification must deduct unexpended and unencumbered balances of the
16 unit from the previous quarter, so that only the current need, excluding unexpended and
17 unencumbered funds, is certified for fund transfer authorized in this section.

18 B. 1. On or before the first day of each fiscal quarter, the Commission shall certify
19 to the Chief fiscal officer of the State that funds are available for transfer. Upon the
20 certification, the chief fiscal officer of the state, the State Treasurer, and the State
21 Auditor and Inspector shall transfer those funds from the Workers' Compensation Fund

1 of the Commission to the fund account used for the maintenance, operation, and support
2 of the unit.

3 2. The sum of the four quarterly transfers in each fiscal year ending June 30 cannot
4 exceed One Hundred Fifty Thousand Dollars (\$150,000.00).

5 SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 317 of Title 85, unless there is created a duplication in numbering,
7 reads as follows:

8 Pursuant to its rulemaking authority, the Workers' Compensation Commission
9 shall be empowered to enact medical diagnostic and treatment guidelines regarding
10 occupational carpal tunnel syndrome upon the joint recommendation of the Oklahoma
11 chapter of the American Federation of Labor and Congress of Industrial Organizations
12 and the Oklahoma State Chamber of Commerce.

13 SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 318 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 A. No hospital, physician, or other health care provider shall bill or attempt to
17 collect any fee or any portion of a fee for services rendered to an employee due to a work-
18 related injury or report to any credit reporting agency any failure of the employee to
19 make the payment, when a claim for compensation has been filed under this act and the
20 hospital, physician, or health care provider has received actual notice given in writing by
21 the employee or the representative of the employee. Actual notice shall be deemed
22 received by the hospital, physician, or health care provider five (5) days after mailing by

1 certified mail by the employee or the representative of the employee to the hospital,
2 physician, or health care provider.

3 B. The notice shall include:

- 4 1. The name of the employer;
- 5 2. The name of the insurer, if known;
- 6 3. The name of the employee receiving the services;
- 7 4. The general nature of the injury, if known; and
- 8 5. Where a claim has been filed and the claim number, if known.

9 C. When an injury or bill is found to be noncompensable under this act, the
10 hospital, physician, or other health care provider shall be entitled to pursue the employee
11 for any unpaid portion of the fee or other charges for authorized services provided to the
12 employee. Any applicable statute of limitations for an action for the fees or other charges
13 shall be tolled from the time notice is given to the hospital, physician, or other health
14 care provider until a determination of noncompensability in regard to the injury that is
15 the basis of the services is made, or in the event that there is an appeal to the Workers'
16 Compensation Commission, the Court of Civil Appeals, or the Supreme Court, until a
17 final determination of noncompensability is rendered and all appeal deadlines have
18 passed.

19 D. This section shall not avoid, modify, or amend any other section or subsection of
20 this act, including, but not limited to, the prohibition against balanced billing contained
21 in Section 56 of this act and any rules and regulations adopted pursuant to Section 56 of
22 this act.

1 E. An order by the Commission pursuant to this section shall stay all proceedings
2 for collection.

3 SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 319 of Title 85, unless there is created a duplication in numbering,
5 reads as follows:

6 A. The Workers' Compensation Commission shall consist of three (3) members
7 appointed by the Governor for terms of six (6) years who shall devote their entire time to
8 the duties of the Commission and shall administer the provisions of this act.

9 1. One member shall be an attorney who has at least five (5) years' experience
10 representing employers in workers' compensation matters or shall be a person who, on
11 account of a previous vocation, employment, or affiliation, has had at least five (5) years
12 of experience as an employer and can be classed as a representative of employers.

13 2. One member shall be an attorney who has at least five (5) years' experience
14 predominantly representing claimants in workers' compensation matters or employees in
15 labor relations matters or shall be a person who, on account of a previous vocation,
16 employment, or affiliation, has had at least five (5) years of membership in a bona fide
17 labor organization and can be classed as a representative of employees.

18 3. One member shall be an attorney, who shall be chair of the Commission and who
19 shall have been engaged in active practice of law in the State of Oklahoma for not less
20 than five (5) years next preceding the date of appointment.

1 B. Each member shall receive a salary as may be established by law for salaries of
2 state employees. The salaries shall be paid from the Workers' Compensation Fund and
3 shall be paid in the manner as are salaries of other state officials or employees.

4 C. 1. When any member of the Commission is disqualified for any reason to hear
5 and participate in the determination of any matter pending before the Commission, the
6 Governor shall appoint a qualified person to hear and participate in the decision on the
7 particular matter. The special member so appointed shall have all authority and
8 responsibility with respect to the particular matter before the Commission as if the
9 person were a regular member of the Commission but shall have no authority or
10 responsibility with respect to any other matter before the Commission.

11 2. A person appointed as a special member of the Commission pursuant to the
12 provisions of this section shall be entitled to receive a per diem not to exceed One
13 Hundred Dollars (\$100.00) for each day spent in attending to duties as a special member
14 of the Commission. The compensation shall be paid from any funds of the Commission
15 which are available for or may legally be used for paying such per diem.

16 SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 320 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. The members shall give bond in the sum of Ten Thousand Dollars (\$10,000.00)
20 executed by a surety company authorized to do business in the state for the faithful
21 performance of their duties.

1 B. The bond shall be approved by the Governor and kept on file in the Office of the
2 Secretary of State.

3 C. Any action on the bond for breach shall be instituted by the Attorney General
4 and shall be in the name of the State of Oklahoma.

5 D. The premium upon the bonds shall be paid out of the Workers' Compensation
6 Fund.

7 SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 321 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 A. The Governor may, at any time, remove any member of the Workers'
11 Compensation Commission for inefficiency, neglect of duty, or misconduct in office, giving
12 that member in advance a copy of the charges preferred and an opportunity of being
13 publicly heard, in person or by counsel, upon not less than ten (10) days' notice.

14 B. A representative of the Office of the Attorney General shall attend the
15 proceedings and upon the request of the Governor shall advise or assist in the
16 proceedings.

17 C. Either party may procure the attendance of witnesses and testimony by those
18 witnesses as provided for in the Code of Civil Procedure in ordinary actions.

19 D. If a member is removed, the Governor shall file in the Office of the Secretary of
20 State a complete statement of all charges made against the member and findings,
21 together with a complete record of all proceedings and a transcript of testimony. It shall
22 constitute a public record of the state.

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

1 SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 322 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. Members of the Workers' Compensation Commission shall be considered as
5 officers and shall take the oath prescribed by the Oklahoma Constitution and the laws of
6 Oklahoma.

7 B. 1. A majority of the Commission shall constitute a quorum for the transaction of
8 business, and vacancies shall not impair the right of the remaining members to exercise
9 all the powers of the full Commission, so long as a majority remains.

10 2. Any investigation, inquiry, or hearing which the Commission is authorized to
11 hold or undertake may be held or undertaken by or before any one member of the
12 Commission, or referee acting for the member of the Commission, under authorization of
13 the Commission.

14 C. 1. The Commission shall maintain and keep open, during reasonable business
15 hours, an office in Oklahoma City, for the transaction of business, at which office its
16 official records and papers shall be kept.

17 2. The Commission or any member of the Commission shall hold sessions and
18 conduct hearings at any local career and technology education center, also known as
19 state-sponsored Career Tech, within the state.

20 D. The Commission shall have a seal for authentication of its orders, awards, and
21 proceedings, which shall have inscribed the words: "Workers' Compensation Commission,
22 State of Oklahoma".

1 SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 323 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. 1. For the purpose of administering the provisions of this act, the Workers'
5 Compensation Commission is authorized:

- 6 a. to make such rules and regulations as may be found necessary,
7 b. to appoint and fix the compensation of temporary technical assistants
8 and medical and legal advisers and to appoint and to fix the
9 compensation of clerical assistants and other officers and employees,
10 and
11 c. to make such expenditures, including those for personal service, rent,
12 books, periodicals, office equipment, and supplies, and for printing and
13 binding as may be necessary.
- 14 2. a. Prior to the adoption, prescription, amendment, modification, or repeal
15 of any rule, regulation, or form, the Commission shall give at least
16 forty-five (45) days' notice of its intended action.
- 17 b. The notice shall include a statement of the terms or substance of the
18 intended action or description of the subjects and issues involved, and
19 the time, place, and manner in which interested persons may present
20 their views thereon.
- 21 c. The notice shall be mailed to any person specified by law or who shall
22 have requested advance notice of rule-making proceedings.

1 3. The Commission shall afford all interested persons a reasonable opportunity to
2 submit written data, views, or arguments, and, if the Commission in its discretion
3 directs, oral testimony or argument.

4 4. Each rule, regulation, or form adopted by the Commission shall be effective
5 twenty (20) days after adoption unless a later date is specified by law or in the rule itself.

6 5. All expenditures of the Commission in the administration of this act shall be
7 allowed and paid from the Workers' Compensation Fund upon the presentation of
8 itemized vouchers approved by the Commission.

9 B. 1. The Commission may appoint as many persons as may be necessary to be
10 administrative law judges and in addition may appoint such examiners, rate experts,
11 investigators, medical examiners, clerks, and other employees as it deems necessary to
12 effectuate the provisions of this act, provided that the appointment of all rate experts
13 shall be made by the Insurance Commissioner, whose duty it is to approve the rates
14 charged.

15 2. Rate experts shall be considered employees of the Commission and the Insurance
16 Commissioner and shall be paid from the Workers' Compensation Fund.

17 3. Employees appointed pursuant to this subsection shall receive an annual salary
18 to be fixed by the Commission within the appropriation made for the Commission.

19 C. It shall be the duty of an administrative law judge, under the rules adopted by
20 the Commission, to hear and determine claims for compensation and to conduct hearings
21 and investigations and to make such orders, decisions, and determinations as may be
22 required by any rule or order of the Commission.

1 SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 324 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 Any member or employee of the Workers' Compensation Commission shall be
5 entitled to receive necessary traveling expenses actually incurred and for subsistence
6 while traveling on official business and away from the designated station of that member
7 or employee. The expenses shall be certified by the person who incurred them and shall
8 be allowed and paid upon presentation of vouchers approved by the Commission.

9 SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 325 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 A. In addition to its other duties and powers, the Workers' Compensation
13 Commission is given and granted full power and authority to:

14 1. Hear and determine all claims for compensation, including, but not limited to,
15 claims based upon injuries that occurred outside the State of Oklahoma for which
16 compensation is payable under this act;

17 2. Require and order medical services for and examinations of injured employees
18 and to employ special medical examiners and advisors who shall be paid a reasonable
19 amount per day to be determined by the Commission, plus reasonable traveling
20 expenses;

21 3. Approve claims for medical services and attorney fees;

22 4. Excuse failure to give notice either of injury or death of any employee;

- 1 5. Approve agreements, make, modify, or rescind awards, and make and enter
2 findings of fact and rulings of law;
- 3 6. Enter orders in appealed cases;
- 4 7. Determine the time for the payment of compensation and order the
5 reimbursement of employers for amounts advanced;
- 6 8. Assess penalties;
- 7 9. Prescribe rules and regulations governing the representation of employees,
8 employers, and carriers in respect to claims before the Commission;
- 9 10. Issue subpoenas, administer oaths, and take testimony, by deposition or
10 otherwise;
- 11 11. Make surveys and determine the existence and prevalence of occupational
12 disease hazards within this state, to determine the measures necessary to eliminate or
13 reduce these hazards, and add to the schedule of occupational diseases subject to
14 appropriate conditions and after public hearing;
- 15 12. Make available to the Director of the Department of Labor all records in
16 connection with all cases of personal injury. The Director may propose rules for the
17 prevention of injuries and transmit the rules to the Commission. The Commission may
18 recommend to the Director proposed rules for prevention of injuries;
- 19 13. Have and exercise all other powers and duties conferred or imposed by this act;
20 and
- 21 14. Transfer the excess of income over expenses from the Commission's annual
22 educational conference to any nonprofit charitable organization designed to provide

1 scholarships to children of workers who have been killed or become permanently and
2 totally disabled from a compensable injury, including, but not limited to, any
3 accumulation from prior years' conferences.

4 B. 1. In addition to the other powers and duties granted to the Commission in this
5 section and otherwise provided by law, the Commission is authorized to establish and
6 impose reasonable fees to recover the cost of preparation of various informative materials
7 distributed by the Commission.

8 2. The fees shall be established by regulation of the Commission.

9 3. Funds derived from fees shall be deposited in the Workers' Compensation Fund
10 to be used to defray expenses incurred in preparation and distribution of materials.

11 SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 326 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 On or before the first day of the regular session of the Legislature, the Workers'
15 Compensation Commission under the authority of at least two of its members shall make
16 to the Governor and to the Legislature a report of the administration of this act for the
17 preceding annual period, together with such recommendations as the Commission may
18 deem advisable.

19 SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 327 of Title 85, unless there is created a duplication in numbering,
21 reads as follows:

1 A. The Workers' Compensation Commission shall publish annually, on an
2 aggregate basis, information pertaining to the distribution of workers' compensation
3 insurance premiums, losses, expenses, and net income to be compiled from reports
4 required to be filed with the Insurance Commissioner, as amended, or any similar
5 information required to be filed by the Insurance Commissioner regarding workers'
6 compensation insurance.

7 B. The Commission shall also publish in that same annual report information
8 regarding aggregate workers' compensation benefit distribution to claimants, medical
9 providers, and attorneys if that specific information or similar information becomes
10 available from revised or additional reporting requirements that may be required by the
11 Insurance Commissioner.

12 SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 328 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 A. 1. The Workers' Compensation Commission is hereby authorized to fund
16 financial obligations of the Death and Permanent Total Disability Trust Fund through
17 the purchase of structured annuity contracts; provided, the Commission shall purchase
18 such annuity contracts only when the Commission determines that it is financially
19 advantageous to the trust fund involved.

20 2. Structured annuity contracts shall be purchased only from insurance companies:

- 21 a. licensed to do business in Oklahoma and authorized to write annuities
22 as regulated by the Oklahoma Insurance Department,

- 1 b. experienced in the business of writing and administering structured
2 annuities,
3 c. determined to be financially sound and having an A.M. Best rating of
4 A+ and category size VIII or greater, or equivalent independent
5 industry rating, and
6 d. be rated AA+ or better by Standard and Poor's, Moody's, or an
7 equivalent rating by an equivalent rating service.
- 8 3. Structured annuity contracts purchased by the Commission shall:
- 9 a. include a separate contract for each claimant or beneficiary covered,
10 b. require that the payments to the claimant or beneficiary be sent to the
11 Commission so that it can maintain administrative control over the
12 payments, and the Commission will distribute the payments in full to
13 the claimants or beneficiaries, and
14 c. provide for return of principal to the appropriate fund in the event that
15 the obligations of the Death and Permanent Total Disability Trust
16 Fund to any claimant or beneficiary cease prior to the end of the period
17 of certain guarantee in the contract.
- 18 B. The Commission shall adopt such appropriate rules and regulations consistent
19 with the provisions of this section as it deems necessary to enable it to efficiently and
20 effectively administer the provisions of this section and any structured annuity
21 arrangement it may enter into pursuant to the authority granted in this act.

1 SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 329 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. There are established on the books of the State Treasurer, State Auditor and
5 Inspector, and the chief fiscal officer of the state, three separate funds:

- 6 1. The "Workers' Compensation Fund";
- 7 2. The "Second Injury Trust Fund"; and
- 8 3. The "Death and Permanent Total Disability Trust Fund".

9 B. Except for funds transferred into a General Revenue Fund Account, no money
10 shall be appropriated from these funds for any purpose except for the use and benefit, or
11 at the direction of, the Workers' Compensation Commission.

12 C. All funds established pursuant to this section shall be administered, disbursed,
13 and invested under the direction of the Commission.

14 D. All incomes derived through investment of the Workers' Compensation Fund,
15 the Second Injury Trust Fund, and the Death and Permanent Total Disability Trust
16 Fund shall be credited as investment income, to the fund which participated in the
17 investment. For the purpose of investment, Workers' Compensation Fund monies shall
18 be invested in accordance with the laws of the Oklahoma State Treasury.

19 E. Except for monies transferred into a General Revenue Fund Account, all monies
20 deposited to the funds provided in subsection A of this section shall not be subject to any
21 deduction, tax, levy, or any other type of assessment.

1 F. If the balance in the Second Injury Trust Fund becomes insufficient to fully
2 compensate those employees to whom it is obligated, payment shall be suspended until
3 such time as the Second Injury Trust Fund is capable of meeting its obligations, paying
4 all arrearages, and restoring normal benefit payments. In no event shall there be any
5 reverter of responsibility to the employer or carrier.

6 G. 1. Upon the effective maturity dates of each investment, the investment shall be
7 transferred to the State Treasurer for deposit into the Death and Permanent Total
8 Disability Trust Fund created in this section.

9 2. The free balances of the Death and Permanent Total Disability Bank Fund shall
10 be transferred to the Death and Permanent Total Disability Trust Fund.

11 SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 330 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. Each carrier writing compensation insurance in this state shall pay to the
15 Insurance Commissioner, in addition to the premium taxes and fees now required under
16 existing laws, at the time of securing the first license to transact business in the state the
17 sum of Five Hundred Dollars (\$500.00) for the privilege of qualifying with the Workers'
18 Compensation Commission for the writing of compensation insurance.

19 B. At the time of qualifying, each self-insurer or third-party administrator shall
20 pay to the Commission the sum of One Hundred Dollars (\$100.00) for the privilege of
21 qualifying as a self-insurer or third-party administrator.

1 C. All carriers, self-insurers, or third-party administrators qualifying under the
2 provisions of this act shall be required to pay this initial assessment before they shall be
3 qualified.

4 D. These fees shall be deposited into the Workers' Compensation Fund created in
5 Section 31 of this act.

6 E. The Commission may assess a third-party administrator an annual fee of One
7 Hundred Dollars (\$100.00).

8 SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 331 of Title 85, unless there is created a duplication in numbering,
10 reads as follows:

11 A. In addition to the premium taxes collected from carriers, the carriers shall pay
12 annually to the Workers' Compensation Commission a tax, at the rate to be determined
13 as provided in Section 36 of this act, but not to exceed three percent (3%), on all written
14 manual premiums resulting from the writing of workers' compensation insurance on
15 risks within the state.

16 B. "Written manual premium" means premium produced in a given year by the
17 manual rates in effect during the experience period and shall exclude the premium
18 produced by the expense constant. Furthermore, "written manual premium", for the
19 purposes of this act, means premium before any allowable deviated discounts, any
20 experience rating modification, any premium discount, any reinsurance or deductible
21 arrangement as common with fronting carriers, any dividend consideration, or other
22 trade discount.

1 C. 1. This tax shall be collected by the Commission from the carriers at the same
2 time and in the same manner as insurance premium taxes and deposited into the funds
3 created in Section 31 of this act.

4 2. The deposit into the funds created in Section 31 of this act shall be in the same
5 proportions that deposits were made into the three funds as set forth in Section 36 of this
6 act.

7 D. 1. Assessments upon which premium taxes are based shall be made on forms
8 prescribed by the Commission and shall be paid to the Commission.

9 2. Absent a waiver obtained from the Commission for good cause, the failure of the
10 licensed carrier to pay the assessment when due shall be referred to the Insurance
11 Commissioner for appropriate administrative action against the Oklahoma certificate of
12 authority of the delinquent insurer.

13 E. Premium tax payments shall be made by check payable to the Commission.

14 SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 332 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. It shall be the duty of the Workers' Compensation Commission to collect a tax
18 from every self-insured employer at a rate to be determined as provided by Section 36 of
19 this act, but not to exceed three percent (3%) of the written manual premium, which
20 would have to be paid under Section 33 of this act by a carrier if the self-insured
21 employer were insured by a carrier.

1 B. If the tax provided for under this section is not paid within thirty (30) days of
2 the date provided in Section 36 of this act, there shall be assessed a penalty for each
3 thirty (30) days the amount so assessed remains unpaid which is equal to ten percent
4 (10%) of the unpaid amounts and which shall be collected at the same time as a part of
5 the tax assessed.

6 SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 333 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 A. 1. It shall be the duty of the Workers' Compensation Commission to collect a tax
10 from every public employer providing workers' compensation coverage to its employees at
11 a rate to be determined as provided by Section 36 of this act, but not to exceed three
12 percent (3%) of the written manual premium which an insurance carrier would have to
13 pay under Section 33 of this act if the public employer were insured by a carrier.

14 2. a. The Commission shall tabulate and collect the tax to be collected from
15 entities whose workers' compensation claims are administered by the
16 Public Employee Claims Division.

17 b. In tabulating the manual premium, a public employer whose workers'
18 compensation claims are administered by the Division shall use the
19 average compensation rate for this state as promulgated by the
20 National Council on Compensation Insurance for the tax year in
21 question.

1 3. The tax collected shall be deposited in and paid to the Commission from the
2 Workers' Compensation Revolving Fund and miscellaneous revolving funds.

3 B. 1. In the event that any public employer whose workers' compensation claims
4 are administered by the Division fails to cooperate in furnishing information upon which
5 the tax will be computed or fails to pay the tax within thirty (30) days of the date
6 provided in Section 36 of this act, the Commission shall notify the Director of the Public
7 Employee Claims Division of the failure, and the Commission shall decertify the public
8 employer from participation in the state's workers' compensation program.

9 2. In the event of decertification, the public employer shall obtain its employer's
10 workers' compensation liability coverage from the private market and shall not be
11 entitled to participate in the state's workers' compensation program for a period of one
12 (1) year thereafter.

13 C. The procedure for decertification shall be the same as for the revocation or
14 termination of the self-insurer privilege.

15 SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 334 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. 1. The Workers' Compensation Commission, on or before December 31 of each
19 year, shall determine the surplus, if any, in the Workers' Compensation Fund, together
20 with the additional amounts necessary to properly administer this act for the ensuing
21 year.

1 2. The Commission shall determine the rate of taxation for collections for that year
2 on or before March 1 of the following year.

3 B. 1. The Commission, on or before December 31 of each year, shall determine the
4 surplus, if any, in the Second Injury Trust Fund, together with the additional amounts
5 necessary to properly administer this act for the ensuing year.

6 2. The Commission shall determine the rate of taxation for collections for that year
7 on or before March 1 of the following year.

8 C. 1. The Commission, on or before December 31 of each year, shall determine the
9 surplus, if any, in the Death and Permanent Total Disability Trust Fund, together with
10 the additional amounts necessary to properly administer this act for the ensuing year.

11 2. The Commission shall determine the rate of taxation for collections for that year
12 on or before March 1 of the following year.

13 D. The total rate of taxation for all three funds when added together shall not
14 exceed three percent (3%).

15 E. 1. The Commission shall notify each insurance carrier of the rate of taxation
16 applicable to each fund for the preceding year, and taxes shall be computed and paid
17 pursuant to the provisions of Section 33 of this act on or before April 1 of the following
18 year.

19 2. The Commission shall notify each self-insured employer subject to the tax of the
20 rate of taxation applicable to each fund for the preceding year, and taxes shall be
21 computed by the Commission and paid to each fund by the self-insurer through payments
22 made directly to the Commission on or before April 1 of the following year.

1 3. The Commission shall notify each public employer subject to this tax of the rate
2 of taxation applicable to each fund for the preceding year, and taxes shall be computed by
3 the Commission and paid to each respective fund through payments made directly to the
4 Commission by the public employer on or before April 1 of the following year.

5 F. The Commission shall have the authority to promulgate rules or regulations for
6 administration of the assessment and tax collection process, including, but not limited to,
7 rules and regulations applicable to the funds established in Section 31 of this act.

8 G. No later than March 30 each year, the Commission shall provide the Insurance
9 Commissioner a complete listing of workers' compensation premium tax collections for
10 the preceding calendar year, including the monetary amount of workers' compensation
11 premium tax paid, by year, by name of workers' compensation carrier, and by National
12 Association of Insurance Commissioners identity number.

13 SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 335 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 A. During the annual period beginning July 1, 2009, and thereafter, the Oklahoma
17 Insurance Department shall certify to the Chief fiscal officer of the State the cost of
18 administering the Public Employee Claims Division.

19 B. The certification shall be made the month following each quarter of the fiscal
20 year and shall include a report of the expenditures of the Division for workers'
21 compensation claims paid on behalf of the cities, the counties, and the public schools,

1 each of the three reported as a class of employers, and each state agency supported from
2 Treasury funds or fund accounts.

3 C. After the certification has been received and approved by the Chief fiscal officer
4 of the State, the Chief fiscal officer of the State shall transfer funds from the Public
5 School Fund, the Municipal Aid Fund, the County Aid Fund, and from the various
6 Treasury funds of state agencies to the State General Services Fund Account.

7 D. The transfers shall be made in the same proportion that payments were made in
8 behalf of that entity for workers' compensation claims in the prior quarter as certified by
9 the Department.

10 E. The amount transferred shall be the proportional cost associated with the fund
11 as certified to and approved by the Chief fiscal officer of the State.

12 F. Should a state agency be supported from more than one Treasury fund, the fund
13 transfers from that agency shall be in the same proportion that appropriations were
14 made to that agency for regular salaries from the respective funds.

15 SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 336 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. 1. Every employer shall secure compensation to its employees and pay or
19 provide compensation for their disability or death from compensable injury arising out of
20 and in the course of employment without regard to fault as a cause of the injury.

1 2. There shall be no liability for compensation under this act where the injury or
2 death was substantially occasioned by the willful intention of the injured employee to
3 bring about such compensable injury or death.

4 B. The primary obligation to pay compensation is upon the employer, and the
5 procurement of a policy of insurance by an employer to cover the obligation in respect to
6 this act shall not relieve the employer of the obligation.

7 SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 337 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 A. Where a subcontractor fails to secure compensation required by this act, the
11 prime contractor shall be liable for compensation to the employees of the subcontractor
12 unless there is an intermediate subcontractor who has workers' compensation coverage.

13 B. 1. Any contractor or the contractor's insurance carrier who shall become liable
14 for the payment of compensation on account of injury to or death of an employee of the
15 subcontractor may recover from the subcontractor the amount of the compensation paid
16 or for which liability is incurred.

17 2. The claim for the recovery shall constitute a lien against any monies due or to
18 become due to the subcontractor from the prime contractor.

19 3. A claim for recovery, however, shall not affect the right of the injured employee
20 or the dependents of the deceased employee to recover compensation due from the prime
21 contractor or the insurance carrier of the prime contractor.

1 C. 1. a. When a sole proprietorship or partnership fails to elect to cover the
2 sole proprietor or partners under this act, the prime contractor is not
3 liable under this act for injuries sustained by the sole proprietor or
4 partners if the sole proprietor or partners are not employees of the
5 prime contractor.

6 b. (1) A sole proprietor or the partners of a partnership who do not
7 elect to be covered by this act and be deemed employees under
8 this act, and who deliver to the prime contractor a current
9 certification of noncoverage issued by the Workers'
10 Compensation Commission shall be conclusively presumed not
11 to be covered by the law or to be employees of the prime
12 contractor during the term of certification or any renewals of the
13 certification.

14 (2) A certificate of noncoverage may not be presented to a
15 subcontractor who does not have workers' compensation
16 coverage.

17 (3) This provision shall not affect the rights or coverage of any
18 employees of the sole proprietor or of the partnership.

19 2. Furthermore, the insurance carrier of the prime contractor is not liable for
20 injuries to the sole proprietor or partners described in this section who have provided a
21 current certification of noncoverage, and the carrier shall not include compensation paid

1 by the prime contractor to the sole proprietor or partners described above in computing
2 the insurance premium for the prime contractor.

3 3. a. Any prime contractor who, after being presented with a current
4 certification of noncoverage by a sole proprietor or partnership,
5 nonetheless compels the sole proprietor or partnership to pay or
6 contribute to workers' compensation coverage of that sole proprietor or
7 partnership, shall be guilty of a misdemeanor and shall be punished by
8 a fine not to exceed Five Hundred Dollars (\$500.00), or by
9 imprisonment in the county jail for a term not to exceed one (1) year, or
10 by both fine and imprisonment.

11 b. Any prime contractor who compels a sole proprietor or partnership to
12 obtain a certification of noncoverage when the sole proprietor or
13 partnership does not desire to do so is guilty of a misdemeanor and
14 shall be punished by a fine not to exceed Five Hundred Dollars
15 (\$500.00), or by imprisonment in the county jail for a term not to
16 exceed one (1) year, or by both fine and imprisonment.

17 c. Any applicant who makes a false statement when applying for a
18 certification of noncoverage or any renewals of a certification shall be
19 guilty of a misdemeanor and shall be punished by a fine not to exceed
20 Five Hundred Dollars (\$500.00), or by imprisonment in the county jail
21 for a term not to exceed one (1) year, or by both fine and imprisonment.

1 D. 1. A certification of noncoverage issued by the Commission after July 1, 2009,
2 shall be valid for two (2) years after the effective date stated on the certification. Both
3 the effective date and the expiration date must be listed on the face of the certification by
4 the Commission. The certification must expire at midnight two (2) years from its issue
5 date, as noted on the face of the certification.

6 2. The Commission may assess a fee not to exceed Fifty Dollars (\$50.00) with each
7 application for a certification of noncoverage or any renewals of a certification.

8 3. Any certification of noncoverage issued by the Commission shall contain the
9 social security number and notarized signature of the applicant. The notarization shall
10 be in a form and manner prescribed by the Commission.

11 4. The Commission may prescribe by rule forms and procedures for issuing or
12 renewing a certification of noncoverage.

13 SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 338 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 A. Any employer carrying on any exempted or excepted employment may at any
17 time waive the exemptions or exceptions as to any employee or all employees engaged in
18 the employment as the employer may elect by giving notice of waiver of the exemptions
19 or exceptions as provided in subsection B of this section.

20 B. Notice of waiver of exemption or exception referred to in subsection A of this
21 section shall be given in accordance with the following provisions:

1 1. Every employer who waives the exemption or exception shall post, and keep
2 posted, in and about the employer's place of business, typewritten or printed notices to
3 that effect in accordance with a form to be prescribed by the Workers' Compensation
4 Commission, and the employer shall file a duplicate of the notice with the Commission;
5 and

6 2. The notice shall be given at least thirty (30) days prior to any injury. However, if
7 the injury occurs less than thirty (30) days after the date of employment, the notice, if
8 given at the time of employment, shall be sufficient notice.

9 SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 339 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 A. Every employer shall secure the payment of compensation under this act:

13 1. By insuring and keeping insured the payment of the compensation with any
14 carrier authorized to write workers' compensation insurance;

15 2. By furnishing satisfactory proof to the Workers' Compensation Commission of
16 the employer's financial ability to pay compensation and receiving an authorization from
17 the Commission to pay compensation directly.

18 a. The Commission, as a condition to such authorization, may require the
19 employer, except municipalities, counties, or the State of Oklahoma or
20 its political subdivisions, to deposit in a depository designated by the
21 Commission either an indemnity bond, irrevocable letter of credit, or
22 securities of any kind and in an amount determined by the

1 Commission, subject to reasonable conditions as the Commission may
2 prescribe. The conditions shall include authorization to the
3 Commission, in case of default, to sell any securities sufficient to pay
4 compensation awards or to bring suit on the bonds or the letter of
5 credit to procure prompt payment of compensation under this act.

6 b. Any employer securing compensation in accordance with the provisions
7 of this paragraph shall be known as a self-insurer and shall be classed
8 as a carrier of its own insurance.

9 c. A self-insurer may have the privilege of securing those portions of the
10 payment of compensation under this act as the self-insurer shall elect
11 by insuring the portions with a company approved by the Commission.
12 The liability of the company shall be limited to those features and
13 liabilities of this act as are expressly stated, and none other.

14 3. a. The Commission, under the rules and regulations as it may prescribe,
15 may permit two or more employers engaged in the same type of
16 business activity or pursuit to enter into agreements to pool their
17 liabilities under this section for the purpose of qualifying as self-
18 insurers, and each approved group shall be classified as a
19 homogeneous self-insurer.

20 b. (1) The Commission, under the rules and regulations as it may
21 prescribe, may permit two or more employers who are members
22 of the same trade or professional association to enter into

1 agreements to pool their liabilities under this section for the
2 purpose of qualifying as self-insurers, and each approved group
3 shall be classified as a common self-insurer.

4 (2) The trade or professional association shall have been in active
5 existence for at least three (3) years; the associations shall have
6 a constitution or by-laws; and all trustees shall be participants
7 in the common self-insurer program, shall have members that
8 support the association by regular payment of dues on an
9 annual, semiannual, quarterly, or monthly basis, and shall be
10 created in good faith for purposes other than that of creating
11 workers' compensation common self-insurer pools.

12 (3) No two trade or professional associations shall be allowed to
13 combine or join each other and qualify as a common self-insurer.

14 c. In order to qualify as group self-insurers, these groups shall furnish to
15 or satisfy the Commission as to the following:

16 (1) an application on a form prescribed by the Commission by an
17 elected board of trustees to establish a self-insurance fund to be
18 administered under the direction of the trustees,

19 (2) the application shall be accompanied by:

20 (a) an indemnity agreement in a form satisfactory to the
21 Commission jointly and severally binding the groups and
22 each member of the groups to comply with the provisions

- 1 of the Workers' Compensation Law, as provided by this
2 act, and
- 3 (b) an individual application by each member of the groups
4 applying for coverage in the fund,
- 5 (3) a current, audited financial statement of each member of the
6 groups showing a combined net worth of all members applying
7 for coverage of not less than One Million Dollars (\$1,000,000.00),
8 a combined ratio of current assets to current liabilities of not
9 less than one-to-one, and working capital of an amount
10 establishing financial ability and liquidity sufficient to pay
11 normal compensation claims promptly,
- 12 (4) (a) that the groups deposit and maintain with the
13 Commission acceptable securities or have posted a surety
14 bond issued by a corporate surety authorized to do
15 business in the State of Oklahoma, in an amount
16 determined by the Commission, but not less than Two
17 Hundred Thousand Dollars (\$200,000.00).
- 18 (b) However, this division shall not be applicable to
19 municipalities, counties, or the State of Oklahoma and its
20 political subdivisions,
- 21 (5) that there exist ample facilities and competent personnel of good
22 character within the groups, or through an approved service

1 organization, for the groups to service their own programs with
2 respect to underwriting matters, claims and adjusting,
3 industrial safety engineering, accounting, and financial
4 management,

5 (6) (a) that the groups maintain excess insurance with an
6 insurance company authorized to do business in this state
7 in an amount acceptable to the Commission.

8 (b) However, this division shall not be applicable to
9 municipalities, counties, or the State of Oklahoma and its
10 political subdivisions,

11 (7) (a) that such financial statements, payroll records, accident
12 experience, compensation reports, and other reports and
13 statements are filed at the time and in the manner as the
14 Commission shall require.

15 (b) However, any fund which fails or refuses to file the
16 reports within the time limits prescribed by the
17 Commission shall be subject to a civil penalty in an
18 amount as the Commission may prescribe not to exceed
19 One Hundred Dollars (\$100.00) per infraction per day,
20 and the failure or refusal may be considered good cause
21 for revocation or suspension of self-insurance privileges.

1 4. Each member of the groups shall file financial reports and statements at the
2 times and in the manner as the Commission may require to satisfy itself as to the
3 continued financial stability of the member.

4 5. In order to continue to qualify as a homogeneous self-insurer fund or common
5 self-insurer fund, the groups shall continue to meet the minimum requirements as set
6 forth in paragraph 3 of this subsection or as prescribed by the Commission.

7 B. 1. Except for the initial qualification of the groups, a certified audited financial
8 statement shall not be required of any member of a group either for initial membership
9 or as a condition for continued membership in the group.

10 2. However, each financial statement filed with the Commission shall be duly
11 certified by the president and treasurer of the member, in the case of a corporation, and
12 by the owner and general partners, respectively, in the case of an individual
13 proprietorship or partnership, to the effect that the financial statement is true and
14 correct to the best of the knowledge and belief of the officer, individual owner, or partner
15 and truly reflects the financial condition of the member.

16 C. Any person who knowingly files a false or fraudulent financial statement under
17 the provisions of this act shall, upon conviction, be fined not more than Ten Thousand
18 Dollars (\$10,000.00) or imprisoned not more than five (5) years, or both.

19 D. Jurisdiction for the enforcement of the provisions of this act or any appeal taken
20 from the enforcement of the provisions of this act shall be in the Oklahoma County
21 district court. The underlying purpose of this act is to assure the payment of benefits due
22 employees, and this act shall be strictly construed to that end.

1 E. 1. The Commission may suspend or revoke any authorization to a self-insurer
2 for a good cause shown after a hearing at which the self-insurer shall be entitled to be
3 heard in person or by counsel and to present evidence.

4 2. No suspension or revocation shall affect the liability already incurred of any self-
5 insurer.

6 F. Authorization to write compensation insurance under this act shall be given to a
7 carrier only after the carrier has received a certificate of authority from the Insurance
8 Commissioner to transact the business of workers' compensation insurance in Oklahoma
9 and the Commission has been notified in writing of the issuance of the certificate of
10 authority.

11 SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 340 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. In any case where the employer is not a self-insurer, in order that the liability
15 for compensation imposed by this act may be most effectively discharged by the employer
16 and in order that the administration of this act with respect to that liability may be
17 facilitated, the Workers' Compensation Commission shall by regulation provide for the
18 discharge by the carrier, for the employer, of the obligations and duties of the employer
19 with respect to the liability imposed by this act upon the employer as it considers proper
20 in order to effectuate the provisions of this act.

21 B. For such purpose:

1 1. Notice to or knowledge of, an employer of the occurrence of the injury shall be
2 notice to or knowledge of the carrier;

3 2. Jurisdiction over the employer by the Commission or by any court under this act
4 shall be jurisdiction over the carrier; and

5 3. Any requirements by the Commission or any court under any compensation
6 order, finding, or decision shall be binding upon the carrier in the same manner and to
7 the same extent as upon the employer.

8 SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 341 of Title 85, unless there is created a duplication in numbering,
10 reads as follows:

11 A. 1. Any employer required to secure the payment of compensation under this act
12 who fails to secure compensation shall be subject to a fine of up to Ten Thousand Dollars
13 (\$10,000.00) as determined by the Workers' Compensation Commission payable to the
14 Death and Permanent Total Disability Trust Fund or be guilty of a misdemeanor and
15 shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by
16 imprisonment in the county jail for a term not to exceed one (1) year, or by both fine and
17 imprisonment.

18 2. This subsection shall not affect any other liability of the employer under this act.

19 B. 1. Whenever the Commission has reason to believe that any employer required
20 to secure the payment of compensation under this act has failed to do so, the Commission
21 shall serve upon the employer a proposed order declaring the employer to be in violation

1 of this act and containing the amount, if any, of the civil penalty to be assessed against
2 the employer pursuant to paragraph 5 of this subsection.

3 2. a. An employer may contest a proposed order of the Commission issued
4 pursuant to paragraph 1 of this subsection by filing with the
5 Commission, within twenty (20) days of receipt of the proposed order, a
6 written request for a hearing.

7 b. Such a request for a hearing need not be in any particular form but
8 shall specify the grounds upon which the person contests the proposed
9 order, the proposed assessment, or both.

10 c. If a written request for hearing is not filed with the Commission within
11 this time, the proposed order, the proposed penalty, or both, shall be a
12 final order of the Commission and shall not be subject to further
13 review by any court.

14 d. A proposed order by the Commission pursuant to this section is prima
15 facie correct, and the burden is upon the employer to prove that the
16 proposed order is incorrect.

17 3. a. If the employer alleges that a carrier has contracted to provide the
18 employer workers' compensation insurance coverage for the period in
19 question, the employer shall include the allegation in its request for
20 hearing and shall name the carrier.

21 b. The Commission shall promptly notify the carrier of the allegation of
22 the employer and of the date of hearing.

1 Workers' Compensation Commission. The notices shall state that the employer has
2 secured the payment of compensation in accordance with the provisions of this act.

3 B. The notices shall contain the name and address of the carrier, if any, with whom
4 the employer has secured payment of compensation and the date of the expiration of the
5 policy.

6 SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 343 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 A. CONTENTS. Every policy or contract of insurance issued by a carrier to an
10 employer to secure the payment of compensation under this act shall contain:

11 1. a. Provisions that identify the insured employer and either identify each
12 covered employee or describe covered employees by class or type of
13 labor performed and the estimated number of employees of each such
14 class or type.

15 b. No single policy of workers' compensation insurance may be issued to
16 any group of employers who are unaffiliated with one another in terms
17 of ownership, control, or right to participate in the profits of the
18 affiliated enterprises;

19 2. Provisions that insolvency or bankruptcy of the employer or discharge in
20 bankruptcy shall not relieve the carrier from payment of compensation for compensable
21 injuries sustained by an employee during the term of the policy or contract;

1 3. a. The agreement of the carrier that it will promptly pay to the person
2 entitled to compensation every installment of compensation that may
3 be awarded or agreed upon and that this obligation shall not be
4 affected by any default of the employer or by any default in the giving
5 of any notice required by the policy or otherwise.

6 b. The agreement shall be construed to be a direct obligation by the
7 carrier to the person entitled to compensation, enforceable in the name
8 of that person; and

9 4. Such other provisions as the Oklahoma Insurance Department allows or requires
10 carriers to include in workers' compensation policies.

11 B. CANCELLATION.

12 1. An employer may cancel coverage with a carrier by giving the carrier at least
13 thirty (30) days' notice, unless a shorter period is permitted under subparagraph b of this
14 paragraph.

15 a. Cancellation of coverage is effective at 12:01 a.m. thirty (30) days after
16 the date the cancellation notice is received by the carrier, unless a later
17 date is specified in the notice to the carrier.

18 b. (1) An employer may cancel coverage effective less than thirty (30)
19 days after written notice is received by the carrier where the
20 employer obtains other coverage or becomes a self-insurer.

1 (2) A cancellation under this subparagraph is effective immediately
2 upon the effective date of the other coverage or upon
3 authorization as a self-insurer.

4 2. a. A notice of cancellation from the carrier shall state the hour and date
5 that cancellation is effective.

6 b. A carrier shall not cancel coverage issued to an employer under this act
7 prior to the date specified for expiration in the policy or contract or
8 until at least thirty (30) days have elapsed after a notice of cancellation
9 has been mailed to the Workers' Compensation Commission and to the
10 employer, or until ten (10) days have elapsed after the notice has been
11 mailed to the employer and to the Commission if the cancellation is for
12 nonpayment of premium.

13 c. However, if the employer procures other insurance within the notice
14 period, the effective date of the new policy shall be the cancellation
15 date of the old policy.

16 3. Cancellation of coverage by an employer or a carrier shall in no way limit
17 liability that was incurred under the policy or contract prior to the effective date of
18 cancellation.

19 C. COVERAGE.

20 1. No policy or contract of insurance shall be issued against liability under this act
21 unless the policy or contract covers the entire liability of the employer. Split coverage,
22 whereby some employees of an employer are insured by one carrier and other employees

1 are insured by another carrier, or by the Oklahoma Workers' Compensation Insurance
2 Plan, or a plan of self-insurance is expressly prohibited except for:

- 3 a. a policy issued whereby all employees performing services for a client
4 under a professional employer organization are covered under the
5 same policy, contract, or plan, or
6 b. a policy issued covering the liability of an employer or of multiple
7 employers as to specific jobs, ventures, contracts, or undertakings, but
8 only if the policy meets with the reasonable satisfaction and approval
9 of the Insurance Commissioner that the policy is in the best interest of
10 the employers and the employees concerned and does not unduly or
11 improperly affect the continuity of workers' compensation coverage by
12 seriously and negatively affecting other carriers and agents with
13 outstanding policies issued to any of the employers in issue.

14 2. As to any questions of liability between the employer and the carrier, the terms
15 of the policy or contract shall govern.

16 D. Under the rules and regulations as may be adopted by the Insurance
17 Commissioner, and notwithstanding other provisions of this act, the Insurance
18 Commissioner may certify five or more employers as an insurance group which shall be
19 considered an employer for the purposes of this act.

20 SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 344 of Title 85, unless there is created a duplication in numbering,
22 reads as follows:

1 A. WORKERS' HEALTH AND SAFETY DIVISION.

2 1. The Workers' Compensation Commission shall establish a Workers' Health and
3 Safety Division, hereinafter referred to as the "Division".

4 2. The Division shall collect and serve as a repository for statistical information on
5 workers' health and safety. As may be deemed necessary by the Commission, and in
6 cooperation with and with the assistance of the Department of Labor, the Oklahoma
7 Insurance Department, the state-sponsored career and technology education centers, also
8 known as Career Tech, and the Department of Rehabilitation Services, the Division shall
9 analyze and use the information to identify and assign priorities to safety needs and to
10 better coordinate the safety services provided by public or private organizations,
11 including insurance carriers. In cooperation with and with the assistance of the
12 Department of Labor and the Oklahoma Insurance Department, the Division shall
13 promote workers' health and safety through educational programs and other innovative
14 programs developed by the Division.

15 3. In cooperation with and with the assistance of the Department of Labor and the
16 Oklahoma Insurance Department, the Division shall coordinate or supervise the
17 collection of information relating to job safety.

18 4. The Chair of the Workers' Compensation Commission, the Director of the
19 Department of Labor, and the Insurance Commissioner shall function as an advisory
20 committee to resolve questions regarding duplication of efforts, assignment of new
21 programs and other matters that need cooperation and coordination.

- 1 5. a. In cooperation with and with the assistance of the Department of
2 Labor and the Oklahoma Insurance Department, the Division shall
3 publish or procure and issue educational books, pamphlets, brochures,
4 films, videotapes, and other informational and educational material.
5 Specific educational material shall be directed to high-risk industries
6 and jobs and shall specifically address means and methods of avoiding
7 high-frequency but preventable workers' injuries. Other educational
8 material shall be directed to business and industry generally, and shall
9 specifically address means and methods of avoiding common workers'
10 injuries.
- 11 b. Specific decisions as to what issues and problems should be addressed
12 by such information shall be made by the Division in cooperation with
13 and with the assistance of the Department of Labor and the Oklahoma
14 Insurance Department and with Commission approval after assigning
15 appropriate priorities based on frequency of injuries, degree of hazard,
16 severity of injuries, and similar considerations.
- 17 c. The educational materials shall include specific references to the
18 requirements of state and federal laws and regulations, to
19 recommendations and practices of business, industry, and trade
20 associations, and, where needed, to recommended work practices based
21 on recommendations made by the Division, in cooperation with and

1 with the assistance of the Department of Labor and the Oklahoma
2 Insurance Department for the prevention of injury.

3 6. In cooperation with, and with the assistance of, the Department of Labor and the
4 Oklahoma Insurance Department, the Division shall cooperate with employers and
5 employees to develop means and methods of educating employees and employers with
6 regard to workplace safety.

7 7. In cooperation with and with the assistance of the Department of Labor and the
8 Oklahoma Insurance Department, the Division shall encourage other entities to develop
9 safety courses, safety plans, and safety programs.

10 8. In cooperation with and with the assistance of the Department of Labor and the
11 Oklahoma Insurance Department, the Division shall certify safe employers to provide
12 peer review safety programs.

13 9. In cooperation with and with the assistance of the Department of Labor and the
14 Oklahoma Insurance Department, the Division shall advise insurance carrier loss-control
15 service organizations of hazard classifications, specific employers, industries,
16 occupations, or geographic regions to which loss-control services should be directed, or of
17 the identity and types of injuries or occupational diseases for prevention of the same to
18 which loss-control services should be directed and shall advise insurance carrier loss-
19 control service organizations of safety needs and priorities recommended by the Division
20 in cooperation with and with the assistance of the Department of Labor and the
21 Oklahoma Insurance Department.

22 B. JOB SAFETY INFORMATION SYSTEM.

1 1. In cooperation with and with the assistance of the Department of Labor and the
2 Oklahoma Insurance Department, the Division shall establish and maintain a job safety
3 information system.

4 2. a. The job safety information system shall include a comprehensive data
5 base that incorporates all pertinent information relating to each
6 reported injury.

7 b. The identity of the employee is confidential and may not be disclosed
8 as part of the job safety information system.

9 3. Employers shall file with the Commission any reports as may be necessary. The
10 Commission shall promulgate rules and prescribe the form and manner of the reports.

11 4. In cooperation with and with the assistance of the Department of Labor and the
12 Oklahoma Insurance Department, the Division is authorized, empowered, and directed
13 to obtain, from any state agency, data and statistics, including those compiled for the
14 purpose of rate making.

15 5. The Division shall consult the Department of Labor and any other affected state
16 agencies in the design of data information and retrieval systems that will accomplish the
17 mutual purposes of those agencies and of the Division.

18 C. EXTRA-HAZARDOUS EMPLOYER PROGRAM.

19 1. a. In cooperation with and with the assistance of the Department of
20 Labor and the Oklahoma Insurance Department, the Division shall
21 develop a program, including injury frequency, to identify extra-
22 hazardous employers. The term "extra-hazardous employer" includes

1 an employer whose injury frequencies substantially exceed those that
2 may reasonably be expected in the business or industry of that
3 employer, an employer whose experience modifier is identified by the
4 Commission as too high, and other employers as may, following a
5 public hearing, be identified as extra-hazardous.

6 b. The Division shall notify each identified extra-hazardous employer or
7 the carrier for the employer that the employer has been identified as
8 an extra-hazardous employer.

9 2. a. An employer who receives notification under subparagraph b of
10 paragraph 1 of this subsection must obtain a safety consultation within
11 thirty (30) days from the Department of Labor, the insurance carrier of
12 the employer, or another professional source approved by the Division
13 for that purpose.

14 b. The safety consultant shall file a written report with the Division and
15 the employer setting out any hazardous conditions or practices
16 identified by the safety consultation.

17 3. The employer and the consultant shall formulate a specific accident prevention
18 plan that addresses the hazards identified by the consultant. The employer shall comply
19 with the accident prevention plan.

20 4. The Division may investigate accidents occurring at the work sites of an
21 employer for whom a plan has been formulated under paragraph 3 of this subsection, and

1 the Division may otherwise monitor the implementation of the accident prevention plan
2 as it finds necessary.

3 5. a. Six (6) months after the formulation of an accident prevention plan
4 prescribed by paragraph 3 of this subsection, the Division shall
5 conduct a follow-up inspection of the premises of the employer. The
6 Division may require the participation of the safety consultant who
7 performed the initial consultation and formulated the safety plan.

8 b. If the Division determines that the employer has complied with the
9 terms of the accident prevention plan or has implemented other
10 acceptable corrective measures, the Division shall so certify.

11 c. An employer who the Division determines has failed or refused to
12 implement the accident prevention plan or other suitable hazard
13 abatement measures is subject to civil penalties as follows:

14 (1) the Commission may assess a civil penalty against an employer
15 who fails or refuses to implement the accident prevention plan
16 or other suitable hazard abatement procedures in an amount up
17 to One Thousand Dollars (\$1,000.00) per day of violation
18 payable to the Death and Permanent Total Disability Trust
19 Fund, and

20 (2) the Commission may petition the Oklahoma County district
21 court, or the court of the county where the business is located,
22 for an order enjoining the employer from engaging in further

1 employment until such time as the employer implements the
2 prevention plan or abatement measure described in this
3 subsection or makes payment of all civil penalties.

4 6. If, at the time of the inspection required under subparagraph a of paragraph 5 of
5 this subsection, the employer continues to exceed the injury frequencies that may
6 reasonably be expected in the business or industry of that employer, the Division shall
7 continue to monitor the safety conditions at the work site and may formulate additional
8 safety plans reasonably calculated to abate hazards. The employer shall comply with the
9 plans and may be subject to additional penalties for failure to implement the plan or
10 plans.

11 7. An employer may request a hearing before the full Commission to contest
12 findings made by the Division under this section.

13 8. The identification as an extra-hazardous employer under this section is not
14 admissible in any judicial proceeding unless the Commission has determined that the
15 employer is not in compliance with this section and unless that determination has not
16 been reversed or superseded at the time of the event giving rise to the judicial
17 proceeding.

18 D. ACCIDENT PREVENTION SERVICES.

19 1. Any insurance company licensed to provide casualty insurance in the State of
20 Oklahoma and desiring to write workers' compensation insurance in Oklahoma shall
21 maintain or provide accident prevention services as a prerequisite to write workers'
22 compensation insurance. The services shall be adequate to furnish accident prevention

1 programs required by the nature of operations of the policyholder and shall include
2 surveys, recommendations, training programs, consultations, analyses of accident
3 causes, industrial hygiene, and industrial health services to implement the program of
4 accident prevention services.

5 2. Notice that services are available to the policyholder from the insurance
6 company shall appear in no less than ten-point bold type on the front of each workers'
7 compensation insurance policy delivered or issued for delivery in the state.

8 3. At least once each year, each insurance company writing workers' compensation
9 insurance in Oklahoma shall submit to the Division detailed information on the type of
10 accident prevention services offered to the policyholders of that insurance company. The
11 information shall include any additional information required by the Commission.

12 4. In cooperation with and with the assistance of the Department of Labor and the
13 Oklahoma Insurance Department, the Division shall conduct inspections to determine
14 the adequacy of the accident prevention services required by paragraph 1 of this
15 subsection at least every two (2) years for each insurance company writing workers'
16 compensation insurance in Oklahoma.

17 5. If the insurance company does not maintain or provide the accident prevention
18 services required by this subsection, or if the insurance company does not use the
19 services in a reasonable manner to prevent injury to employees of its policyholders, the
20 insurance company may be subjected to the same civil penalties as are assessable and
21 enforceable against employers as set forth in subparagraph c of paragraph 5 of

1 subsection C of this section and shall be subject to suspension or revocation of license to
2 do business in this state by the Insurance Commissioner.

3 6. The Commission shall employ the qualified personnel necessary to enforce this
4 section.

5 E. IMMUNITY FROM CERTAIN LIABILITY.

6 1. Except as provided in paragraph 5 of subsection D of this section, the insurance
7 company, the agent, servant, or employee of the insurance company or self-insured
8 employer, or a safety consultant who performs a safety consultation under this section
9 shall have no liability with respect to any accident based on the allegation that the
10 accident was caused or could have been prevented by a program, inspection, or other
11 activity or service undertaken by the insurance company or self-insured employer for the
12 prevention of accidents in connection with operations of the employer.

13 2. Provided, however, this immunity shall not affect the liability of the insurance
14 carrier or self-insured employer for compensation or as otherwise provided in this act.

15 F. EXCLUSIVE REMEDY. This section does not create an independent cause of
16 action at law or in equity.

17 SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 345 of Title 85, unless there is created a duplication in numbering,
19 reads as follows:

20 A. LIABILITY UNAFFECTED.

21 1. a. The making of a claim for compensation against any employer or
22 carrier for the injury or death of an employee shall not affect the right

1 of the employee, or the dependents of the employee, to make a claim or
2 maintain an action in court against any third party for the injury, but
3 the employer or the insurance carrier of the employer shall be entitled
4 to reasonable notice and opportunity to join in the action.

5 b. If the employer or insurance carrier of the employer, or both, join in
6 the action, they shall be entitled to a first lien upon two-thirds (2/3) of
7 the net proceeds recovered in the action that remain after the payment
8 of the reasonable costs of collection, for the payment to them of the
9 amount paid and to be paid by them as compensation to the injured
10 employee or the dependents of the employee.

11 2. The commencement of an action by an employee, or the dependents of the
12 employee, against a third party for damages by reason of an injury to which this act is
13 applicable, or the adjustment of any claim, shall not affect the rights of the injured
14 employee, or the dependents of the employee, to recover compensation, but any amount
15 recovered by the injured employee, or the dependents of the employee, from a third party
16 shall be applied as follows:

17 a. reasonable costs of collection shall be deducted,
18 b. then, in every case, one-third (1/3) of the remainder shall belong to the
19 injured employee, or the dependents of the employee, as the case may
20 be,
21 c. the remainder, or so much as is necessary to discharge the actual
22 amount of the liability of the employer and the carrier, shall belong to

1 the employer or carrier, and shall be distributed accordingly between
2 those entities, and

3 d. any excess shall belong to the injured employee or the dependents of
4 the employee.

5 B. SUBROGATION.

6 1. An employer or carrier liable for compensation under this act for the injury or
7 death of an employee shall have the right to maintain an action in tort against any third
8 party responsible for the injury or death. However, the employer or the carrier must
9 notify the claimant in writing that the claimant has the right to hire a private attorney
10 to pursue any benefits to which the claimant is entitled in addition to the subrogation
11 interest against any third party responsible for the injury or death.

12 2. After reasonable notice and opportunity to be represented in the action has been
13 given to the compensation beneficiary, the liability of the third party to the compensation
14 beneficiary shall be determined in the action, as well as the liability of the third party to
15 the employer and carrier.

16 3. a. After recovery shall be had against the third party, by legal action or
17 otherwise, the compensation beneficiary shall be entitled to any
18 amount recovered over and above the amount that the employer and
19 carrier have paid or are liable for in compensation, after deducting
20 reasonable costs of collection.

1 b. In no event shall the compensation beneficiary be entitled to less than
2 one-third (1/3) of the amount recovered from the third party, after
3 deducting the reasonable cost of collection.

4 4. An employer or carrier who is liable for compensation under this act on account
5 of injury or death of an employee shall be entitled to maintain a third-party action
6 against the uninsured motorist coverage or underinsured motorist coverage of the
7 employer.

8 5. The purpose and intent of this subsection is to prevent double payment to the
9 employee.

10 C. SETTLEMENT OF CLAIMS.

11 1. Settlement of claims under subsections A and B of this section must have the
12 approval of the court or of the Commission, except that the distribution of that portion of
13 the settlement which represents the compensation payable under this act must have the
14 approval of the Commission.

15 2. Where liability is admitted to the injured employee or the dependents of the
16 employee by the employer or carrier, the cost of collection may be deducted from that
17 portion of the settlement under subsections A or B of this section representing
18 compensation, upon direction and approval of the Commission.

19 3. No party shall settle a claim under subsections A and B of this section without
20 first giving three (3) days' written notice to all parties with an interest in the claim of the
21 intent to settle.

1 4. Each party with an interest in a claim under subsections A and B of this section
2 shall cooperate with all other parties in litigation or settlement of such claims.

3 D. INDEMNITY. Any permanent partial disability indemnity award shall be
4 placed in a designated escrow account which shall be used for the purpose of future
5 medical care of an injured worker or any fees and costs associated with the vocational
6 rehabilitation of the injured worker.

7 SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 346 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 A. Any benefits payable to an injured worker under this act shall be reduced in an
11 amount equal to, dollar-for-dollar, the amount of benefits the injured worker has
12 previously received for the same medical services or period of disability, whether those
13 benefits were paid under a group health care service plan, a group disability policy, a
14 group loss of income policy, a group accident, health, or accident and health policy, a self-
15 insured employee health or welfare benefit plan, or a group hospital or medical service
16 contract.

17 B. The claimant shall be required to disclose in a manner to be determined by the
18 Workers' Compensation Commission the identity, address, or phone number of any
19 person or entity which has paid benefits described in this section in connection with any
20 claim under this act.

1 C. 1. Prior to any final award or approval of a joint petition, the claimant shall be
2 required to furnish the respondent with releases of all subrogation claims for the benefits
3 described in this section.

4 2. a. In the event that the claimant is unable to produce releases required
5 by this section, then the Commission shall determine the amount of
6 such potential subrogation claims and shall direct the carrier or self-
7 insured employer to hold in reserve only the specific sums determined
8 by the Commission for a period of five (5) years.

9 b. If, after the expiration of five (5) years, no release or final court order is
10 presented otherwise directing the payment of the sums, then the
11 carrier or self-insured employer shall tender the sums to the Death
12 and Permanent Total Disability Trust Fund.

13 SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 347 of Title 85, unless there is created a duplication in numbering,
15 reads as follows:

16 A. 1. Compensation to the injured employee shall not be allowed for the first seven
17 (7) days of disability resulting from injury, excluding the day of injury.

18 2. If a disability extends beyond that period, compensation shall commence with
19 the ninth day of disability.

20 3. If a disability extends for a period of two (2) weeks, compensation shall be
21 allowed beginning the first day of disability, excluding the day of injury.

1 B. For compensation payable to an injured employee for disability, other than
2 permanent partial disability as specified in subsection D of this section, and
3 compensation payable to surviving dependents of a deceased employee, the total
4 disability rate shall not exceed sixty-six and two-thirds percent (66 and 2/3%) of the
5 average weekly wage of the employee with a twenty-dollar-per-week minimum, subject to
6 the following maximums:

7 1. For a disability or death which results from an injury occurring during a
8 calendar year beginning on or after January 1, 2009, the maximum weekly benefit
9 payable shall be seventy-five percent (75%) of the state average weekly wage if, and only
10 if, the Insurance Commissioner certifies to the Workers' Compensation Commission
11 during December 2008, that the overall workers' compensation insurance rates for
12 Oklahoma have decreased by at least ten percent (10%) subsequent to July 1, 2005; and

13 2. After January 1, 2009, the weekly benefit rate shall be rounded to the nearest
14 whole dollar. In explanation, if the actual rate be a dollar amount plus forty-nine cents
15 (49¢) or less, the rate for compensation purposes shall be the next lower whole-dollar
16 amount, and, if the actual rate be a dollar amount plus fifty cents (50¢) or more, then the
17 rate for compensation purposes shall be the next higher whole-dollar amount.

18 C. 1. Upon request of the respondent or carrier, the commission shall review the
19 claim and determine the necessity for additional temporary total benefits after twenty
20 (20) weeks or after any thirteen-week interval after twenty (20) weeks and may, if
21 warranted by the preponderance of the evidence on the basis of the record as a whole,
22 extend the period of payment for temporary total disability.

1 2. Any weekly benefit payments made after the Commission has terminated
2 temporary total benefits shall be classified as warranted by the facts in the case and as
3 otherwise provided for in this act.

4 D. 1. The permanent partial disability rate for compensation payable to an
5 employee for permanent partial disability which results from an injury occurring on or
6 after July 1, 2009, shall not exceed sixty-six and two-thirds percent (66 and 2/3%) of the
7 average weekly wage of the employee, with a twenty-dollar-per-week minimum, subject
8 to a maximum of One Hundred Fifty-four Dollars (\$154.00). However, if the total
9 disability rate of the employee for the injury would be Two Hundred Five Dollars and
10 thirty-five cents (\$205.35) per week or greater, then the maximum permanent partial
11 disability rate shall be seventy-five percent (75%) of the total disability rate of the
12 employee.

13 2. a. The permanent partial disability rate provided in this section shall
14 also apply to scheduled permanent injuries except those resulting in
15 amputation or permanent total loss of use of a member.

16 b. The permanent partial disability rate for amputation or permanent
17 total loss of use of a member shall be the same as the total disability
18 rate of the employee as specified in subsection B of this section, subject
19 to a maximum of eighty-five percent (85%) of the state average weekly
20 wage.

21 3. The provisions of this subsection shall apply only to those injuries which occur on
22 or after January 1, 2009.

1 E. Compensation payable to the dependents of a deceased employee shall be in
2 addition to the funeral allowance and those benefits which were paid or to which the
3 injured employee was entitled in the lifetime of the employee under Sections 56 through
4 64 of this act and Sections 66 through 73 of this act.

5 SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 348 of Title 85, unless there is created a duplication in numbering,
7 reads as follows:

8 A. The benefits shall be paid for a period not to exceed four hundred fifty (450)
9 weeks of disability, except that this limitation shall not apply in cases of permanent total
10 disability or death.

11 B. 1. For injuries occurring on or after November 1, 2008, the employer or its
12 insurance carrier shall pay weekly benefits for death or permanent total disability not to
13 exceed three hundred twenty-five (325) times the maximum total disability rate
14 established for the date of the injury under this act.

15 2. a. An employee or a dependent of an employee who receives a total of
16 Seventy-five Thousand Dollars (\$75,000.00) in weekly benefits for
17 injuries sustained on or before November 1, 2008, shall be eligible to
18 continue to draw benefits at the rates prescribed in this act, but all
19 benefits in excess of Seventy-five Thousand Dollars (\$75,000.00) shall
20 be payable from the Death and Permanent Total Disability Trust
21 Fund.

1 b. An employee or a dependent of an employee who receives the
2 maximum amount specified in paragraph 1 of this subsection shall be
3 eligible to continue to draw benefits at the rates prescribed by this act
4 payable from the Trust Fund.

5 3. The Trust Fund shall consist of such funds as may be prescribed by law and shall
6 be administered, invested, and disbursed by the Workers' Compensation Commission.

7 4. Each employer or the insurance carrier of the employer in each case of death of
8 an employee where there are no dependents shall pay into the Trust Fund the sum of
9 Five Hundred Dollars (\$500.00).

10 SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma
11 Statutes as Section 349 of Title 85, unless there is created a duplication in numbering,
12 reads as follows:

13 A. 1. Notwithstanding any other definition of extra-hazardous employer as
14 provided by Section 46 of this act, any employer who fails to utilize the consultative
15 safety services available through the Department of Labor, its own insurance carrier, or
16 a private safety consultant shall be identified as an extra-hazardous employer if it is
17 established by a preponderance of the evidence that an injury or death is caused in
18 substantial part by the failure of the employer to comply with any Oklahoma statute or
19 official regulation pertaining to the health or safety of employees or failure to follow
20 safety consultant recommendations.

21 2. When so notified, the employer shall comply with the provisions provided by
22 Section 46 of this act.

1 B. Provided, if it is established by a preponderance of the evidence that the
2 employee is injured as a result of the violation by the employee of the safety rules or
3 instructions of the employer, the provisions of this section shall not apply.

4 SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 350 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. Where an injury or death is sustained by a minor employed in violation of
8 federal or state statutes pertaining to minimum ages for employment of minors,
9 compensation or death benefits provided for by this act shall be doubled.

10 B. However, the penalty shall not apply when the minor misrepresents the minor's
11 age, in writing, to the employer.

12 SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 351 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 A. 1. Any employer who without reasonable cause refuses to return an employee
16 who is injured in the course of employment to work, where suitable employment is
17 available within the physical and mental limitations of the employee, upon order of the
18 Workers' Compensation Commission, and in addition to other benefits, shall be liable to
19 pay to the employee the difference between benefits received and the average weekly
20 wages lost during the period of the refusal, for a period not exceeding one (1) year.

21 2. In determining the availability of employment, the continuance in business of
22 the employer shall be considered, and any written rules promulgated by the employer

1 with respect to seniority or the provisions of any collective bargaining agreement with
2 respect to seniority shall control.

3 B. 1. In addition to benefits otherwise provided for by this act, an employee who is
4 entitled to receive compensation benefits for permanent disability and who has not been
5 offered an opportunity to return to work or reemployment assistance shall be paid
6 reasonable expenses of travel and maintenance and other necessary costs of a program of
7 vocational rehabilitation if the Commission finds that the program is reasonable in
8 relation to the disability sustained by the employee.

9 2. The responsibility of the employer for additional payments shall not exceed
10 seventy-two (72) weeks, regardless of the length of the program requested.

11 3. The employee shall not be required to enter any program of vocational
12 rehabilitation against the consent of the employee; however, no employee who waives
13 rehabilitation or refuses to participate in or cooperate for reasonable cause with either an
14 offered program of rehabilitation or job placement assistance shall be entitled to
15 permanent partial disability benefits in excess of the percentage of permanent physical
16 impairment established by objective physical findings. If the employee waives
17 rehabilitation or refuses to participate in or cooperate with an offered program or job
18 placement assistance, then payments of benefits or awards shall be placed in a
19 designated escrow account which shall be used for the purpose of future medical care.

20 4. A request for the program, if elected by the claimant, shall be filed with the
21 Commission prior to a determination of the amount of permanent disability benefits
22 payable to the employee.

1 C. If a request for the program is elected by the claimant, mandatory vocational
2 rehabilitation assessments shall be conducted within four (4) weeks from the date of
3 injury and every four (4) weeks thereafter, as needed, for any case brought before the
4 Commission or its designees in the form of an administrative hearing. The program
5 shall commence as soon as reasonably practicable, but not less than thirty (30) days after
6 the vocational rehabilitation assessment is completed, except in cases of permanent total
7 disability.

8 D. Mandatory vocational rehabilitation evaluations shall include consideration of
9 any preliminary medical prognosis or diagnosis. If it is unlikely that the claimant will be
10 able to return to the prior job or occupation previously held by the claimant, then the
11 respondent shall present to the claimant no less than two proposed occupational recovery
12 plans.

13 E. This section shall not be construed as creating an exception to the common law
14 regarding employment at will.

15 F. The purpose and intent of this section is to place an emphasis on returning the
16 injured worker to work, while still allowing and providing for vocational rehabilitation
17 programs when determined appropriate by the Commission.

18 SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma
19 Statutes as Section 352 of Title 85, unless there is created a duplication in numbering,
20 reads as follows:

21 A. No compensation in any amount for temporary total, temporary partial, or
22 permanent total disability shall be payable to an injured employee with respect to any

1 week for which the injured employee receives unemployment insurance benefits under
2 the Oklahoma Employment Security Law, or the unemployment insurance law of any
3 other state.

4 B. Provided, however, if a claim for temporary total disability is controverted and
5 later determined to be compensable, temporary total disability shall be payable to an
6 injured employee with respect to any week for which the injured employee receives
7 unemployment benefits but only to the extent that the temporary total disability
8 otherwise payable exceeds the unemployment benefits.

9 SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 353 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 A. For the fiscal year beginning July 1, 2009, the Workers' Compensation
13 Commission shall allocate One Hundred Thousand Dollars (\$100,000.00) to a special
14 project for the following purposes:

- 15 1. Identification of industries or jobs having a high incidence of injuries;
- 16 2. Determination of the causes of injuries of which there is a high incidence; and
- 17 3. The provision of educational or advisory services to employers and employees
18 designed to reduce the incidence of such injuries.

19 B. It is the intent of this section to provide information and other services to
20 employers and employees which will improve workplace safety in the State of Oklahoma.

21 C. For succeeding fiscal years, the Commission shall determine to what extent the
22 project should be funded.

1 SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 354 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. The employer shall promptly provide for an injured employee such medical,
5 surgical, hospital, chiropractic, optometric, podiatric, and nursing services and medicine,
6 crutches, ambulatory devices, artificial limbs, eyeglasses, contact lenses, hearing aids,
7 and other apparatus as may be reasonably necessary in connection with the injury
8 received by the employee.

9 B. If the employer fails to provide the medical services provided in subsection A of
10 this section within a reasonable time after knowledge of the injury, the Workers'
11 Compensation Commission may direct that the injured employee obtain the medical
12 service at the expense of the employer, and any emergency treatment afforded the
13 injured employee shall be at the expense of the employer. In no circumstance may an
14 employee, the family or dependents of the employee, be billed or charged for any portion
15 of the cost of providing the benefits to which the employee is entitled under this act.

16 C. If the Commission finds that the employer failed to provide the medical services
17 provided in subsection A of this section, the Commission shall assess a fine against the
18 employer, not to exceed Five Thousand Dollars (\$5,000.00).

19 D. In order to help control the cost of medical benefits, the Commission, on or
20 before July 1, 2009, following a public hearing and with the assistance and cooperation of
21 the Oklahoma Insurance Department, is authorized and directed to establish appropriate

1 rules and regulations to establish and implement a system of managed health care for
2 the State of Oklahoma.

3 E. For the purpose of establishing and implementing a system of managed health
4 care, the Commission is authorized to:

5 1. Develop rules and regulations for the certification of managed care entities to
6 provide managed care to injured workers;

7 2. Develop regulations for peer review, service utilization, and resolution of medical
8 disputes;

9 3. Prohibit "balance billing" from the employee, employer, or carrier;

10 4. Establish fees for medical services. The Commission shall make no distinction in
11 approving fees from different classes of medical service providers or health care providers
12 for provision of the same or essentially similar medical services or health care services as
13 defined in this act; and

14 5. a. Give the employer the right to choose the initial treating physician,
15 with the injured employee having the right to petition the Commission
16 for a one-time-only change of physician to one who is associated with a
17 managed care entity certified by the Commission or is the regular
18 treating physician of the employee who maintains the medical records
19 of the employee and with whom the employee has a bona fide doctor-
20 patient relationship demonstrated by a history of regular treatment
21 prior to the onset of the compensable injury, but only if the primary
22 care physician agrees to refer the employee to a certified managed care

1 entity for any specialized treatment, including physical therapy, and
2 only if such primary care physician agrees to comply with all the rules,
3 terms, and conditions regarding services performed by the managed
4 care entity initially chosen by the employer.

5 b. A petition for change of physician shall be expedited by the
6 commission.

7 F. The injured employee shall have direct access to any optometric or
8 ophthalmologic medical service provider who agrees to provide services under the rules,
9 terms, and conditions regarding services performed by the managed care entity initially
10 chosen by the employer for the treatment and management of eye injuries or conditions.
11 Such optometric or ophthalmologic medical service provider shall be considered a
12 certified provider by the Commission.

13 G. The Commission is authorized to promulgate any other rules or regulations as
14 may be necessary to carry out the provisions of this section and its purpose of controlling
15 medical costs through the establishment of a managed care system.

16 SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 355 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 The amounts payable or time periods allowable for authorized medical, hospital,
20 and other services and treatment furnished under Sections 56 through 63 of this act,
21 unless waived by the employer-respondent or approved by the Workers' Compensation

1 Commission and warranted by the preponderance of the evidence on the basis of the
2 record as a whole, are:

3 1. Six (6) months if the claimant lost no compensable time from work as a result of
4 his or her injury;

5 2. Six (6) months following the return to work by an injured employee who has been
6 receiving authorized medical or hospital or other services or treatment; and

7 3. Ten Thousand Dollars (\$10,000.00) aggregate for all authorized medical,
8 hospital, and other services and treatment, including any amounts paid under
9 subsections A and B of Section 56 of this act.

10 SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma
11 Statutes as Section 356 of Title 85, unless there is created a duplication in numbering,
12 reads as follows:

13 The employer shall not be liable for any of the payments provided for in Sections 56
14 through 63 of this act in the case of a contest of liability where the Workers'
15 Compensation Commission shall decide that the injury does not come within the
16 provisions of this act.

17 SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 357 of Title 85, unless there is created a duplication in numbering,
19 reads as follows:

20 A. An injured employee claiming to be entitled to compensation shall submit to
21 such physical examination and treatment by another qualified physician, designated or

1 approved by the Workers' Compensation Commission, as the Commission may require
2 from time to time if reasonable and necessary.

3 B. The places of examination and treatment shall be reasonably convenient for the
4 employee.

5 C. Such physician as the employee, employer, or insurance carrier may select and
6 pay for may participate in the examination if the employee, employer, or insurance
7 carrier so requests.

8 D. In cases where the Commission directs examination or treatment, proceedings
9 shall be suspended, and no compensation shall be payable for any period during which
10 the employee refuses to submit to examination and treatment or otherwise obstructs the
11 examination or treatment.

12 E. Failure of the employee to obey the order of the Commission in respect to
13 examination or treatment for a period of one (1) year from the date of suspension of
14 compensation shall bar the right of the claimant to further compensation in respect to
15 the injury.

16 SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 358 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 Except in cases of hernia, which are specifically covered by Section 70 of this act,
20 where an injured person unreasonably refuses to submit to a surgical operation which
21 has been advised by at least two qualified physicians and where the recommended
22 operation does not involve unreasonable risk of life or additional serious physical

1 impairment, the Workers' Compensation Commission, in fixing the amount of
2 compensation, may take into consideration such refusal to submit to the advised
3 operation.

4 SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 359 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. All persons who render services or provide things mentioned in Sections 56
8 through 63 of this act shall submit the reasonableness of the charges to the Workers'
9 Compensation Commission for its approval, and, when so approved, the charges shall be
10 enforceable by the Commission in the same manner as is provided for the enforcement of
11 compensation payments.

12 B. However, the provisions of this section relating to charges shall not apply where
13 a written contract exists between the employer and the person who renders the service or
14 furnishes the things.

15 SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 360 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. 1. If the employee selects a physician, the Workers' Compensation Commission
19 shall not authorize a change of physician unless the employee first establishes to the
20 satisfaction of the Commission that there is a compelling reason or circumstance
21 justifying a change.

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

1 2. a. If the employer selects a physician, the claimant may petition the
2 Commission one time only for a change of physician, and if the
3 Commission approves the change with or without a hearing, the
4 Commission shall determine the second physician and shall not be
5 bound by recommendations of claimant or respondent.

6 b. However, if the change desired by the claimant is to a chiropractic
7 physician, optometrist, or podiatrist, the claimant may make the
8 change by giving advance written notification to the employer or
9 carrier.

10 3. Following establishment of an Oklahoma managed care system as provided in
11 Section 56 of this act, paragraphs 1 and 2 of this subsection shall become null and void,
12 and thereafter:

13 a. (1) the employer shall have the right to select the initial primary
14 care physician from among those associated with managed care
15 entities certified by the commission as provided in Section 56 of
16 this act,

17 (2) where the employer has contracted with a managed care
18 organization certified by the Commission, the claimant
19 employee, however, shall be allowed to change physicians by
20 petitioning the commission one time only for a change of
21 physician to a physician who must either be associated with the
22 managed care entity chosen by the employer or be the regular

1 treating physician of the employee who maintains the medical
2 records of the employee and with whom the employee has a bona
3 fide doctor-patient relationship demonstrated by a history of
4 regular treatment prior to the onset of the compensable injury
5 but only if the primary care physician agrees to refer the
6 employee to the managed care entity chosen by the employer for
7 any specialized treatment, including physical therapy, and only
8 if the primary care physician agrees to comply with all the rules,
9 terms, and conditions regarding services performed by the
10 managed care entity chosen by the employer, and

11 (3) where the employer does not have a contract with a managed
12 care organization certified by the Commission, the claimant
13 employee, however, shall be allowed to change physicians by
14 petitioning the commission one time only for a change of
15 physician, to a physician who must either be associated with any
16 managed care entity certified by the Commission or be the
17 regular treating physician of the employee who maintains the
18 medical records of the employee and with whom the employee
19 has a bona fide doctor-patient relationship demonstrated by a
20 history of regular treatment prior to the onset of the
21 compensable injury, but only if the primary care physician
22 agrees to refer the employee to a physician associated with any

1 managed care entity certified by the Commission for any
2 specialized treatment, including physical therapy, and only if
3 the primary care physician agrees to comply with all the rules,
4 terms, and conditions regarding services performed by any
5 managed care entity certified by the Commission.

6 b. A petition for change of physician shall be expedited by the
7 Commission.

8 B. Treatment or services furnished or prescribed by any physician other than the
9 ones selected according to the foregoing, except emergency treatment, shall be at the
10 expense of the claimant.

11 C. 1. After being notified of an injury, the employer or insurance carrier shall
12 deliver to the employee, in person or by certified or registered mail, return receipt
13 requested, a copy of a notice, approved or prescribed by the Commission, which explains
14 the rights and responsibilities of the employee concerning change of physician.

15 2. If, after notice of injury, the employee is not furnished a copy of the notice, the
16 change of physician rules do not apply.

17 3. Any unauthorized medical expense incurred after the employee has received a
18 copy of the notice shall not be the responsibility of the employer.

19 D. A request for a hearing on a change of physician by either the employer or the
20 injured employee shall be given preference on the docket of the Commission over all
21 other matters.

1 E. Cooperation on the part of both the injured employee and the employer in an
2 effort to select another physician is encouraged.

3 F. When compensability is controverted, subsection B of this section shall not apply
4 if:

5 1. The employee requests medical assistance in writing prior to seeking the same
6 as a result of an alleged compensable injury;

7 2. The employer refuses to refer the employee to a medical provider within forty-
8 eight (48) hours after a written request as provided above;

9 3. The alleged injury is later found to be a compensable injury; and

10 4. The employer has not made a previous offer of medical treatment.

11 G. The Commission shall by regulation require the inclusion of the information set
12 forth in subsection F of this section on all A-6 forms.

13 H. This section overrules *Conaghan v. Riverfield Country Day School*, 2007 OK 60,
14 163 P.3d 557.

15 SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 361 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. 1. Every hospital or other person furnishing the injured employee with medical
19 services shall permit its records to be copied by and shall furnish full written information
20 to the Workers' Compensation Commission, the Workers' Compensation Fraud
21 Investigation Unit, the employer, the carrier, and the employee or the dependents of the
22 employee.

1 2. The reasonable cost of copies shall be paid by the one requesting them to the
2 health care or medical service provider furnishing them.

3 B. No person who in good faith pursuant to subsection A of this section or pursuant
4 to rules and regulations established by the Commission reports medical information shall
5 incur legal liability for the disclosure of the information.

6 SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 362 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 The Workers' Compensation Commission is authorized to establish rules and
10 regulations, including schedules of maximum allowable fees for specified medical services
11 rendered with respect to compensable injuries, for the purpose of controlling the cost of
12 medical and hospital services and supplies provided pursuant to Sections 56 through 63
13 of this act.

14 SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 363 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. 1. Compensation shall be computed on the average weekly wage earned by the
18 employee under the contract of hire in force at the time of the accident and in no case
19 shall be computed on less than a full-time workweek in the employment.

20 2. Where the injured employee was working on a piece basis, the average weekly
21 wage shall be determined by dividing the earnings of the employee by the number of
22 hours required to earn the wages during the period not to exceed fifty-two (52) weeks

1 preceding the week in which the accident occurred and by multiplying this hourly wage
2 by the number of hours in a full-time workweek in the employment.

3 B. Overtime earnings are to be added to the regular weekly wages and shall be
4 computed by dividing the overtime earnings by the number of weeks worked by the
5 employee in the same employment under the contract of hire in force at the time of the
6 accident, not to exceed a period of fifty-two (52) weeks preceding the accident.

7 C. If, because of exceptional circumstances, the average weekly wage cannot be
8 fairly and justly determined by the above formulas, the Commission may determine the
9 average weekly wage by a method that is just and fair to all parties concerned.

10 SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma
11 Statutes as Section 364 of Title 85, unless there is created a duplication in numbering,
12 reads as follows:

13 A. In case of total disability, there shall be paid to the injured employee during the
14 continuance of the total disability sixty-six and two-thirds percent (66 and 2/3%) of the
15 average weekly wage of the employee.

16 B. In the absence of clear and convincing proof to the contrary, the loss of both
17 hands, both arms, or both eyes shall constitute permanent total disability.

18 C. In all other cases, permanent total disability shall be determined in accordance
19 with the facts.

20 D. 1. No more often than annually, the carrier or self-insured employer or the
21 Death and Permanent Total Disability Trust Fund may require an injured worker
22 receiving permanent total disability benefits to, as of the date thereof, certify on forms

1 provided by the Workers' Compensation Commission that the injured worker is
2 permanently and totally disabled and not gainfully employed.

3 2. Notice of the requirement shall be made by certified mail.

4 3. Failure of the employee to so certify within thirty (30) days after receipt of the
5 notice shall permit the discontinuance of benefits without penalty until otherwise
6 ordered by the Commission.

7 4. If the Commission finds that the claim of total disability was made in bad faith
8 by the employee, or if the employee made misleading representations regarding disability
9 benefits, the Commission may assess a fine not to exceed Five Hundred Dollars (\$500.00)
10 against the employee. The assessed fine shall be deducted from any final award to the
11 employee.

12 E. 1. "Permanent total disability" means inability, because of compensable injury
13 or occupational disease, to earn any meaningful wages in the same or other employment.

14 2. The burden of proof shall be on the employee to prove inability to earn any
15 meaningful wage in the same or other employment.

16 F. In considering a claim for permanent disability, the Commission and the courts
17 shall not consider the odd-lot doctrine.

18 G. 1. a. The Commission, after a public hearing, shall adopt an impairment
19 rating guide to be used in the assessment of anatomical impairment.

20 b. The guide shall not include pain as a basis for impairment.

1 2. The impairment rating guide adopted by the Commission shall be subject to
2 review by the Legislature before April 1 of every odd-numbered year beginning with the
3 regular session of 2009.

4 SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 365 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 In case of temporary partial disability resulting in the decrease of the average
8 weekly wage of the injured employee, there shall be paid to the employee sixty-six and
9 two-thirds percent (66 and 2/3%) of the difference between the average weekly wage of
10 the employee prior to the accident and the wage-earning capacity of the employee after
11 the injury.

12 SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 366 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 A. An employee who sustains a permanent compensable injury scheduled in this
16 section shall receive, in addition to compensation for temporary total and temporary
17 partial benefits during the healing period or until the employee returns to work,
18 whichever occurs first, weekly benefits in the amount of the permanent partial disability
19 rate attributable to the injury, for that period of time set out in the following schedule:

20 1. Arm amputated at the elbow, or between the elbow and shoulder, two hundred
21 forty-four (244) weeks;

- 1 2. Arm amputated between the elbow and wrist, one hundred eighty-three (183)
- 2 weeks;
- 3 3. Leg amputated at the knee, or between the knee and the hip, one hundred
- 4 eighty-four (184) weeks;
- 5 4. Leg amputated between the knee and the ankle, one hundred thirty-one (131)
- 6 weeks;
- 7 5. Hand amputated, one hundred eighty-three (183) weeks;
- 8 6. Thumb amputated, seventy-three (73) weeks;
- 9 7. First finger amputated, forty-three (43) weeks;
- 10 8. Second finger amputated, thirty-seven (37) weeks;
- 11 9. Third finger amputated, twenty-four (24) weeks;
- 12 10. Fourth finger amputated, nineteen (19) weeks;
- 13 11. Foot amputated, one hundred thirty-one (131) weeks;
- 14 12. Great toe amputated, thirty-two (32) weeks;
- 15 13. Toe other than great toe amputated, eleven (11) weeks;
- 16 14. Eye enucleated, in which there was useful vision, one hundred five (105) weeks;
- 17 15. Loss of hearing of one ear, forty-two (42) weeks;
- 18 16. Loss of hearing of both ears, one hundred fifty-eight (158) weeks;
- 19 17. Loss of one testicle, fifty-three (53) weeks; loss of both testicles, one hundred
- 20 fifty-eight (158) weeks; and
- 21 18. Soft tissue injury, eight (8) weeks, with one possible extension, not to exceed
- 22 sixteen (16) additional weeks. This paragraph overrules *Curling v. City Chevrolet*, 2007

1 OK CIV APP 63, 164 P.3d 1141, Gee v. All 4 Kids, Inc., 2006 OK CIV APP 155, 149 P.3d
2 1106, Sysco Food Services of Oklahoma LLC v. Cunningham, 2007 OK CIV APP 52, 162
3 P.3d 973, and Urrutia v. Wendy's Old Fashioned Hamburgers, 2007 OK CIV APP 104,
4 171 P.3d 915.

5 B. 1. Compensation for amputation of the first phalange shall be one-half (1/2) of
6 the compensation for the amputation of the entire digit.

7 2. Compensation for amputation of more than one phalange of a digit shall be the
8 same as for amputation of the entire digit.

9 C. 1. Compensation for the permanent loss of eighty percent (80%) or more of the
10 vision of an eye shall be the same as for the loss of an eye.

11 2. In all cases of permanent loss of vision, the use of corrective lenses may be taken
12 into consideration in evaluating the extent of loss of vision.

13 D. Compensation for amputation or loss of use of two or more digits or one or more
14 phalanges of two or more digits of a hand or a foot may be proportioned to the total loss
15 of use of the hand or the foot occasioned thereby but shall not exceed the compensation
16 for total loss of a hand or a foot.

17 E. Compensation for permanent total loss of use of a member shall be the same as
18 for amputation of the member.

19 F. Compensation for permanent partial loss or loss of use of a member shall be for
20 the proportionate loss or loss of use of the member.

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

1 G. Any employee suffering a scheduled injury shall not be entitled to permanent
2 partial disability benefits in excess of the percentage of permanent physical impairment
3 set forth above except as otherwise provided in subsection B of Section 66 of this act.

4 H. 1. a. The Workers' Compensation Commission, after a public hearing, shall
5 adopt an impairment rating guide to be used in the assessment of
6 anatomical impairment.

7 b. The guide shall not include pain as a basis for impairment.

8 2. The impairment rating guide adopted by the Commission shall be subject to
9 review by the Legislature before April 1 of every odd-numbered year beginning with the
10 regular session of 2009.

11 SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 367 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. A permanent partial disability not scheduled in Section 68 of this act shall be
15 apportioned to the body as a whole, which shall have a value of two hundred sixty (260)
16 weeks, and there shall be paid compensation to the injured employee for the
17 proportionate loss of use of the body as a whole resulting from the injury.

18 B. 1. In considering claims for permanent partial disability benefits in excess of the
19 percentage of permanent physical impairment of the employee, the Workers'
20 Compensation Commission may take into account, in addition to the percentage of
21 permanent physical impairment, factors such as the age of the employee, education, work

1 experience, and other matters reasonably expected to affect the future earning capacity
2 of the employee.

3 2. However, so long as an employee, subsequent to the injury of the employee, has
4 returned to work, has obtained other employment, or has a bona fide and reasonably
5 obtainable offer to be employed at wages equal to or greater than the average weekly
6 wage of the employee at the time of the accident, the employee shall not be entitled to
7 permanent partial disability benefits in excess of the percentage of permanent physical
8 impairment established by a preponderance of the medical testimony and evidence.

9 C. 1. The employer or the workers' compensation insurance carrier of the employer
10 shall have the burden of proving the employment of the employee, or the receipt of a
11 bona fide offer by the employee to be employed, at wages equal to or greater than the
12 average weekly wage of the employee at the time of the accident.

13 2. Included in the stated intent of this section is to enable an employer to reduce or
14 diminish payments of benefits for a functional disability, disability in excess of
15 permanent physical impairment, which, in fact, no longer exists, or exists because of
16 discharge for misconduct in connection with the work, or because the employee left work
17 voluntarily and without good cause connected with the work.

18 D. In accordance with this section, the Commission may reconsider the question of
19 functional disability and change a previously awarded disability rating based on facts
20 occurring since the original disability determination if any party makes application for
21 reconsideration within one (1) year after the occurrence of the facts.

1 E. In considering a claim for permanent disability, the commission and the courts
2 shall not consider the odd-lot doctrine.

3 F. 1. Permanent total disability benefits shall be paid during the period of
4 permanent total disability until the employee reaches the age of sixty-five (65); provided,
5 with respect to permanent total disabilities resulting from injuries which occur after age
6 sixty (60), regardless of the age of the employee, permanent total disability benefits are
7 payable for a period of two hundred sixty (260) weeks.

8 2. The purpose and intent of this subsection is to prohibit workers' compensation
9 from becoming a retirement supplement.

10 G. 1. a. The Commission, after a public hearing, shall adopt an impairment
11 rating guide to be used in the assessment of anatomical impairment.

12 b. The guide shall not include pain as a basis for impairment.

13 2. The impairment rating guide adopted by the Commission shall be subject to
14 review by the Legislature before April 1 of every odd-numbered year beginning with the
15 regular session of 2009.

16 SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 368 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. In all cases of claims for hernia, it shall be shown to the satisfaction of the
20 Workers' Compensation Commission:

21 1. That the occurrence of the hernia immediately followed as the result of sudden
22 effort, severe strain, or the application of force directly to the abdominal wall;

- 1 2. That there was severe pain in the hernial region;
- 2 3. That the pain caused the employee to cease work immediately;
- 3 4. That notice of the occurrence was given to the employer within forty-eight (48)
- 4 hours thereafter; and
- 5 5. That the physical distress following the occurrence of the hernia was such as to
- 6 require the attendance of a licensed physician within seventy-two (72) hours after the
- 7 occurrence.
- 8 B. 1. In every case of hernia, it shall be the duty of the employer to provide the
- 9 necessary and proper medical, surgical, and hospital care and attention to effectuate a
- 10 cure by radical operation of the hernia, to pay all reasonable expenses in connection with
- 11 the care, and, in addition, to pay compensation not exceeding a period of twenty-six (26)
- 12 weeks.
- 13 2. In case the employee shall refuse to permit the operation, it shall be the duty of
- 14 the employer to provide all necessary first aid, medical and hospital care and service, to
- 15 supply the proper and necessary truss or other mechanical appliance to enable the
- 16 employee to resume work, to pay all reasonable expenses in connection with the care,
- 17 and, in addition, to pay compensation not exceeding a period of thirteen (13) weeks.
- 18 C. In case death results within a period of one (1) year, either from the hernia or
- 19 from the radical operation thereof, compensation shall be paid to the dependents of the
- 20 employee as provided in other death cases under this act.

1 D. Recurrence of the hernia following radical operation thereof shall be considered
2 a separate hernia, and the provisions and limitations regarding the original hernia shall
3 apply.

4 SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 369 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. The Workers' Compensation Commission shall award compensation for serious
8 and permanent facial or head disfigurement in a sum not to exceed Three Thousand Five
9 Hundred Dollars (\$3,500.00).

10 B. No award for disfigurement shall be entered until twelve (12) months after the
11 injury.

12 SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 370 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 A. 1. The Second Injury Trust Fund established in this act is a special fund
16 designed to ensure that an employer employing a worker with a disability will not, in the
17 event that the worker suffers an injury on the job, be held liable for a greater disability
18 or impairment than actually occurred while the worker was in employment.

19 2. The employee is to be fully protected in that the fund pays the worker the
20 difference between the liability of the employer and the balance of the disability or
21 impairment suffered by the employee that results from all disabilities or impairments
22 combined.

1 3. It is intended that latent conditions that are not known to the employee or
2 employer not be considered previous disabilities or impairments which would give rise to
3 a claim against the fund.

4 B. 1. Commencing November 1, 2008, all cases of permanent disability or
5 impairment in which there has been previous disability or impairment shall be
6 compensated as provided in this section.

7 2. Compensation shall be computed on the basis of the average earnings at the time
8 of the last injury.

9 3. If any employee who has a permanent partial disability or impairment, whether
10 from compensable injury or otherwise, receives a subsequent compensable injury
11 resulting in additional permanent partial disability or impairment so that the degree or
12 percentage of disability or impairment caused by the combined disabilities or
13 impairments is greater than that which would have resulted from the last injury,
14 considered alone and of itself, and if the employee is entitled to receive compensation on
15 the basis of combined disabilities or impairments, then the employer at the time of the
16 last injury shall be liable only for the degree or percentage of disability or impairment
17 that would have resulted from the last injury had there been no preexisting disability or
18 impairment.

19 4. After the compensation liability of the employer for the last injury, considered
20 alone, which shall be no greater than the actual anatomical impairment resulting from
21 the last injury, has been determined by an administrative law judge or the Workers'
22 Compensation Commission, the degree or percentage of disability of the employee that is

1 attributable to all injuries or conditions existing at the time the last injury was sustained
2 shall then be determined by the administrative law judge or the Commission, and the
3 degree or percentage of disability or impairment that existed prior to the last injury plus
4 the disability or impairment resulting from the combined disability shall be determined,
5 and compensation for that balance, if any, shall be paid out of the Second Injury Trust
6 Fund provided for in Section 31 of this act.

7 5. If the previous disability or impairment, whether from compensable injury or
8 otherwise, and the last injury together result in permanent total disability, the employer
9 at the time of the last injury shall be liable only for the actual anatomical impairment
10 resulting from the last injury considered alone and of itself. However, if the
11 compensation for which the employer at the time of the last injury is liable is less than
12 the compensation provided in Sections 49 through 54 of this act for permanent total
13 disability, then, in addition to the compensation for which the employer is liable and
14 after the completion of payment of compensation by the employer, the employee shall be
15 paid the remainder of the compensation that would be due for permanent total disability
16 under Sections 49 through 54 of this act out of the fund. The remainder of the
17 compensation paid to the employee shall be used for the purpose of future medical care or
18 for any fees and costs associated with the vocational rehabilitation of the employee.

19 6. The State Treasurer shall be the custodian of the fund, and any interest accruing
20 shall be added to the fund.

21 7. The Commission shall direct the distribution of the funds from the fund.

1 C. 1. In all cases in which a recovery against the fund is sought for permanent
2 partial disability or for permanent total disability, the State Treasurer as custodian shall
3 be named as a party and shall be entitled to defend against the claim.

4 2. The State Treasurer, with the advice and consent of the Attorney General, may
5 enter into settlements as contemplated by Sections 101 and 102 of this act.

6 3. All awards for permanent partial disability or for permanent total disability
7 affecting the fund shall be subject to the provisions of this act, governing review and
8 appeal.

9 D. 1. If more than one injury in the same employment causes concurrent
10 temporary disabilities, weekly benefits shall be payable only for the longest and largest-
11 paying disability.

12 2. If more than one injury in the same employment causes concurrent and
13 consecutive permanent partial disability, weekly benefits for each subsequent disability
14 shall not begin until the end of the compensation period for the prior disability.

15 SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 371 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 If any injured employee refuses employment suitable to the capacity of the
19 employee, offered to or procured for the employee, the employee shall not be entitled to
20 any compensation during the continuance of the refusal, unless in the opinion of the
21 Workers' Compensation Commission, the refusal is justifiable.

1 SECTION 74. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 372 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. FUNERAL EXPENSES. If death results from an injury occurring on or after
5 November 1, 2008, the employer shall pay the actual funeral expenses, not exceeding the
6 sum of Six Thousand Dollars (\$6,000.00).

7 B. TIME OF DEATH. If death does not result within one (1) year from the date of
8 the accident or within the first three (3) years of the period for compensation payments
9 fixed by the compensation order, a rebuttable presumption shall arise that the death did
10 not result from the injury.

11 C. BENEFICIARIES - AMOUNTS. Subject to the limitations as set out in Sections
12 49 through 54 of this act, compensation for the death of an employee shall be paid to
13 those persons who were wholly and actually dependent upon the deceased employee in
14 the following percentage of the average weekly wage of the employee and in the following
15 order of preference:

- 16 1. a. (1) To the widow if there is no child, thirty-five percent (35%), and
17 the compensation shall be paid until her death or remarriage.
18 (2) However, the widow shall establish, in fact, some dependency
19 upon the deceased employee before she will be entitled to
20 benefits as provided in this section, and
21 b. (1) To the widower if there is no child, thirty-five percent (35%), and
22 the compensation shall be paid until his death or remarriage.

1 (2) However, the widower shall establish, in fact, some dependency
2 upon the deceased employee before he will be entitled to benefits
3 as provided in this section;

4 2. To the widow or widower if there is a child, the compensation payable under
5 paragraph 1 of this subsection and fifteen percent (15%) on account of each child;

6 3. a. To one child if there is no widow or widower, fifty percent (50%), and

7 b. If more than one child, and there is no widow or widower, fifteen
8 percent (15%) for each child, and in addition thereto, thirty-five
9 percent (35%) to the children as a class, to be divided equally among
10 them;

11 4. To the parents, twenty-five percent (25%) each; and

12 5. To brothers, sisters, grandchildren, and grandparents, fifteen percent (15%)
13 each.

14 D. TERMINATIONS OF DEPENDENCE.

15 1. In the event the widow or widower remarries or cohabits with a member of the
16 opposite gender in a relationship resembling a marriage before full and complete
17 payment to the widow or widower of the benefits provided in subsection C of this section,
18 there shall be paid a lump sum equal to compensation for fifty-two (52) weeks, subject to
19 the limitation set out in Sections 49 through 54 of this act.

20 2. A physically or mentally incapacitated child, grandchild, brother, or sister shall
21 be entitled to compensation as a dependent of the deceased employee without regard to
22 age or marital status, but if physically or mentally capacitated to earn a livelihood,

1 dependency shall terminate with the attainment of eighteen (18) years of age or upon
2 marriage. However, benefits to an otherwise eligible child shall not terminate at the age
3 of eighteen (18) years provided the child is a full-time student who has not attained the
4 age of twenty-five (25) years.

5 E. APPORTIONMENT OF BENEFITS. Where, because of the limitation in
6 subsection C of this section, a person or class of persons cannot receive the percentage of
7 compensation specified as payable to or on account of the person or class, there shall be
8 available to the person or class that proportion of the percentage which, when added to
9 the total percentage payable to all persons having priority or preference, will not exceed
10 a total of sixty-five percent (65%), which proportion shall be paid:

11 1. To that person; or

12 2. To that class in equal shares unless the Worker's Compensation Commission
13 determines otherwise in accordance with the provisions of subsection F of this section.

14 F. DETERMINATION OF BENEFICIARIES WITHIN CLASS. If the Commission
15 determines that payments in accordance with paragraph 2 of subsection E of this section
16 would provide no substantial benefit to any person of the class, it may provide for the
17 payment of the compensation to the persons within the class whom it considers will be
18 most benefited by the payment.

19 G. CESSATION OF COMPENSATION TO PART. Upon the cessation of
20 compensation under this section to or on account of any person, the compensation of the
21 remaining persons entitled to compensation for the unexpired part of the period during
22 which compensation is payable shall be that which the persons would have received if

1 they had been the only persons entitled to compensation at the time of the death of the
2 decedent.

3 H. DETERMINATION OF DEPENDENCY. All questions of dependency shall be
4 determined as of the time of the injury.

5 I. PARTIAL DEPENDENCY.

6 1. If the employee leaves dependents that are only partially dependent upon the
7 earnings of the employee for support at the time of injury, the compensation payable for
8 partial dependency shall be in the proportion that the partial dependency bears to total
9 dependency.

10 2. In any claim for partial dependency where the average weekly contributions for
11 support were not such as to entitle all dependents to compensation in the aggregate sum
12 of Seven Dollars (\$7.00) per week, the dependents shall receive compensation for a period
13 not to exceed two hundred sixty (260) weeks in an amount not to exceed the amount of
14 average weekly contributions of the deceased employee for the support of the dependents.

15 SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 373 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. Every employer shall keep a record with respect to any injury to an employee.

19 B. The record shall contain such information of disability or death with respect to
20 the injury as the Workers' Compensation Commission may by rule or regulation require.

21 C. The record shall be available for inspection by the Commission or by any state
22 authority at such time and under conditions as the Commission may prescribe by rule.

1 SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 374 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. Within ten (10) days after the date of receipt of notice or of knowledge of injury
5 or death, the employer shall send to the Workers' Compensation Commission a report
6 setting forth:

7 1. The name, address, and business of the employer;

8 2. The name, address, and occupation of the employee;

9 3. The cause and nature of the injury or death;

10 4. The year, month, day, and hour when, and the particular locality where, the
11 injury or death occurred; and

12 5. Such other information as the Commission may require.

13 B. Additional reports with respect to the injury and of the condition of the employee
14 shall be sent by the employer to the Commission at the time and in the manner as the
15 Commission may prescribe.

16 C. Any report provided for in subsection A or B of this section shall not be evidence
17 of any fact stated in the report in any proceeding with respect to the injury or death on
18 account of which the report is made.

19 D. 1. The mailing of any report in a stamped envelope, properly addressed, within
20 the time prescribed in subsection A or B of this section, shall be in compliance with this
21 section.

1 2. The report required in subsection A or B of this section may be submitted
2 electronically within the time prescribed in subsection A or B of this section in lieu of
3 mailing the report.

4 E. 1. Any employer who after notice refuses to send any report required of it by
5 this section shall be subject to a civil penalty in an amount up to Five Hundred Dollars
6 (\$500.00) for each refusal.

7 2. Whenever the employer has failed or refused to comply as provided in this
8 section, the Commission may serve upon the employer a proposed order declaring the
9 employer to be in violation of this act and containing the amount, if any, of the civil
10 penalty to be assessed against the employer pursuant to this section.

11 F. 1. An employer may contest a proposed order of the Commission issued
12 pursuant to subsection E of this section by filing with the Commission, within twenty
13 (20) days of receipt of the proposed order, a written request for a hearing.

14 2. If a written request for hearing is not filed with the Commission within this
15 time, the proposed order, proposed penalty, or both, shall be a final order of the
16 Commission.

17 3. The request for a hearing need not be in any particular form, but shall specify
18 the grounds upon which the person contests the proposed order, the proposed
19 assessment, or both.

20 4. A proposed order by the Commission pursuant to this section is prima facie
21 correct, and the burden is upon the employer to prove that the proposed order is
22 incorrect.

1 G. Hearings conducted under this section shall proceed as provided in Sections 84
2 through 91 of this act.

3 H. If an employer fails to pay any civil penalty assessed against the employer after
4 an order issued pursuant to this section has become final by operation of law, the
5 Commission may petition the district court of the county where the principal place of
6 business of the employer is located for an order enjoining the employer from engaging in
7 further employment or conduct of business or until the time as the employer makes all
8 required reports and pays all civil penalties.

9 SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 375 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 Implementation of Workers' Compensation Commission rules relating to managed
13 care shall be voluntary for all employers.

14 SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 376 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. Where an employee suffers from an occupational disease as defined in this
18 section and Sections 79 and 80 of this act, and is disabled or dies as a result of the
19 disease and where the disease was due to the nature of the occupation or process in
20 which the employee was employed within the period previous to disablement as limited
21 in subsection G of this section, then the employee, or, in case of death, the dependents of
22 the employee, shall be entitled to compensation as if the disablement or death were

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

1 caused by injury, except as otherwise provided in this section and Sections 79 and 80 of
2 this act.

3 B. No compensation shall be payable for an occupational disease if the employee, at
4 the time of entering into the employment of the employer by whom the compensation
5 would otherwise be payable, falsely represented in writing as not having previously been
6 disabled, laid off, or compensated in damages or otherwise, because of the disease.

7 C. Where an occupational disease is aggravated by any other disease or infirmity,
8 not itself compensable, or where disability or death from any other cause, not itself
9 compensable, is aggravated, prolonged, accelerated, or in any way contributed to by an
10 occupational disease, the compensation payable shall be reduced and limited to the
11 proportion only of the compensation that would be payable if the occupational disease
12 were the sole cause of the disability or death as the occupational disease, as a causative
13 factor, bears to all the causes of the disability or death.

14 D. No compensation for death from an occupational disease shall be payable to any
15 person whose relationship to the deceased which, under the provisions of this act, would
16 give right to compensation, arose subsequent to the beginning of the first compensable
17 disability except to a child or children of a marriage born after the death and existing at
18 the beginning of the disability.

19 E. 1. a. "Occupational disease", as used in this act, unless the context
20 otherwise requires, means any disease that results in disability or
21 death and arises out of and in the course of the occupation or

1 employment of the employee or naturally follows or unavoidably
2 results from an injury as that term is defined in this act.

3 b. However, a causal connection between the occupation or employment
4 and the occupational disease must be established by a preponderance
5 of the evidence.

6 2. No compensation shall be payable for any contagious or infectious disease unless
7 contracted in the course of employment in or immediate connection with a hospital or
8 sanatorium in which persons suffering from that disease are cared for or treated.

9 3. No compensation shall be payable for any ordinary disease of life to which the
10 general public is exposed.

11 F. 1. Where compensation is payable for an occupational disease, the employer in
12 whose employment the employee was last injuriously exposed to the hazards of the
13 disease and the carrier, if any, on the risk when the employee was last injuriously
14 exposed under the employer shall be liable.

15 2. The amount of the compensation shall be based upon the average weekly wage of
16 the employee when last injuriously exposed under the employment, and the notice of
17 injury and claim for compensation, as required pursuant to this section and Sections 79
18 and 80 of this act, shall be given and made to the employer.

19 G. 1. An employer shall not be liable for any compensation for an occupational
20 disease unless:

21 a. the disease is due to the nature of an employment in which the
22 hazards of the disease actually exist and are characteristic thereof and

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

1 peculiar to the trade, occupation, process, or employment and is
2 actually incurred in the employment of the employee. This includes
3 any disease due to or attributable to exposure to or contact with any
4 radioactive material by an employee in the course of employment,
5 b. disablement or death results within three (3) years in case of silicosis
6 or asbestosis, or one (1) year in case of any other occupational disease,
7 except a diseased condition caused by exposure to X rays, radioactive
8 substances, or ionizing radiation, after the last injurious exposure to
9 the disease in the employment, or
10 c. in case of death, death follows continuous disability from the disease,
11 commencing within the period above limited, for which compensation
12 has been paid or awarded or timely claim made as provided in this
13 section and Sections 79 and 80 of this act and results within seven (7)
14 years after the last exposure.

15 2. However, in case of a diseased condition caused by exposure to X rays,
16 radioactive substances, or ionizing radiation only, the limitations expressed do not apply.

17 SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 377 of Title 85, unless there is created a duplication in numbering,
19 reads as follows:

20 A. As used in this section and Sections 78 and 80 of this act, unless the context
21 otherwise requires:

1 1. "Asbestosis" means the characteristic fibrotic condition of the lungs caused by
2 the inhalation of asbestos dust; and

3 2. "Silicosis" means the characteristic fibrotic condition of the lungs caused by the
4 inhalation of silica dust.

5 B. In the absence of conclusive evidence in favor of the claim, disability or death
6 from silicosis or asbestosis shall be presumed not to be due to the nature of any
7 occupation within the provision of this section and Sections 78 and 80 of this act unless
8 during the ten (10) years immediately preceding the date of disablement the employee
9 has been exposed to the inhalation of silica dust or asbestos dust over a period of not less
10 than five (5) years, two (2) years of which shall have been in this state, under a contract
11 of employment existing in this state. However, if the employee has been employed by the
12 same employer during the whole of the five-year period, the right to compensation
13 against the employer shall not be affected by the fact that the employee had been
14 employed during any part of the period outside of this state.

15 C. Except as provided in this section and Sections 78 and 80 of this act,
16 compensation for disability from uncomplicated silicosis or asbestosis shall be payable in
17 accordance with the provisions of Sections 66 through 73 of this act. However, no
18 compensation shall be payable for disability from silicosis or asbestosis of less than
19 thirty-three and one-third percent (33 and 1/3%) of the total disability.

20 D. 1. In case of disability or death from silicosis or asbestosis complicated with
21 tuberculosis of the lungs, compensation shall be payable as for uncomplicated silicosis or

1 asbestosis, provided that the silicosis or asbestosis was an essential factor in the causing
2 of disability or death.

3 2. In case of disability or death from silicosis or asbestosis complicated with any
4 other disease, or from any other disease complicated with silicosis or asbestosis, the
5 compensation shall be reduced as provided in subsection C of Section 78 of this act.

6 E. 1. a. (1) Where an employee, though not actually disabled, is found by
7 the Workers' Compensation Commission to be affected by
8 silicosis or asbestosis to such a degree as to make it unduly
9 hazardous for the employee to continue in an employment
10 involving exposure to the hazards of the disease, the
11 Commission may order that the employee be removed from
12 employment. In such a case, or in case the employee has
13 already been discharged from the employment and is
14 unemployed, the employee shall be entitled to compensation
15 until the employee can obtain steady employment in some other
16 suitable occupation in which there are no hazards of the disease.

17 (2) However, the compensation shall in no case be payable for
18 longer than twenty-six (26) weeks immediately following the
19 date of removal or discharge and unless application for
20 compensation is made within the period.

21 b. In case the employee obtains other suitable employment at reduced
22 wages, the payments of compensation during such part of the twenty-

1 six-week period as the employee is so employed shall be at the rate
2 prescribed in Section 67 of this act.

3 2. a. When in any case the forced change of employment shall, in the
4 opinion of the Commission, require that the employee be given special
5 training in order to fit the employee for another occupation, the
6 employer liable for compensation shall pay for the training and
7 incidental traveling expenses.

8 b. The payment shall be made for the benefit of the employee to the
9 person as the Commission shall direct.

10 c. No payment, however, shall be made unless the employee accepts the
11 special training directed by the Commission, nor shall payment be
12 made for a longer period than the employee submits to the training.

13 3. If an employee has been compensated, whether specially trained or not, and
14 thereafter engages in any occupation which exposes the employee to hazards of silicosis
15 or asbestosis without first having obtained the written approval of the Commission,
16 neither the employee, the dependents of the employee, personal representative of the
17 employee, nor any other person shall be entitled to compensation or damages for the
18 disablement or death of the employee from either of the diseases.

19 4. However, neither a claim for nor receipt of compensation or benefits under this
20 subsection shall bar the employee from any right to compensation for actual disability
21 from silicosis or asbestosis if the disability results not later and within the time limited
22 in subsection G of Section 78 of this act.

1 SECTION 80. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 378 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. 1. Except as otherwise provided in this section and Sections 78 and 79 of this
5 act, procedure with respect to notice of disability or death and as to the filing of claims
6 and determination of claims shall be the same as in cases of accidental injury or death.

7 2. a. Written notice shall be given to the employer of an occupational
8 disease by the employee, or someone in behalf of the employee, within
9 sixty (60) days after the first distinct manifestation thereof.

10 b. In the case of death from an occupational disease, written notice of
11 death shall also be given to the employer within sixty (60) days
12 thereafter.

13 B. An award or denial of award of compensation for an occupational disease may be
14 reviewed and compensation increased, reduced, or terminated where previously awarded,
15 or awarded where previously denied, only upon proof of fraud or undue influence or of
16 change of condition, and then only upon application by a party in interest made not later
17 than one (1) year after the denial of award or, where compensation has been awarded,
18 after the award or the date when the last payment was made under the award, except in
19 cases of silicosis or asbestosis, where the time limit shall be two (2) years.

20 SECTION 81. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 379 of Title 85, unless there is created a duplication in numbering,
22 reads as follows:

1 A. 1. Unless an injury either renders the employee physically or mentally unable
2 to do so, or is made known to the employer immediately after it occurs, the employee
3 shall report the injury to the employer on a form prescribed or approved by the Workers'
4 Compensation Commission and to a person or at a place specified by the employer, and
5 the employer shall not be responsible for disability, medical, or other benefits prior to
6 receipt of the report of injury by the employee.

7 2. All reporting procedures specified by the employer must be reasonable and shall
8 afford each employee reasonable notice of the reporting requirements.

9 3. Paragraphs 1 and 2 of this subsection shall not apply when an employee requires
10 emergency medical treatment outside the normal business hours of the employer;
11 however, in that event, the employee shall cause a report of the injury to be made to the
12 employer on the next regular business day of the employer.

13 B. 1. Failure to give the notice shall not bar any claim if the:

14 a. employer had knowledge of the injury or death,

15 b. employee had no knowledge that the condition or disease arose out of
16 and in the course of the employment, or

17 c. the Commission excuses the failure on the grounds that for some
18 satisfactory reason the notice could not be given.

19 2. Objection to failure to give notice must be made at or before the first hearing on
20 the claim.

1 SECTION 82. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 380 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. TIME FOR FILING.

5 1. A claim for compensation for disability on account of an injury, other than an
6 occupational disease and occupational infection, shall be barred unless filed with the
7 Workers' Compensation Commission within one (1) year from the date of the
8 compensable injury. If during the two-year period following the filing of the claim the
9 claimant receives no weekly benefit compensation and receives no medical treatment
10 resulting from the alleged injury, the claim shall be barred. For purposes of this section,
11 the date of the compensable injury shall be defined as the date an injury is caused by an
12 accident as set forth in paragraph 4 of Section 4 of this act.

13 2. a. A claim for compensation for disability on account of an injury which is
14 either an occupational disease or occupational infection shall be barred
15 unless filed with the Commission within one (1) year from the date of
16 the last injurious exposure to the hazards of the disease or infection.

17 b. However, a claim for compensation for disability on account of silicosis
18 or asbestosis must be filed with the Commission within one (1) year
19 after the time of disablement, and the disablement must occur within
20 three (3) years from the date of the last injurious exposure to the
21 hazard of silicosis or asbestosis.

1 c. Also, a claim for compensation for disability on account of a disease
2 condition caused by exposure to X rays, radioactive substances, or
3 ionizing radiation only must be filed with the Commission within one
4 (1) year from the date the condition is made known to an employee
5 following examination and diagnosis by a medical doctor.

6 3. A claim for compensation on account of death shall be barred unless filed with
7 the Commission within one (1) year of the date of the death.

8 4. If within six (6) months after the filing of a claim for compensation no bona fide
9 request for a hearing has been made with respect to the claim, the claim may, upon
10 motion and after hearing, be dismissed with prejudice to the refiling of the claim within
11 limitation periods specified in subparagraphs 1 through 3 of this subsection.

12 B. TIME FOR FILING ADDITIONAL COMPENSATION.

13 1. In cases in which any compensation, including disability or medical, has been
14 paid on account of injury, a claim for additional compensation shall be barred unless filed
15 with the Commission within one (1) year from the date of the last payment of
16 compensation or one (1) year from the date of the injury.

17 2. The time limitations of this subsection shall not apply to claims for the
18 replacement of medicine, crutches, ambulatory devices, artificial limbs, eyeglasses,
19 contact lenses, hearing aids, and other apparatus permanently or indefinitely required as
20 the result of a compensable injury, when the employer or carrier previously furnished
21 such medical supplies, but replacement of such items shall not constitute payment of
22 compensation so as to toll the running of the statute of limitations.

1 C. A claim for additional compensation must specifically state that it is a claim for
2 additional compensation. Documents which do not specifically request additional
3 benefits shall not be considered a claim for additional compensation.

4 D. If within six (6) months after the filing of a claim for additional compensation no
5 bona fide request for a hearing has been made with respect to the claim, the claim may,
6 upon motion and after hearing, if necessary, be dismissed with prejudice to the refile of
7 the claim within the limitation period specified in subsection B of this section.

8 E. FAILURE TO FILE. Failure to file a claim within the period prescribed in
9 subsection A or B of this section shall be a bar to all rights under this act regardless of
10 whether any objection to the timely filing of the claim is raised by the claimant.

11 F. PERSONS UNDER DISABILITY.

12 1. When it is established that failure to file a claim by an injured employee or the
13 dependents of the employee was induced by fraud, the claim may be filed within one (1)
14 year from the time of the discovery of the fraud.

15 2. Subsection A or B of this section shall not apply to a mental incompetent or
16 minor so long as the person has no guardian or similar legal representative. The
17 limitations prescribed in subsection A or B of this section shall apply to the mental
18 incompetent or minor from the date of the appointment of a guardian or similar legal
19 representative for that person, and when no guardian or similar representative has been
20 appointed, to a minor upon obtainment of majority.

21 G. 1. A latent injury or condition shall not delay or toll the limitation periods
22 specified in this section.

1 2. However, this subsection shall not apply to the limitation period for occupational
2 diseases specified in paragraph 2 of subsection A of this section.

3 H. 1. The purpose of this section is to provide for a timely hearing on claims for
4 benefits.

5 2. The purpose and intent of this section also includes the annulment of any case
6 law inconsistent with this section.

7 SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 381 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 The Workers' Compensation Commission is authorized and directed to promulgate
11 appropriate rules to establish and implement, for claims with respect to injuries
12 occurring on or after November 1, 2008, a preliminary conference procedure designed to
13 accomplish the following objectives:

14 1. To provide the claimant an opportunity to confer with a legal advisor on the staff
15 of the Commission to be advised of the rights of the claimant under this act and to ensure
16 that the rights are protected. The conference shall be held at the Career Tech center
17 nearest to the accident or the residence of the claimant, unless otherwise agreed to
18 between the parties, or otherwise directed by the Commission;

19 2. To provide an opportunity for, but not to compel, a binding settlement of some or
20 all the issues present at the time;

21 3. To facilitate the resolution of issues without the expense of litigation or attorney
22 fees for either party; and

1 3. If any party is not represented by a lawyer, the administrative law judge shall
2 define the issues to be heard.

3 4. a. If a hearing on the claim is ordered, the Commission shall give the
4 claimant and other interested parties ten (10) days' notice of the
5 hearing served personally upon the claimant and other parties, or by
6 registered mail and where appropriate, shall send an unofficial notice
7 to the claimant by electronic mail.

8 b. The hearing shall be held at the Career Tech center nearest to the
9 location of the accident or the residence of the claimant, unless
10 otherwise agreed to between the parties, or otherwise directed by the
11 Commission. If the accident occurred outside the State of Oklahoma,
12 and is one for which compensation is payable under this section and
13 Sections 81 through 97 of this act, the hearing may be held in the
14 county of the residence or place of business of the employer, or any
15 other county in the State of Oklahoma which will, in the discretion of
16 the Commission, be most convenient for the hearing.

17 5. The award, together with the statement of the findings of fact and other matters
18 pertinent to the issues, shall be filed with the record of the proceedings, and a copy of the
19 award shall immediately be sent to the parties in dispute or to their attorneys.

20 6. a. If an application for review is filed in the office of the Commission
21 within thirty (30) days from the date of the receipt of the award, the
22 full Commission shall review the evidence or, if deemed advisable,

1 hear the parties, their representatives, and witnesses, and shall make
2 awards, together with its rulings of law, and file same in like manner
3 as specified in the foregoing.

4 b. A copy of the award made on review shall immediately be sent to the
5 parties in dispute, or to their attorneys.

6 7. The full Commission may remand to a single member of the Commission or
7 administrative law judge any case before the full Commission for the purpose of taking
8 additional evidence. The evidence shall be delivered to the full Commission and shall be
9 taken into consideration before rendering any decision or award in the case.

10 C. EVIDENCE AND CONSTRUCTION.

11 1. a. (1) At the hearing the claimant and the employer may each present
12 evidence in respect of the claim and may be represented by any
13 person authorized in writing for such purpose.

14 (2) The evidence may include verified medical reports which shall
15 be accorded such weight as may be warranted from all the
16 evidence of the case.

17 b. Any determination of the existence or extent of physical impairment
18 shall be supported by objective and measurable physical or mental
19 findings.

20 2. When deciding any issue, administrative law judges and the Commission shall
21 determine, on the basis of the record as a whole, whether the party having the burden of
22 proof on the issue has established it by a preponderance of the evidence.

1 3. Administrative law judges, the Commission, and any reviewing courts shall
2 construe the provisions of this act strictly.

3 4. In determining whether a party has met the burden of proof on an issue,
4 administrative law judges and the Commission shall weigh the evidence impartially and
5 without giving the benefit of the doubt to any party.

6 D. ORDER. The order denying the claim or making the award shall be filed in the
7 office of the Commission, and a copy shall be sent by registered mail to the claimant and
8 to the employer or to their attorneys.

9 E. AWARD AFTER DEATH.

10 1. No compensation for disability of an injured employee shall be payable for any
11 period beyond the death of the employee.

12 2. However, an award of compensation for disability may be made after the death of
13 the injured employee for the period of disability preceding death.

14 SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 383 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. CONDUCT OF HEARING OR INQUIRY.

18 1. In making an investigation or inquiry or conducting a hearing, the Workers'
19 Compensation Commission shall not be bound by technical or statutory rules of evidence
20 or by technical or formal rules of procedure, except as provided by this act, but may make
21 such investigation or inquiry, or conduct the hearing, in a manner as will best ascertain
22 the rights of the parties.

1 2. Declarations of a deceased employee concerning the injury in respect of which
2 the investigation or inquiry is being made, or the hearing conducted, may be received in
3 evidence and may, if corroborated by other evidence, be sufficient to establish the injury.

4 3. When deciding any issue, administrative law judges and the Commission shall
5 determine, on the basis of the record as a whole, whether the party having the burden of
6 proof on the issue has established it by a preponderance of evidence.

7 B. HEARINGS TO BE PUBLIC - RECORDS.

8 1. a. Hearings before the Commission shall be open to the public and shall
9 be stenographically reported or recorded in any other accurate and
10 practicable manner. The Commission is authorized to contract for the
11 reporting of the hearings.

12 b. The Commission shall, by rule, provide for the preparation of a record
13 of all hearings and other proceedings before it.

14 2. However, the Commission shall not be required to stenographically report or
15 prepare a record of joint petition hearings. Instead, the administrative law judge or legal
16 advisor shall tape the hearing at no cost to the parties.

17 C. INTRODUCTION OF EVIDENCE.

18 1. a. All oral evidence or documentary evidence shall be presented to the
19 designated representative of the Commission at the initial hearing on
20 a controverted claim, which evidence shall be stenographically
21 reported or recorded in any other accurate and practicable manner.

22 b. Each party shall present all evidence at the initial hearing.

1 3. A party failing to observe the requirements of this subsection may not be allowed
2 to introduce medical reports or testimony of physicians at a hearing, except in the
3 discretion of the hearing officer or the Commission.

4 4. The time periods may be waived by the consent of the parties.

5 D. Expert testimony shall not be allowed unless it satisfies the requirements of
6 Rule 702 of the Federal Rules of Evidence with annotations and amendments, that is,
7 *Daubert v. Merrell-Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and *Kumho Tire Co.*
8 *v. Carmichael*, 526 U.S. 137 (1999).

9 SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 384 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 A. The Workers' Compensation Commission shall have the power to preserve and
13 enforce order during any proceeding had before it, to issue subpoenas for, administer
14 oaths to, and compel the attendance and testimony of witnesses, and require the
15 production of books, papers, documents, and other evidence.

16 B. If any person or party in proceedings before the Commission disobeys or resists
17 any lawful order or process, or misbehaves during a hearing, or so near the place of the
18 hearing so as to obstruct the hearing or neglects to produce, after having been ordered to
19 do so, any book, paper, or document, or refuses to appear after having been subpoenaed,
20 or upon appearing refuses to take oath as a witness, or after having taken the oath
21 refuses to be examined according to law, or refuses to comply with any final order of an
22 administrative law judge or the Commission, or willfully refuses to pay an

1 uncontroverted medical or related expense within thirty (30) days after the respondent
2 has received the statement, then the person or party, at the discretion of the
3 administrative law judge or the Commission, may be found to be in contempt of the
4 Commission and may be subject to a fine not to exceed Ten Thousand Dollars
5 (\$10,000.00).

6 SECTION 87. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 385 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 In any proceeding for the enforcement of a claim for compensation, the following
10 prima facie presumptions shall exist:

- 11 1. The Workers' Compensation Commission has jurisdiction;
- 12 2. Sufficient notice was given; and
- 13 3. The injury was not occasioned by the willful intention of the injured employee to
14 bring about the injury of the employee or another.

15 SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 386 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 The Workers' Compensation Commission may cause depositions of witnesses to be
19 taken in such manner as it may direct.

20 SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 387 of Title 85, unless there is created a duplication in numbering,
22 reads as follows:

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

1 Each witness who appears in obedience to a subpoena shall be entitled to the same
2 fees as witnesses in a civil action in the district court.

3 SECTION 90. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 388 of Title 85, unless there is created a duplication in numbering,
5 reads as follows:

6 A. Where the Workers' Compensation Commission is a party to or is otherwise
7 interested in a court proceeding under this act, it shall request representation by the
8 Office of the Attorney General to appear in its behalf.

9 B. If requested by the Commission, it shall be the duty of the Attorney General or
10 the prosecuting attorneys of the different districts to represent the Commission without
11 extra compensation.

12 SECTION 91. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 389 of Title 85, unless there is created a duplication in numbering,
14 reads as follows:

15 A. AWARD OR ORDER OF ADMINISTRATIVE LAW JUDGE OR SINGLE
16 COMMISSIONER - REVIEW.

17 1. A compensation order or award of an administrative law judge or a single
18 commissioner shall become final unless a party to the dispute shall, within thirty (30)
19 days from the receipt of the order or award, petition in writing for a review by the full
20 Commission of the order or award.

21 2. Any other party to the dispute may cross appeal by filing a written petition for
22 cross appeal within fifteen (15) days after the notice of appeal is filed in the office of the

1 Workers' Compensation Commission, except that in no event shall a cross appellant have
2 less than thirty (30) days from the receipt of the order or award within which to file a
3 notice of cross appeal.

4 B. AWARD OR ORDER OF COMMISSION - APPEAL.

5 1. A compensation order or award of the Commission shall become final unless a
6 party to the dispute shall, within thirty (30) days from receipt of the order or award, file
7 notice of appeal to the Court of Appeals, which is designated as the forum for judicial
8 review of those orders and awards.

9 a. The appeal to the court may be taken by filing in the office of the
10 Commission, within thirty (30) days from the date of the receipt of the
11 order or award of the Commission, a notice of appeal, whereupon the
12 Commission under its certificate shall send to the court all pertinent
13 documents and papers, together with a transcript of evidence and the
14 findings and orders, which shall become the record of the cause.

15 b. Any other party to the dispute may cross appeal by filing in the office
16 of the Commission a notice of cross appeal to the court within fifteen
17 (15) days after the notice of appeal is filed, except that in no event
18 shall a cross appellant have less than thirty (30) days from receipt of
19 the order or award of the Commission within which to file a notice of
20 cross appeal.

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

1 c. The Commission may assess and collect an appeal processing fee not to
2 exceed Fifteen Dollars (\$15.00) from the appellant and, if cross
3 appealed, the cross appellant.

4 2. Appeals from the Commission to the court shall be allowed as in other civil
5 actions and shall take precedence over all other civil cases appealed to the court.

6 3. a. Upon appeal to the court, no additional evidence shall be heard.

7 b. In the absence of fraud, the findings of fact made by the Commission
8 within its power shall be conclusive and binding upon the court and
9 shall be given the same force and effect as in cases decided by the
10 Supreme Court, except subject to review as in paragraph 4 of this
11 subsection.

12 4. The court shall review only questions of law and may modify, reverse, remand
13 for rehearing, or set aside the order or award, upon any of the following grounds, and no
14 other, that the:

15 a. Commission acted without or in excess of its powers,

16 b. order or award was procured by fraud,

17 c. facts found by the Commission do not support the order or award, or

18 d. order or award was not supported by substantial evidence of record.

19 C. APPEAL COSTS.

20 1. In all appeals, the cost shall be assessed as provided by law in civil cases.

21 2. The Commission may require a bond from either party, if it deems necessary, in
22 cases appealed to the court.

1 SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 390 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 If any employer fails to comply with a final compensation order or award, any
5 beneficiary of the order or award, or the Workers' Compensation Commission, may file a
6 certified copy of the order or award in the office of the district clerk of any county in this
7 state where any property of the employer may be found. At that time, the court clerk
8 shall enter the order or award in the judgment record of the county, and the order or
9 award so recorded shall be a judgment and lien as are judgments of the district court,
10 and enforceable as such.

11 SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 391 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. 1. Except where a joint petition settlement has been approved, the Workers'
15 Compensation Commission may review any compensation order, award, or decision.

16 2. Review of any compensation order, award, or decision may be done at any time
17 within six (6) months of termination of the compensation period fixed in the original
18 compensation order or award, upon the motion of the Commission or upon the
19 application of any party in interest, on the ground of a change in physical condition or
20 upon proof of erroneous wage rate.

1 3. Upon the review, the Commission may make an order or award terminating,
2 continuing, decreasing, or increasing for the future the compensation previously
3 awarded, subject to the maximum limits provided for in this act.

4 B. The review and subsequent order or award shall be made in accordance with the
5 procedure prescribed in Section 84 of this act.

6 C. No review shall affect any compensation paid pursuant to a prior order or
7 award.

8 D. The Commission may, at any time, correct any clerical error in any
9 compensation order or award.

10 E. Aging and the effects of aging on a compensable injury are not to be considered
11 in determining whether there has been a change in physical condition. Nor shall aging
12 or the effect of aging on a compensable injury be considered in determining permanent
13 disability pursuant to this section or any other section in this act. The purpose and
14 intent of this section is to annul any and all case law inconsistent with this section.

15 SECTION 94. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 392 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 If the court having jurisdiction of proceedings in respect of any claim or
19 compensation order determines that the proceedings in respect to the claim or order have
20 been instituted or continued without reasonable grounds, the cost of the proceedings
21 shall be assessed against the party who has instituted or continued the proceedings.

1 SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 393 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. 1. a. Fees for legal services rendered in respect of a claim shall not be valid
5 unless approved by the Workers' Compensation Commission.

6 b. Attorney fees shall be twenty percent (20%) of compensation for
7 indemnity benefits payable to the injured employee or dependents of a
8 deceased employee or twenty percent (20%) of a bona fide offer. In the
9 event the bona fide offer is not accepted and the claim is heard at an
10 administrative hearing, the attorney fee shall be the percentage of the
11 amount in excess of the bona fide offer that represents the value added
12 by the services and efforts of the attorney. Attorney fees shall not be
13 awarded on medical benefits or services except as provided in
14 paragraph 4 of this subsection.

15 2. a. Whenever the Commission finds that a claim against the State
16 Treasurer, as custodian of the Second Injury Trust Fund or as
17 custodian of the Death and Permanent Total Disability Trust Fund,
18 has been controverted, in whole or in part, the Commission shall direct
19 that fees for legal services be paid from the fund, in addition to
20 compensation awarded, and the fees shall be allowed only on the
21 amount of compensation controverted and awarded from the fund.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

- b. (1) In all other cases, including, but not limited to, cases where the adequacy of medical treatment is controverted or there has been a controverted change of physician, where the Commission finds that a claim has been controverted, in whole or in part, the Commission shall direct that fees for legal services be paid to the attorney for the claimant as follows: one-half (1/2) by the employer or carrier in addition to compensation awarded; and one-half (1/2) by the injured employee or dependents of a deceased employee out of compensation payable to them.
- (2) The fees shall be allowed only on the amount of compensation for indemnity benefits controverted and awarded.
- (3) However, the Commission shall not find that a claim has been controverted if the claimant or the representative of the claimant has withheld from the respondent during the period of time allotted for the respondent to determine its position any medical information in the possession of the claimant which substantiates the claim.
- c. (1) Whenever the Commission finds that a claim has not been controverted but further finds that bona fide legal services have been rendered in respect to the claim, then the Commission shall direct the payment of the fees by the injured employee or dependents of a deceased employee out of the compensation

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

1 awarded as provided in subparagraph a of paragraph 1 of this
2 subsection.

3 (2) In determining the amount of fees when a claim is not
4 controverted, the Commission shall use its discretion in
5 awarding an attorney fee not to exceed twenty percent (20%) as
6 provided in subparagraph a of paragraph 1 of this subsection
7 and in so doing shall take into consideration the nature, length,
8 and complexity of the services performed and the benefits
9 resulting to the compensation beneficiaries.

10 3. In any case where attorney fees are allowed by the Commission, the limitations
11 expressed in paragraph 1 of this subsection shall apply.

12 4. Medical providers may voluntarily contract with the attorney for the claimant to
13 recover disputed bills, and the attorney may charge a reasonable fee to the medical
14 provider as a cost of collection.

15 B. 1. If the claimant prevails on appeal, the attorney for the claimant shall be
16 entitled to an additional fee at the full Commission and appellate court levels in addition
17 to the fees provided in paragraph 1 of subsection A of this section, the additional fee to be
18 paid equally by the employer or carrier and by the injured employee or dependents of a
19 deceased employee, as provided in this subsection and set by the Commission or
20 appellate court.

21 2. The maximum fees allowable pursuant to this subsection shall be the sum of
22 Five Hundred Dollars (\$500.00) on appeals to the full Commission from a decision of the

1 administrative law judge and the sum of One Thousand Dollars (\$1,000.00) on appeals to
2 the Court of Appeals or Supreme Court from a decision of the Commission.

3 3. In determining the amount of fees, the Commission and the Court shall take into
4 consideration the nature, length, and complexity of the services performed and the
5 benefits resulting to the compensation beneficiary.

6 C. 1. The fee for legal services rendered by the attorney of the claimant in
7 connection with a change of physician requested by the injured employee, controverted
8 by the employer or carrier and awarded by the Commission, shall be Two Hundred
9 Dollars (\$200.00).

10 2. No additional fee shall be payable with respect to uncontroverted charges
11 incurred in connection with treatment by the new physician.

12 D. 1. No fees for legal services rendered by the attorney of the claimant with
13 respect to the preliminary conference procedure shall be awarded by the Commission.

14 2. However, the attorney of the claimant or other representative may charge a
15 reasonable fee to the claimant for representation in connection with the conference.

16 3. Unless compensability of a claim is controverted by the employer or carrier, fees
17 for legal services by the attorney of the claimant with respect to disability for loss of
18 wage-earning capacity shall be payable only for amounts awarded at a contested hearing
19 which exceed the amount, if any, which the employer or carrier agreed in writing to
20 accept at the preliminary conference.

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

1 E. Attorney fees contained in this section shall be effective with respect to benefits
2 payable in connection with disability or death due to injuries occurring on or after
3 November 1, 2008.

4 SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 394 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. The Workers' Compensation Commission is authorized to approve lump-sum
8 attorney fees for legal services rendered in respect of a claim before the Commission.

9 B. The lump-sum attorney fees are allowable notwithstanding that the award of
10 compensation to the injured employee is to be paid on an installment basis.

11 C. Lump-sum attorney fees, if approved by the Commission, shall be discounted at
12 the rate provided in Section 101 of this act, as that provision may be amended from time
13 to time.

14 SECTION 97. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 395 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. 1. a. Every claim, request for benefits, request for additional benefits,
18 controversion of benefits, request for a hearing, pleading, motion, and
19 other paper of a party represented by an attorney shall be signed by at
20 least one attorney of record in the individual name of the attorney of
21 record, whose address shall be stated.

1 b. A party who is not represented by an attorney shall sign the claim,
2 request for benefits, request for additional benefits, controversion of
3 benefits, request for a hearing, pleading, motion, or other paper, and
4 state the address of the party.

5 2. The signature of an attorney or party constitutes a certificate by the attorney or
6 party that:

7 a. the attorney or party has read the claim, request for benefits, request
8 for additional benefits, controversion of benefits, request for a hearing,
9 pleading, motion, or other paper,

10 b. to the best of the knowledge, information, and belief of the attorney or
11 party formed after reasonable inquiry, it is well grounded in fact and is
12 warranted by existing law or a good faith argument for the extension,
13 modification, or reversal of existing law, and

14 c. it is not interposed for any improper purpose, such as to harass or to
15 cause unnecessary delay or needless increase in the cost of litigation.

16 3. If a claim, request for benefits, request for additional benefits, controversion of
17 benefits, request for a hearing, pleading, motion, or other paper is not signed, it shall be
18 stricken unless it is signed promptly after the omission is called to the attention of the
19 pleader or movant.

20 4. If a claim, request for benefits, request for additional benefits, controversion of
21 benefits, request for a hearing, pleading, motion, or other paper is signed in violation of
22 this rule, the Workers' Compensation Commission, including administrative law judges,

1 upon motion or upon their own initiative, shall impose upon the person who signed it, a
2 represented party, or both, an appropriate sanction, which may include an order to pay to
3 the other party or parties the amount of reasonable expenses incurred because of the
4 filing of a claim, request for benefits, request for additional benefits, controversion of
5 benefits, request for a hearing, pleading, motion, or other paper, including a reasonable
6 attorney fee.

7 B. Appropriate sanctions, including the amount of reasonable expenses and
8 attorney fees, may also be imposed against a party or its attorney who, without good
9 cause shown, fails to appear for a hearing, deposition, or any other matter scheduled by
10 the Commission or administrative law judge, or frivolously joins another party.

11 SECTION 98. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 396 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. Compensation shall be paid by check, direct deposit, or by state warrant.

15 B. Payment shall be made payable to the order of the person entitled to the
16 compensation and paid directly to the person entitled to the compensation.

17 C. If the compensation beneficiary is mentally incompetent or a minor of tender
18 years or immature judgment, the Workers' Compensation Commission, in the exercise of
19 its discretion, may direct that payment shall be made to a legally appointed guardian of
20 the estate of the incompetent or minor.

1 SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 397 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 A. The first installment of compensation shall become due on the fifteenth day after
5 the employer has notice of the injury or death, as provided in Section 81 of this act, on
6 which date all compensation then accrued shall be paid. Thereafter, compensation shall
7 be paid every ten (10) days except where the Workers' Compensation Commission directs
8 that installment payments be made at other periods.

9 B. If any installment of compensation payable without an award is not paid within
10 ten (10) days after it becomes due, as provided in subsection A of this section, there shall
11 be added to the unpaid installment an amount equal to eighteen percent (18%) thereof,
12 which shall be paid at the same time as, but in addition to, the installment unless notice
13 of controversion is filed or an extension is granted the employer under Section 100 of this
14 act or unless such nonpayment is excused by the Commission after a showing by the
15 employer that, owing to conditions over which he had no control, the installment could
16 not be paid within the period prescribed.

17 C. If any installment payable under the terms of an award is not paid within ten
18 (10) days after it becomes due, there shall be added to such unpaid installment an
19 amount equal to twenty percent (20%) thereof, which shall be paid at the same time as,
20 but in addition to, the installment unless review of the compensation order making the
21 award is had as provided in Sections 91 and 92 of this act.

1 D. Medical bills are payable within ten (10) days after receipt by the respondent
2 unless disputed as to compensability or amount.

3 E. In the event that the Commission finds the failure to pay any benefit is willful
4 and intentional, the penalty shall be up to thirty-six percent (36%), payable to the
5 claimant.

6 SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 398 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 A. 1. Each employer desiring to controvert the right to compensation shall file with
10 the Workers' Compensation Commission on or before the fifteenth day following notice of
11 the alleged injury or death a statement on a form prescribed by the Commission that the
12 right to compensation is controverted and the grounds for the controversion, the names
13 of the claimant, employer, and carrier, if any, and the date and place of the alleged injury
14 or death.

15 2. Failure to file the statement of controversion shall preclude the urging of any
16 defense to the claim subsequently filed, except that the filing of a statement of
17 controversion shall not preclude the urging of additional defenses to those contained in
18 the statement of controversion.

19 B. 1. If an employer is unable to obtain sufficient medical information as to the
20 alleged injury or death within ten (10) days following receipt of notice, although the
21 employer has acted in good faith and with all due diligence, the employer may apply in

1 writing for an extension of time for making payment of the first installment or
2 controverting the claim.

3 2. This written application is to be postmarked within the ten-day period.

4 3. The Commission may, in its discretion, grant the extension and fix the additional
5 time to be allowed.

6 4. Filing of application for an extension shall not be deemed to be a controversion of
7 the claim.

8 C. The provision in subsection B of this section shall not apply in cases where the
9 physician is an employee of, on retainer with, or has a written contract to provide
10 medical services for the employer.

11 SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 399 of Title 85, unless there is created a duplication in numbering,
13 reads as follows:

14 A. 1. Whenever the Workers' Compensation Commission determines that it is for
15 the best interest of the parties entitled to compensation, and after due notice to all
16 parties in interest of a hearing, the liability of the employer for compensation may be
17 discharged by the payment of a lump sum equal to the present value of all future
18 payments of compensation computed at a ten percent (10%) discount, compounded
19 annually.

20 2. Lump-sum settlements shall not be allowed if the employer presents evidence
21 which proves by a preponderance of the evidence that ordering the compensation

1 discharged in such a manner would result in a substantial adverse effect on the
2 continuing economic viability of the employer.

3 B. 1. The probability of the death of the injured employee or other persons entitled
4 to compensation before the expiration of the period during which they are entitled to
5 compensation shall, in the absence of special circumstances making such a course
6 improper, be determined in accordance with the following table.

7 2. It is intended that this table shall be used in conjunction with the discount rate
8 prescribed in paragraph 1 of subsection A of this section for the purpose of calculating
9 the present value of lump-sum settlements to injured employees.

| 10 | Age Years | Average Remaining |
|----|-----------|-------------------|
| 11 | | Lifetime Years |
| 12 | 1 | 74.97 |
| 13 | 2 | 75.37 |
| 14 | 3 | 74.47 |
| 15 | 4 | 73.54 |
| 16 | 5 | 72.59 |
| 17 | 6 | 71.63 |
| 18 | 7 | 70.67 |
| 19 | 8 | 69.70 |
| 20 | 9 | 68.73 |
| 21 | 10 | 67.75 |
| 22 | 11 | 66.77 |

| | | |
|----|----|-------|
| 1 | 12 | 65.80 |
| 2 | 13 | 64.82 |
| 3 | 14 | 63.84 |
| 4 | 15 | 62.87 |
| 5 | 16 | 61.90 |
| 6 | 17 | 60.94 |
| 7 | 18 | 59.97 |
| 8 | 19 | 59.02 |
| 9 | 20 | 58.06 |
| 10 | 21 | 57.10 |
| 11 | 22 | 56.15 |
| 12 | 23 | 55.19 |
| 13 | 24 | 54.24 |
| 14 | 25 | 53.29 |
| 15 | 26 | 52.33 |
| 16 | 27 | 51.38 |
| 17 | 28 | 50.42 |
| 18 | 29 | 49.47 |
| 19 | 30 | 48.52 |
| 20 | 31 | 47.57 |
| 21 | 32 | 46.62 |
| 22 | 33 | 45.68 |

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

| | | |
|----|----|-------|
| 1 | 34 | 44.73 |
| 2 | 35 | 43.79 |
| 3 | 36 | 42.86 |
| 4 | 37 | 41.92 |
| 5 | 38 | 40.66 |
| 6 | 39 | 40.07 |
| 7 | 40 | 39.14 |
| 8 | 41 | 38.23 |
| 9 | 42 | 37.31 |
| 10 | 43 | 36.41 |
| 11 | 44 | 35.50 |
| 12 | 45 | 34.60 |
| 13 | 46 | 33.71 |
| 14 | 47 | 32.83 |
| 15 | 48 | 31.95 |
| 16 | 49 | 31.08 |
| 17 | 50 | 30.21 |
| 18 | 51 | 29.35 |
| 19 | 52 | 28.49 |
| 20 | 53 | 27.65 |
| 21 | 54 | 26.80 |
| 22 | 55 | 25.97 |

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

| | | |
|----|----|-------|
| 1 | 56 | 25.14 |
| 2 | 57 | 24.31 |
| 3 | 58 | 23.49 |
| 4 | 59 | 22.68 |
| 5 | 60 | 21.88 |
| 6 | 61 | 21.09 |
| 7 | 62 | 20.30 |
| 8 | 63 | 19.53 |
| 9 | 64 | 18.76 |
| 10 | 65 | 18.00 |
| 11 | 66 | 17.25 |
| 12 | 67 | 16.51 |
| 13 | 68 | 15.78 |
| 14 | 69 | 15.06 |
| 15 | 70 | 14.35 |
| 16 | 71 | 13.67 |
| 17 | 72 | 13.01 |
| 18 | 73 | 12.38 |
| 19 | 74 | 11.77 |
| 20 | 75 | 11.18 |
| 21 | 76 | 10.61 |
| 22 | 77 | 10.04 |

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

| | | |
|----|----|------|
| 1 | 78 | 9.48 |
| 2 | 79 | 8.93 |
| 3 | 80 | 8.40 |
| 4 | 81 | 7.90 |
| 5 | 82 | 7.42 |
| 6 | 83 | 6.98 |
| 7 | 84 | 6.57 |
| 8 | 85 | 6.17 |
| 9 | 86 | 5.80 |
| 10 | 87 | 5.43 |
| 11 | 88 | 5.09 |
| 12 | 89 | 4.77 |
| 13 | 90 | 4.47 |
| 14 | 91 | 4.18 |
| 15 | 92 | 3.92 |
| 16 | 93 | 3.69 |
| 17 | 94 | 3.50 |
| 18 | 95 | 3.33 |
| 19 | 96 | 3.18 |
| 20 | 97 | 3.06 |
| 21 | 98 | 2.95 |
| 22 | 99 | 2.85 |

2 C. The probability of the happening of any other contingency affecting the amount
3 or duration of compensation shall be disregarded, except the possibility of the remarriage
4 of the widow or widower, which shall be determined in accordance with the Danish
5 Annuity and Dutch Remarriage Table.

6 SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 400 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 A. Upon petition filed by the employer or carrier and the injured employee
10 requesting that a final settlement be had between the parties, the Workers'
11 Compensation Commission shall hear the petition and take testimony and make
12 investigations as may be necessary to determine whether a final settlement should be
13 had.

14 B. 1. If the Commission decides it is for the best interests of the claimant that a
15 final award be made, it may order an award that shall be final as to the rights of all
16 parties to the petition.

17 2. Thereafter, the Commission shall not have jurisdiction over any claim for the
18 same injury or any results arising from it.

19 C. If an employee has returned to work or agreed to return to work, the
20 Commission shall not approve a joint petition which has allotted monies for vocational
21 rehabilitation or any indemnity benefits in excess of that payable as an anatomical
22 impairment as established by objective and measurable findings.

1 D. If the Commission denies the petition, the denial shall be without prejudice to
2 either party.

3 E. No appeal shall lie from an order or award denying a joint petition.

4 SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 401 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. In any case where an employer changes insurance carriers or where the
8 employer having been self-insured, becomes insured or, having been insured, is approved
9 to be self-insured, and the only dispute in a claim against that employer is the proper
10 source of payment of benefits, the Workers' Compensation Commission shall direct that
11 the appropriate compensation benefits be paid on an equal basis by the carriers or self-
12 insured employer.

13 B. Upon eventual resolution of the issue, the prevailing respondent shall be
14 entitled to reimbursement from the other respondent of all monies paid together with
15 interest at the legal rate from the date of payment.

16 SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 402 of Title 85, unless there is created a duplication in numbering,
18 reads as follows:

19 A. If the employer has made advance payments for compensation, the employer
20 shall be entitled to be reimbursed out of any unpaid installment or installments of
21 compensation due.

1 B. If the injured employee receives full wages during disability, the employee shall
2 not be entitled to compensation during the period.

3 SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 403 of Title 85, unless there is created a duplication in numbering,
5 reads as follows:

6 The Workers' Compensation Commission may require any employer to make a
7 deposit or bond with the Commission to secure the prompt and convenient payment of
8 compensation, and payments shall be made upon order of the Commission.

9 SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 404 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 Compensation shall bear interest at the legal rate from the day an award is made
13 by either an administrative law judge or the full Workers' Compensation Commission on
14 all accrued and unpaid compensation.

15 SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 405 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. Upon making the first payment and upon suspension of payment of
19 compensation, the employer shall notify the Workers' Compensation Commission of that
20 fact on a form prescribed by the Commission.

21 B. 1. Within thirty (30) days after the final payment of compensation has been
22 made, the employer shall send to the Commission a notice, in accordance with a form

1 prescribed by the Commission. This form shall state that the final payment has been
2 made, the total amount of compensation paid, the name of the employee and of any other
3 person to whom compensation has been paid, the date of the injury or death, and the
4 person to whom compensation has been paid.

5 2. If the employer fails so to notify the Commission within that time, the
6 Commission may assess against the employer a civil penalty in an amount not exceeding
7 One Hundred Dollars (\$100.00), but no penalty shall be assessed without notice to the
8 employer, giving the employer an opportunity to be heard.

9 SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 406 of Title 85, unless there is created a duplication in numbering,
11 reads as follows:

12 Upon its own initiative at any time where compensation payments are being made
13 without an award, the Workers' Compensation Commission may, and in any case where
14 the right to compensation has been controverted or where payments of compensation
15 have been suspended, or where an employer seeks to suspend payments made under an
16 award, or on application of an interested party, the Commission shall make an
17 investigation, cause a medical examination to be made, hold hearings, and take further
18 action as the Commission deems proper for the protection of the rights of all parties.

19 SECTION 109. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 407 of Title 85, unless there is created a duplication in numbering,
21 reads as follows:

1 A. 1. When any person who receives workers' compensation benefits is
2 incarcerated in an institution under the control of the Department of Corrections, the
3 spouse of the inmate or, if no spouse, the minor dependent children of the inmate, may
4 petition the Workers' Compensation Commission to award to the spouse or minor
5 dependent children the workers' compensation weekly disability benefits of the inmate
6 for the period of incarceration of the claimant.

7 2. If the inmate has no surviving spouse or surviving minor dependent children, the
8 Department of Corrections may petition the Commission to award to the Department the
9 amount of the workers' compensation weekly disability benefits for the period of
10 incarceration of the claimant necessary to reimburse the Department for the cost of
11 incarcerating the inmate.

12 B. The Commission shall promulgate rules necessary for the implementation of this
13 section.

14 SECTION 110. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 408 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. 1. Upon approval by the Insurance Commissioner, and following the adoption of
18 the rules that the Insurance Commissioner deems necessary and advisable, each insurer
19 issuing a policy under this act shall offer, as a part of the policy or as an optional
20 endorsement to the policy, deductibles optional to the policyholder for benefits payable
21 under this act.

1 2. Deductible amounts offered shall be fully disclosed to the prospective
2 policyholder in writing in the amount of One Hundred Dollars (\$100.00), Two Hundred
3 Dollars (\$200.00), Three Hundred Dollars (\$300.00), Four Hundred Dollars (\$400.00),
4 and Five Hundred Dollars (\$500.00), or increments of Five Hundred Dollars (\$500.00), up
5 to a maximum of Two Thousand Five Hundred Dollars (\$2,500.00) per compensable
6 claim, or in such other amounts as may be set by the Insurance Commissioner.

7 3. The policyholder exercising the deductible option shall choose only one
8 deductible amount.

9 B. Optional deductibles shall be offered in each policy insuring liability for workers'
10 compensation that is issued, delivered, issued for delivery, or renewed under this act on
11 or after approval by the Insurance Commissioner, unless an insured employer and
12 insurer agree to renegotiate a workers' compensation policy in effect on that date so as to
13 include a provision allowing for a deductible.

14 C. 1. If the policyholder exercises the option and chooses a deductible, the insured
15 employer shall be liable for the amount of the deductible for benefits paid for each
16 compensable claim of work injury suffered by an employee.

17 2. The insurer shall pay all or part of the deductible amount, whichever is
18 applicable to a compensable claim, to the person or medical provider entitled to the
19 benefits conferred by this act and then seek reimbursement from the insured employer
20 for the applicable deductible amount.

1 3. The payment or nonpayment of deductible amounts by the insured employer to
2 the insurer shall be treated under the policy insuring the liability for workers'
3 compensation in the same manner as payment or nonpayment of premiums.

4 D. If the Insurance Commissioner determines it to be feasible, and under the rules
5 that the Insurance Commissioner may adopt, premium reduction for deductibles may be
6 determined before the application of any experience modification, premium surcharge, or
7 premium discounts, and, to the extent that an experience rating or safety record of an
8 employer is based on benefits paid, money paid by the insured employer under a
9 deductible as provided in this section may not be included as benefits paid so as to harm
10 the experience rating of the employer.

11 E. This section shall not apply to employers who are approved to self-insure against
12 liability for workers' compensation or group self-insurance funds for workers'
13 compensation.

14 SECTION 111. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 409 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 A. 1. a. The Workers' Compensation Commission is hereby authorized to
18 recognize two separate entities to function as guaranty funds for
19 Oklahoma workers' compensation self-insurers in the private sector.

20 b. One guaranty fund will be established for individual self-insurers and
21 homogeneous self-insurer groups, as defined in subparagraph a of
22 paragraph 3 of subsection A of Section 41 of this act.

1 c. A separate guaranty fund will be established for common self-insurer
2 groups, as defined in subparagraph b of paragraph 3 of subsection A of
3 Section 41 of this act.

4 2. The two funds shall be created, funded, and administered independently from
5 each other.

6 3. The assets of the two funds shall remain separate for all purposes and shall not
7 be combined, and the assets of one fund shall not be utilized to satisfy the obligations of
8 the other fund.

9 B. Public sector self-insurers are specifically exempted from the provisions of this
10 section and Sections 112 through 121 of this act.

11 C. As used in this section and Sections 112 through 121 of this act, "public sector
12 self-insurer" means a group of municipalities, a city, a county, or the state entity which
13 directly exercises control over an employee and which pays the salary of the employee.

14 SECTION 112. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 410 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 The Workers' Compensation Commission shall promulgate rules to implement
18 Sections 111 through 121 of this act.

19 SECTION 113. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 411 of Title 85, unless there is created a duplication in numbering,
21 reads as follows:

1 There shall be no liability on the part of, and no cause of action of any nature shall
2 lie, whether at law or in equity, against any Oklahoma workers' compensation self-
3 insurer or the Workers' Compensation Commission or any of its representatives on
4 account of any action or inaction in the administration of the workers' compensation self-
5 insurer guaranty funds or the performance of duties in connection with any action or
6 inaction.

7 SECTION 114. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 412 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 A. The entities acting as the guaranty fund shall independently determine
11 periodically the amount of money each Oklahoma workers' compensation self-insurer
12 should contribute to each fund in order to provide an adequate pool of money to pay
13 workers' compensation benefits owed by an Oklahoma self-insurer when such self-
14 insurer fails to meet its workers' compensation benefits obligations.

15 B. The Workers' Compensation Commission shall assess all workers' compensation
16 self-insurers in an amount determined by each entity, and the Commission shall
17 transmit the monies collected to each entity to be used solely to make workers'
18 compensation benefit payments from each fund and to defray the expenses of each fund.

19 C. At any time that a workers' compensation self-insurer guaranty fund becomes
20 inadequate to make payments to its claimants, the balance of that fund shall be prorated
21 equally among the claimants, and the Oklahoma workers' compensation self-insurers

1 who are members of that fund shall be assessed an amount necessary to pay the
2 outstanding claims and expenses and to replenish that fund.

3 D. The inadequacy of one fund to make payments to claimants shall have no effect
4 on the operation of the remaining fund, nor shall the assets of the remaining fund be
5 utilized in any manner to satisfy the claims of claimants to the fund suffering from the
6 inadequacy.

7 SECTION 115. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 413 of Title 85, unless there is created a duplication in numbering,
9 reads as follows:

10 The Workers' Compensation Commission shall report to each entity when the
11 Commission has reasonable cause to believe that the payment of potential claims by an
12 Oklahoma workers' compensation self-insurer is or may be jeopardized by the existing or
13 potential financial condition of the self-insurer. The entity which has the affected self-
14 insurer as a member shall, based upon such information as is reasonably available,
15 report to the Commission upon all matters germane to the solvency, liquidation,
16 rehabilitation, or conservation of any workers' compensation self-insurer, and such
17 reports shall not be deemed public documents under the Freedom of Information Act or
18 any other law.

19 SECTION 116. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 414 of Title 85, unless there is created a duplication in numbering,
21 reads as follows:

1 A. Monies collected by the Workers' Compensation Commission and disbursed to
2 each entity shall be vested in the entity and shall not be deemed state property and shall
3 not be subject to appropriation by the Legislature.

4 B. Each entity shall annually submit to an audit by an independent certified public
5 accountant, and a copy of the audit report shall be transmitted to the Commission.

6 SECTION 117. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 415 of Title 85, unless there is created a duplication in numbering,
8 reads as follows:

9 Each entity shall direct the investment of monies in each workers' compensation
10 self-insurer guaranty fund, and all returns on the investments shall be retained in each
11 fund. The monies in each fund shall be used solely to compensate persons entitled to
12 receive workers' compensation benefits from an Oklahoma self-insurer which is unable to
13 meet its workers' compensation benefits obligations and to defray the expenses of each
14 fund.

15 SECTION 118. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 416 of Title 85, unless there is created a duplication in numbering,
17 reads as follows:

18 A. Each entity shall have full rights of subrogation against any source of payment
19 or reimbursement for payments made by the corporation on behalf of an Oklahoma
20 workers' compensation self-insurer.

1 B. Each entity shall have a right of recovery through the maintenance of an action
2 against any third party, other than a coemployee, who is in any way responsible or liable
3 for injury or death to a covered worker.

4 SECTION 119. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 417 of Title 85, unless there is created a duplication in numbering,
6 reads as follows:

7 A. Each entity is also authorized to take all necessary action, including bringing an
8 action at law or in equity, to seek any available relief as against any workers'
9 compensation self-insurer, whether the self-insurer has paid all assessments levied by
10 the Workers' Compensation Commission on behalf of the corporation.

11 B. If an entity is required to bring an action at law or in equity to enforce any
12 obligations, rights, or duties as regards a workers' compensation self-insurer, the court
13 may award reasonable attorney fees and costs to that entity.

14 SECTION 120. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 418 of Title 85, unless there is created a duplication in numbering,
16 reads as follows:

17 All private sector participants in the Oklahoma workers' compensation self-
18 insurers' program may be members of one of the entities acting as guaranty funds, and
19 the Workers' Compensation Commission may revoke any authority of the self-insurer to
20 act as a workers' compensation self-insurer if the self-insurer fails to maintain
21 membership in the applicable entity or fails to pay the assessments levied by the
22 Commission under Sections 111 through 121 of this act.

1 SECTION 121. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 419 of Title 85, unless there is created a duplication in numbering,
3 reads as follows:

4 Any person or entity whose workers' compensation self-insurer status is terminated
5 shall thereafter be subject to no further assessments by the Workers' Compensation
6 Commission, but shall remain liable for all assessments due prior to the date of
7 termination.

8 SECTION 122. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 420 of Title 85, unless there is created a duplication in numbering,
10 reads as follows:

11 The Fifty-first Legislature realizes that the Oklahoma workers' compensation
12 statutes must be revised and amended from time to time. Unfortunately, many of the
13 changes made by this act were necessary because the Workers' Compensation Court and
14 other Oklahoma courts have continually broadened the scope and eroded the purpose of
15 the workers' compensation statutes of this state. The Fifty-first Legislature intends to
16 restate that the major and controlling purpose of workers' compensation is to pay timely
17 temporary and permanent disability benefits to all legitimately injured workers that
18 suffer an injury or disease arising out of and in the course of employment, to pay
19 reasonable and necessary medical expenses resulting from the injury or disease, and
20 then to return the worker to the work force. When, and if, the workers' compensation
21 statutes of this state need to be changed, the Legislature acknowledges its responsibility
22 to do so. It is the specific intent of the Fifty-first Legislature to repeal, annul, and hold

1 for naught all prior opinions or decisions of the Workers' Compensation Court, or other
2 courts of this state contrary to or in conflict with any provision in this act. In the future,
3 if such things as the statute of limitations, the standard of review by the Workers'
4 Compensation Commission or courts, the extent to which any physical condition, injury,
5 or disease should be excluded from or added to coverage by the law, or the scope of the
6 workers' compensation statutes need to be liberalized, broadened, or narrowed, those
7 things shall be addressed by the Legislature and should not be done by administrative
8 law judges, the Workers' Compensation Commission, or the courts.

9 SECTION 123. AMENDATORY 74 O.S. 2001, Section 18m-1, is amended to
10 read as follows:

11 Section 18m-1. A. There is hereby created within the ~~Office of the Attorney~~
12 ~~General~~ Insurance Department a Workers' Compensation Fraud Unit.

13 B. The Workers' Compensation Fraud Unit, upon inquiry or complaint, shall
14 determine the extent, if any, to which any violation has occurred of any statute or
15 administrative rule of this state pertaining to workers' compensation fraud and may
16 initiate any necessary investigation, civil action, criminal action, referral to the
17 ~~Insurance Commissioner or Insurance Department~~ Attorney General or Office of the
18 Attorney General, referral to the ~~Administrator of the Workers' Compensation Court~~
19 Commission, referral to a district attorney or referral to any appropriate official of this or
20 any other state or of the federal government.

21 C. In the absence of fraud, bad faith, reckless disregard for the truth, or actual
22 malice, no person, insurer, or agent of an insurer shall be liable for damages in a civil

1 action or subject to criminal prosecution for communication, publication, or any other
2 action taken to supply information about suspected workers' compensation fraud to the
3 Workers' Compensation Fraud Unit or any other agency involved in the investigation or
4 prosecution of suspected workers' compensation fraud.

5 D. ~~The Attorney General and the Office of the Attorney General, the Insurance~~
6 Commissioner and the Insurance Department, the Attorney General and the Office of the
7 Attorney General, the Administrator of the Workers' Compensation Court Commission,
8 every district attorney and every law enforcement agency shall cooperate and coordinate
9 efforts for the investigation and prosecution of suspected workers' compensation fraud.

10 E. The Workers' Compensation Fraud Unit is hereby transferred from the Office of
11 the Attorney General to the Insurance Department effective January 1, 2009.

12 F. All assets, funds, liabilities, allotments, purchase orders, outstanding financial
13 obligations, encumbrances, records, aircraft, vehicles, equipment, and other property of
14 the Workers' Compensation Fraud Unit is hereby transferred to the Insurance
15 Department.

16 G. Personnel employed by the Office of the Attorney General who are assigned to or
17 designated as employees within the Workers' Compensation Fraud Unit on January 1,
18 2009, shall be transferred to the Insurance Department.

19 H. The classified and unclassified employees who are transferred pursuant to this
20 section shall be subject to the following provisions:

21 1. Classified employees shall remain subject to the provisions of the Merit System
22 of Personnel Administration, as provided in the Oklahoma Personnel Act;

1 2. Unclassified employees shall remain in the unclassified service and shall serve
2 at the pleasure of the Insurance Commissioner;

3 3. All employees who are transferred to the Insurance Department shall retain
4 leave, sick and annual time earned and any retirement and longevity benefits which
5 have accrued during their employment with the state. The salaries of employees who are
6 transferred shall not be reduced as a direct and immediate result of the transfer;

7 4. If the Insurance Department should implement a reduction in force, all
8 employees transferred from the Office of the Attorney General shall be credited for the
9 time they were employed by the Office of the Attorney General; and

10 5. The transfer of personnel shall be coordinated with the Office of Personnel
11 Management.

12 SECTION 124. AMENDATORY 74 O.S. 2001, Section 18m-2, is amended to
13 read as follows:

14 Section 18m-2. A. If the ~~Attorney General~~ Insurance Commissioner or a designee
15 has reason to believe as a result of inquiry or complaint that a person has engaged in or
16 is engaging in an act or practice that violates any administrative rule or statute
17 pertaining to workers' compensation fraud, the ~~Attorney General~~ Insurance
18 Commissioner or a designee shall have all of the powers of a district attorney.

19 B. Records, documents, reports and evidence obtained or created by the ~~Office of~~
20 ~~the Attorney General~~ Insurance Department as a result of workers' compensation fraud
21 shall be confidential and shall not be subject to the Oklahoma Open Records Act or to
22 outside review or release by any individual except when authorized by the ~~Attorney~~

1 ~~General~~ Insurance Commissioner or when required by an administrative or judicial
2 proceeding.

3 SECTION 125. AMENDATORY 74 O.S. 2001, Section 19.2, is amended to read
4 as follows:

5 Section 19.2 There is hereby created in the State Treasury a revolving fund for the
6 ~~Office of the Attorney General~~ Insurance Department, to be designated the "~~Attorney~~
7 ~~General's~~ Insurance Commissioner's Workers' Compensation Fraud Unit Revolving
8 Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and
9 shall consist of any monies designated to the fund by law. All monies accruing to the
10 credit of said fund are hereby appropriated and may be budgeted and expended by the
11 ~~Attorney General~~ Insurance Commissioner for the purposes of investigation, civil action,
12 criminal action or referral to the district attorney in cases involving suspected workers'
13 compensation fraud.

14 SECTION 126. RECODIFICATION 74 O.S. 2001, Section 18m-1, as amended
15 by Section 123 of this act, shall be recodified as Section 364 of Title 36 of the Oklahoma
16 Statutes, unless there is created a duplication in numbering.

17 SECTION 127. RECODIFICATION 74 O.S. 2001, Section 18m-2, as amended
18 by Section 124 of this act, shall be recodified as Section 365 of Title 36 of the Oklahoma
19 Statutes, unless there is created a duplication in numbering.

20 SECTION 128. RECODIFICATION 74 O.S. 2001, Section 19.2, as amended by
21 Section 125 of this act, shall be recodified as Section 366 of Title 36 of the Oklahoma
22 Statutes, unless there is created a duplication in numbering.

1 SECTION 129. REPEALER 85 O.S. 2001, Sections 1, 1.1, as amended by
2 Section 7, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 1.2, 1.2A, 1.3, as amended
3 by Section 8, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 2b, 2e, 2.1, 2.2, 2.3, 2.4,
4 2.5, 2.6, 2.7, 3, as last amended by Section 9, Chapter 1, 1st Extraordinary Session,
5 O.S.L. 2005, 3.1, 3.4, 3.5, as amended by Section 10, Chapter 1, 1st Extraordinary
6 Session, O.S.L. 2005, 3.6, 3.7, 3.8, 3.9 and 3.10, as amended by Sections 11 and 12,
7 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 3.11, 4, 5, as amended by Section 13,
8 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 6, 6.1, 7, 9, 11, as amended by Section
9 77, Chapter 264, O.S.L. 2006, 12, as amended by Section 14, Chapter 1, 1st
10 Extraordinary Session, O.S.L. 2005, 13, 14, as last amended by Section 15, Chapter 1, 1st
11 Extraordinary Session, O.S.L. 2005, 14.1, 14.2 and 14.3, as amended by Sections 16 and
12 17, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 15, 16, as amended by Section 18,
13 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 17, as last amended by Section 19,
14 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 21, 22, as amended by Section 20,
15 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 22.1, 24.1, as amended by Section 21,
16 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 24.2, 24.3, 25, 26, as amended by
17 Section 22, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 27.1, 28, 30, as amended
18 by Section 23, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 41, 41.1, 42, 43 and 44,
19 as amended by Sections 24 and 25, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,
20 45, 46, 47, 47.1, 48, as amended by Section 26, Chapter 1, 1st Extraordinary Session,
21 O.S.L. 2005, 48.1, 49, 61, as amended by Section 78, Chapter 264, O.S.L. 2006, 61.1, 61.2,
22 63, 63.1, 63.2, 63.3, 63.4, 64, as last amended by Section 79, Chapter 264, O.S.L. 2006,

1 65, as amended by Section 80, Chapter 264, O.S.L. 2006, 65.2, 65.3, 66.1, 66.2, 67.1, 69.5,
2 80, 81, 84, 85, 92, 93, 93.2, 95, 101, 103, 104, 106, 107, 109, 110, as amended by Section 1,
3 Chapter 338, O.S.L. 2002, 112, 122, 171 and 172, as amended by Sections 27 and 28,
4 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 173, as last amended by Section 29,
5 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 173.1, 173.2, 173.3, 174, 175, as last
6 amended by Section 30, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 176, 177, 178,
7 179, 180, 201, 201.1, as last amended by Section 31, Chapter 1, 1st Extraordinary
8 Session, O.S.L. 2005, 201.2, 203 and 211 (85 O.S. Supp. 2007, Sections 1.1, 1.3, 3, 3.5,
9 3.9, 3.10, 5, 11, 12, 14, 14.2, 14.3, 16, 17, 22, 24.1, 26, 30, 43, 44, 48, 61, 64, 65, 110, 171,
10 172, 173, 175 and 201.1), are hereby repealed.

11 SECTION 130. Sections 1 through 122 and Section 129 of this act shall become
12 effective November 1, 2008.

13 SECTION 131. Sections 123 through 128 of this act shall become effective January
14 1, 2009.

15 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
16 FINANCIAL SERVICES, dated 02-25-08 - DO PASS, As Amended and Coauthored.