

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 1084

By: Coffee

4
5
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending 85
8 O.S. 2001, Sections 1.2, and 22, as amended by
9 Section 20, Chapter 1, 1st Extraordinary Session,
10 O.S.L. 2005 (85 O.S. Supp. 2006, Section 22) which
11 relate to workers' compensation court and schedule of
12 compensation; limiting judicial terms; modifying
13 number of weeks for certain compensation; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 85 O.S. 2001, Section 1.2, is
17 amended to read as follows:

18 Section 1.2 A. There is hereby created the Workers'
19 Compensation Court which shall consist of ten (10) judges. Each
20 judge of the Court shall be appointed to a designated numbered
21 position on the Court. The positions shall be numbered one through
22 ten. The initial terms of the judges by position number shall
23 expire on the following dates:

24 Position 1 shall expire 7-1-84.

Position 2 shall expire 7-1-84.

Position 3 shall expire 7-1-84.

1 Position 4 shall expire 7-1-82.

2 Position 5 shall expire 7-1-82.

3 Position 6 shall expire 7-1-80.

4 Position 7 shall expire 7-1-80.

5 Position 8 shall expire 7-1-88.

6 Position 9 shall expire 7-1-88.

7 Position 10 shall expire 7-1-96 after being appointed under the
8 provisions hereinafter set forth effective September 1, 1993.

9 Thereafter, each position shall be filled by a judge appointed
10 to serve a six-year term. A judge may only be appointed to two six-
11 year terms.

12 Provided the judges serving unexpired terms on the State
13 Industrial Court shall serve on the Workers' Compensation Court
14 until their terms expire only as provided herein. The judges of the
15 State Industrial Court whose terms expire March 14, 1979, shall
16 serve in Positions 6 and 7 until that date, and the judge whose term
17 expires March 14, 1981, shall serve in Position 5 until that date.
18 Upon expiration of these terms, the Governor shall appoint judges to
19 serve the remainder of the initial terms designated in this section.
20 When a vacancy on the Court occurs or is certain to occur or for
21 initial appointments to the Court, the Judicial Nominating
22 Commission shall choose and submit to the Governor and the Chief
23 Justice of the Supreme Court the names of three persons, in addition
24 to the name of the incumbent judge, if any, for each appointment,

1 each of whom has previously notified the Commission in writing that
2 he or she will serve as a judge if appointed. The Governor shall
3 appoint one of the nominees to fill the vacancy, but if the Governor
4 fails to do so within sixty (60) days, the Chief Justice of the
5 Supreme Court shall appoint one of the nominees, the appointment to
6 be certified to the Secretary of State.

7 B. A judge of the Court shall have been licensed to practice
8 law in this state for a period of not less than five (5) years prior
9 to appointment. Each judge, before entering upon the duties of
10 office, shall take and subscribe to an oath of office and file the
11 same with the Secretary of State. Each judge shall continue to
12 serve until his or her successor has been appointed and qualified.
13 A judge shall be eligible for reappointment, provided that the judge
14 may be removed for cause by the Court on the Judiciary prior to the
15 expiration of his or her term.

16 C. Each judge shall receive a salary equal to that paid to a
17 district judge of this state, and shall devote full time to his or
18 her duties and shall not engage in the private practice of law
19 during the term in office.

20 D. The Governor shall appoint from among the judges of the
21 Workers' Compensation Court a presiding judge of that Court who
22 shall serve for a two-year term commencing with the initial
23 appointment beginning January 1, 1987. Any judge so appointed shall
24 not serve more than two times in succession. The presiding judge

1 shall preside at all hearings held by the Court, preside at such
2 meetings of the judges of the Court as may be necessary and perform
3 such other supervisory duties as the needs of the Court may require.
4 The presiding judge may designate one of the other judges to act as
5 presiding judge in his or her place whenever necessary during the
6 disqualification, disability, or absence of the presiding judge.
7 During the disqualification, disability, or absence of the presiding
8 judge, the acting presiding judge shall exercise all of the powers
9 of the presiding judge.

10 E. The Court shall have the authority to adopt reasonable rules
11 within its respective areas of responsibility including the rules of
12 procedure for the Court en banc, after notice and public hearing,
13 for effecting the purposes of the Workers' Compensation Act. All of
14 the judges of the Court shall be present at all meetings wherein
15 rules are adopted or amended. All rules, upon adoption, shall be
16 submitted to the Supreme Court, which shall either approve or
17 disapprove them within thirty (30) days. All rules, upon approval
18 by the Supreme Court, shall be published and be made available to
19 the public and, if not inconsistent with the law, shall be binding
20 in the administration of the Workers' Compensation Act.

21 F. The Court is hereby designated and confirmed as a court of
22 record, with respect to any matter within the limits of its
23 jurisdiction, and within such limits the judges thereof shall
24 possess the powers and prerogatives of the judges of the other

1 courts of record of this state, including the power to punish for
2 contempt those persons who disobey a subpoena, or refuse to be sworn
3 or to answer as a witness, when lawfully ordered to do so.

4 G. The principal office of the Court shall be situated in the
5 City of Oklahoma City in quarters assigned by the Department of
6 Central Services. The Court may hold hearings in any city of this
7 state.

8 H. All county commissioners and presiding district judges of
9 this state shall make quarters available for the conducting of
10 hearings by a judge of the Court upon request by the Court.

11 I. The judges of the Court shall determine the qualifications
12 necessary for the job of Administrator. Said qualifications shall
13 be submitted to the Chief Justice of the Supreme Court for approval,
14 disapproval or modification.

15 J. Judges of the Workers' Compensation Court may punish for
16 direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21
17 of the Oklahoma Statutes.

18 SECTION 2. AMENDATORY 85 O.S. 2001, Section 22, as
19 amended by Section 20, Chapter 1, 1st Extraordinary Session, O.S.L.
20 2005 (85 O.S. Supp. 2006, Section 22), is amended to read as
21 follows:

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

24

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

5 2. Temporary Total Disability. (a) With respect to injuries
6 occurring before November 4, 1994, in cases of temporary total
7 disability, seventy percent (70%) of the employee's average weekly
8 wages shall be paid to the employee during the continuance thereof,
9 but not in excess of one hundred fifty (150) weeks, except as
10 otherwise provided in the Workers' Compensation Act. Provided,
11 after compensation has been paid for a period of one hundred forty
12 (140) weeks, the employee may request a review of the case by a
13 judge of the Workers' Compensation Court for continued temporary
14 total disability benefits provided by the Workers' Compensation Act.
15 Upon a finding that benefits should be extended beyond the initial
16 one-hundred-fifty-week period, compensation may be continued for an
17 additional one hundred fifty (150) weeks.

18 (b) With respect to injuries occurring on or after November 4,
19 1994, in cases of temporary total disability, seventy percent (70%)
20 of the employee's average weekly wages shall be paid to the employee
21 during the continuance thereof, but not in excess of fifty-two (52)
22 weeks, except as otherwise provided in the Workers' Compensation
23 Act. Provided, after compensation has been paid for a period of
24 forty-two (42) weeks, the employee may request a review of the case

1 by a judge of the Court for continued temporary total disability
2 benefits provided by the Workers' Compensation Act. Upon a finding
3 that benefits should be extended beyond the initial fifty-two-week
4 period, compensation may be continued for additional successive
5 fifty-two-week periods, provided the employee has requested review
6 of the case at forty-two (42) weeks during each period involved, and
7 upon a finding by the Court that benefits should be extended. Total
8 payments of compensation for temporary total disability may not
9 exceed a maximum of three hundred (300) weeks in the aggregate.

10 (c) With respect to injuries occurring on or after November 1,
11 1997, total payments of compensation for temporary total disability
12 may not exceed a maximum of one hundred fifty-six (156) weeks in the
13 aggregate except for good cause shown, as determined by the Court.
14 Total payments of compensation for temporary total disability,
15 inclusive of consequential injuries, may not exceed a maximum of
16 three hundred (300) weeks in the aggregate.

17 3. Permanent Partial Disability. (a) With respect to injuries
18 occurring prior to November 4, 1994, in case of disability, partial
19 in character but permanent in quality, the compensation shall be
20 seventy percent (70%) of the employee's average weekly wages, and
21 shall be paid to the employee for the period named in the schedule,
22 as follows:

23 Thumb: For the loss of thumb, sixty (60) weeks.
24

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

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

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

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

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

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

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

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

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

1 Arm: For the loss of an arm, two hundred fifty (250) weeks.
2 Foot: For the loss of a foot, two hundred (200) weeks.
3 Leg: For the loss of a leg, two hundred fifty (250) weeks.
4 Eye: For the loss of an eye, two hundred fifty (250) weeks.
5 Deafness: Deafness from industrial cause, including occupations
6 which are hazardous to hearing, accident or sudden trauma, three
7 hundred (300) weeks, and total deafness of one ear from industrial
8 cause, including occupations which are hazardous to hearing,
9 accident or sudden trauma, one hundred (100) weeks. Except as
10 otherwise provided herein, any examining physician shall only
11 evaluate deafness or hearing impairment in accordance with the
12 latest publication of the American Medical Association's "Guides to
13 the Evaluation of Permanent Impairment" in effect at the time of the
14 injury. The Physician Advisory Committee may, pursuant to Section
15 201.1 of this title, recommend the adoption of a method or system to
16 evaluate permanent impairment that shall be used in place of or in
17 combination with the American Medical Association's "Guides to the
18 Evaluation of Permanent Impairment". Such recommendation shall be
19 made to the Administrator of the Workers' Compensation Court who may
20 adopt the recommendation in part or in whole. The adopted method or
21 system shall be submitted by the Administrator to the Governor, the
22 Speaker of the House of Representatives and President Pro Tempore of
23 the Senate within the first ten (10) legislative days of a regular
24 session of the Legislature. Such method or system to evaluate

1 permanent impairment that shall be used in place of or in
2 combination with the American Medical Association's "Guides to the
3 Evaluation of Permanent Impairment" shall be subject to disapproval
4 in whole or in part by joint or concurrent resolution of the
5 Legislature during the legislative session in which submitted. Such
6 method or system shall be operative one hundred twenty (120) days
7 after the last day of the month in which the Administrator submits
8 the adopted method or system to the Legislature if the Legislature
9 takes no action or one hundred twenty (120) days after the last day
10 of the month in which the Legislature disapproves it in part. If
11 adopted, permanent impairment shall be evaluated only in accordance
12 with the latest version of the alternative method or system in
13 effect at the time of injury. Except as otherwise provided in
14 Section 11 of this title, all evaluations shall include an
15 apportionment of injury causation. However, revisions to the guides
16 made by the American Medical Association which are published after
17 January 1, 1989, and before January 1, 1995, shall be operative one
18 hundred twenty (120) days after the last day of the month of
19 publication. Revisions to the guides made by the American Medical
20 Association which are published after December 31, 1994, may be
21 adopted in whole or in part by the Administrator following
22 recommendation by the Physician Advisory Committee. Revisions
23 adopted by the Administrator shall be submitted by the Administrator
24 to the Governor, the Speaker of the House of Representatives and

1 President Pro Tempore of the Senate within the first ten (10)
2 legislative days of a regular session of the Legislature. Such
3 revisions shall be subject to disapproval in whole or in part by
4 joint or concurrent resolution of the Legislature during the
5 legislative session in which submitted. Revisions shall be
6 operative one hundred twenty (120) days after the last day of the
7 month in which the Administrator submits the revisions to the
8 Legislature if the Legislature takes no action or one hundred twenty
9 (120) days after the last day of the month in which the Legislature
10 disapproves them in part. The examining physician shall not follow
11 the guides based on race or ethnic origin. The examining physician
12 shall not deviate from said guides or any alternative thereof except
13 as may be specifically provided for in the guides or modifications
14 to the guides or except as may be specifically provided for in any
15 alternative or modifications thereto adopted by the Administrator of
16 the Workers' Compensation Court as provided for in Section 201.1 of
17 this title. The guides or modifications thereto or alternative
18 system or method of evaluating permanent impairment or modifications
19 thereto shall be the exclusive basis for testimony and conclusions
20 with regard to deafness or hearing impairment.

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

24

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

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

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

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

23 Hernia: In case of an injury resulting in hernia, temporary
24 total compensation for fourteen (14) weeks, and the cost of an

1 operation shall be payable; provided, in any case where the injured
2 employee has been twice previously operated for hernia in the same
3 area and it is established by opinion of a competent surgeon that
4 further surgery in the same area will not result in full relief of
5 the condition, the Court may then award compensation for disability
6 resulting therefrom under paragraph 1 of this section, or, if not
7 totally and permanently disabled, then under the "Other Cases"
8 subdivision following, and, after a second surgical attempt to
9 repair hernia, the injured may not be required to submit to further
10 surgery in an effort to relieve the disability thereafter existing;
11 provided, further, the use of any artificial reinforcement or
12 device, with or without surgery, shall not be the basis of reducing
13 extent of disability to be awarded.

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

23 (b) With respect to injuries occurring after November 4, 1994,
24 through December 31, 2001, in case of disability, partial in

1 character but permanent in quality, the compensation shall be
2 seventy percent (70%) of the employee's average weekly wages, and
3 shall be paid to the employee for the period prescribed by the
4 following schedule:

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

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

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

14 (4) For each remaining percent of disability, the identical
15 number of weeks of compensation provided by law prior to November 4,
16 1994.

17 (c) With respect to injuries occurring on or after January 1,
18 2002, through December 31, 2002, in case of disability, partial in
19 character but permanent in quality, the compensation shall be
20 seventy percent (70%) of the employee's average weekly wages, and
21 shall be paid to the employee for the period prescribed by the
22 following schedule:

23 Thumb: For the loss of thumb, sixty-three (63) weeks.
24

1 First Finger: For the loss of the first finger, commonly called
2 the index finger, thirty-seven (37) weeks.

3 Second Finger: For the loss of a second finger, thirty-two (32)
4 weeks.

5 Third Finger: For the loss of a third finger, twenty-one (21)
6 weeks.

7 Fourth Finger: For the loss of a fourth finger, commonly called
8 the little finger, sixteen (16) weeks.

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

17 Great Toe: For the loss of a great toe, thirty-two (32) weeks.

18 Other Toes: For the loss of one of the toes other than the
19 great toe, eleven (11) weeks.

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

24 Hand: For the loss of a hand, two hundred ten (210) weeks.

1 Arm: For the loss of an arm, two hundred sixty-three (263)
2 weeks.

3 Foot: For the loss of a foot, two hundred ten (210) weeks.

4 Leg: For the loss of a leg, two hundred sixty-three (263)
5 weeks.

6 Eye: For the loss of an eye, two hundred sixty-three (263)
7 weeks.

8 Deafness: Deafness from industrial cause, including occupations
9 which are hazardous to hearing, accident or sudden trauma, three
10 hundred fifteen (315) weeks, and total deafness of one ear from
11 industrial cause, including occupations which are hazardous to
12 hearing, accident or sudden trauma, one hundred five (105) weeks.
13 Except as otherwise provided herein, any examining physician shall
14 only evaluate deafness or hearing impairment in accordance with the
15 latest publication of the American Medical Association's "Guides to
16 the Evaluation of Permanent Impairment" in effect at the time of the
17 injury. The Physician Advisory Committee may, pursuant to Section
18 201.1 of this title, recommend the adoption of a method or system to
19 evaluate permanent impairment that shall be used in place of or in
20 combination with the American Medical Association's "Guides to the
21 Evaluation of Permanent Impairment". Such recommendation shall be
22 made to the Administrator of the Workers' Compensation Court who may
23 adopt the recommendation in part or in whole. The adopted method or
24 system shall be submitted by the Administrator to the Governor, the

1 Speaker of the House of Representatives and President Pro Tempore of
2 the Senate within the first ten (10) legislative days of a regular
3 session of the Legislature. Such method or system to evaluate
4 permanent impairment that shall be used in place of or in
5 combination with the American Medical Association's "Guides to the
6 Evaluation of Permanent Impairment" shall be subject to disapproval
7 in whole or in part by joint or concurrent resolution of the
8 Legislature during the legislative session in which submitted. Such
9 method or system shall be operative one hundred twenty (120) days
10 after the last day of the month in which the Administrator submits
11 the adopted method or system to the Legislature if the Legislature
12 takes no action or one hundred twenty (120) days after the last day
13 of the month in which the Legislature disapproves it in part. If
14 adopted, permanent impairment shall be evaluated only in accordance
15 with the latest version of the alternative method or system in
16 effect at the time of injury. Except as otherwise provided in
17 Section 11 of this title, all evaluations shall include an
18 apportionment of injury causation. However, revisions to the guides
19 made by the American Medical Association which are published after
20 January 1, 1989, and before January 1, 1995, shall be operative one
21 hundred twenty (120) days after the last day of the month of
22 publication. Revisions to the guides made by the American Medical
23 Association which are published after December 31, 1994, may be
24 adopted in whole or in part by the Administrator following

1 recommendation by the Physician Advisory Committee. Revisions
2 adopted by the Administrator shall be submitted by the Administrator
3 to the Governor, the Speaker of the House of Representatives and
4 President Pro Tempore of the Senate within the first ten (10)
5 legislative days of a regular session of the Legislature. Such
6 revisions shall be subject to disapproval in whole or in part by
7 joint or concurrent resolution of the Legislature during the
8 legislative session in which submitted. Revisions shall be
9 operative one hundred twenty (120) days after the last day of the
10 month in which the Administrator submits the revisions to the
11 Legislature if the Legislature takes no action or one hundred twenty
12 (120) days after the last day of the month in which the Legislature
13 disapproves them in part. The examining physician shall not follow
14 the guides based on race or ethnic origin. The examining physician
15 shall not deviate from such guides or any alternative thereof except
16 as may be specifically provided for in the guides or modifications
17 to the guides or except as may be specifically provided for in any
18 alternative or modifications thereto adopted by the Administrator of
19 the Workers' Compensation Court as provided in Section 201.1 of this
20 title. The guides or modifications thereto or alternative system or
21 method of evaluating permanent impairment or modifications thereto
22 shall be the exclusive basis for testimony and conclusions with
23 regard to deafness or hearing impairment.

24

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

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

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

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

19 In case of an injury resulting in serious and permanent
20 disfigurement, compensation shall be payable in an amount to be
21 determined by the Court, but not in excess of Twenty Thousand
22 Dollars (\$20,000.00); provided, that compensation for permanent
23 disfigurement shall not be in addition to the other compensation
24

1 provided for in this section but shall be taken into consideration
2 in fixing the compensation otherwise provided.

3 Hernia: In case of an injury resulting in hernia, temporary
4 total compensation for six (6) weeks, and the cost of an operation
5 shall be payable, unless the employee has not been released from
6 active medical treatment, temporary total compensation not to exceed
7 nine (9) weeks, and the cost of an operation shall be payable;
8 provided, in any case where the injured employee has been twice
9 previously operated on for hernia in the same area and it is
10 established by opinion of a competent surgeon that further surgery
11 in the same area will not result in full relief of the condition,
12 the Court may then award compensation for disability resulting
13 therefrom under paragraph 1 of this section, or, if not totally and
14 permanently disabled, then under the "Other Cases" subdivision
15 following, and, after a second surgical attempt to repair hernia,
16 the injured may not be required to submit to further surgery in an
17 effort to relieve the disability thereafter existing; provided
18 further, the use of any artificial reinforcement or device, with or
19 without surgery, shall not be the basis of reducing extent of
20 disability to be awarded.

21 Other Cases: In all other classes of disabilities, excluding
22 only those heretofore referred to in this paragraph, which
23 disabilities result in loss of use of any portion of an employee's
24 body, and which disabilities are partial in character but permanent

1 in quality, disability shall mean the percentage of permanent
2 impairment. The compensation ordered paid shall be seventy percent
3 (70%) of the employee's average weekly wage for the number of weeks
4 which the partial disability of the employee bears to five hundred
5 (500) weeks.

6 (d) With respect to injuries occurring on or after January 1,
7 2003, in case of disability, partial in character but permanent in
8 quality, the compensation shall be seventy percent (70%) of the
9 employee's average weekly wages, and shall be paid to the employee
10 for the period prescribed by the following schedule:

11 Thumb: For the loss of thumb, sixty-six (66) weeks.

12 First Finger: For the loss of the first finger, commonly called
13 the index finger, thirty-nine (39) weeks.

14 Second Finger: For the loss of a second finger, thirty-three
15 (33) weeks.

16 Third Finger: For the loss of a third finger, twenty-two (22)
17 weeks.

18 Fourth Finger: For the loss of a fourth finger, commonly called
19 the little finger, seventeen (17) weeks.

20 Phalange of Thumb or Finger: The loss of the first phalange of
21 the thumb or finger shall be considered equal to the loss of one-
22 half (1/2) of such thumb or finger, and compensation shall be one-
23 half (1/2) of the amount above specified; the loss of more than one
24 phalange shall be considered as the loss of the entire thumb or

1 finger; provided, however, that in no case shall the amount received
2 for more than one finger exceed the amount provided in this schedule
3 for the loss of a hand.

4 Great Toe: For the loss of a great toe, thirty-three (33)
5 weeks.

6 Other Toes: For the loss of one of the toes other than the
7 great toe, eleven (11) weeks.

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

12 Hand: For the loss of a hand, two hundred twenty (220) weeks.

13 Arm: For the loss of an arm, two hundred seventy-five (275)
14 weeks.

15 Foot: For the loss of a foot, two hundred twenty (220) weeks.

16 Leg: For the loss of a leg, two hundred seventy-five (275)
17 weeks.

18 Eye: For the loss of an eye, two hundred seventy-five (275)
19 weeks.

20 Deafness: Deafness from industrial cause, including occupations
21 which are hazardous to hearing, accident or sudden trauma, three
22 hundred thirty (330) weeks, and total deafness of one ear from
23 industrial cause, including occupations which are hazardous to
24 hearing, accident or sudden trauma, one hundred ten (110) weeks.

1 Except as otherwise provided herein, any examining physician shall
2 only evaluate deafness or hearing impairment in accordance with the
3 latest publication of the American Medical Association's "Guides to
4 the Evaluation of Permanent Impairment" in effect at the time of the
5 injury. The Physician Advisory Committee may, pursuant to Section
6 201.1 of this title, recommend the adoption of a method or system to
7 evaluate permanent impairment that shall be used in place of or in
8 combination with the American Medical Association's "Guides to the
9 Evaluation of Permanent Impairment". Such recommendation shall be
10 made to the Administrator of the Workers' Compensation Court who may
11 adopt the recommendation in part or in whole. The adopted method or
12 system shall be submitted by the Administrator to the Governor, the
13 Speaker of the House of Representatives and President Pro Tempore of
14 the Senate within the first ten (10) legislative days of a regular
15 session of the Legislature. Such method or system to evaluate
16 permanent impairment that shall be used in place of or in
17 combination with the American Medical Association's "Guides to the
18 Evaluation of Permanent Impairment" shall be subject to disapproval
19 in whole or in part by joint or concurrent resolution of the
20 Legislature during the legislative session in which submitted. Such
21 method or system shall be operative one hundred twenty (120) days
22 after the last day of the month in which the Administrator submits
23 the adopted method or system to the Legislature if the Legislature
24 takes no action or one hundred twenty (120) days after the last day

1 of the month in which the Legislature disapproves it in part. If
2 adopted, permanent impairment shall be evaluated only in accordance
3 with the latest version of the alternative method or system in
4 effect at the time of injury. Except as otherwise provided in
5 Section 11 of this title, all evaluations shall include an
6 apportionment of injury causation. However, revisions to the guides
7 made by the American Medical Association which are published after
8 January 1, 1989, and before January 1, 1995, shall be operative one
9 hundred twenty (120) days after the last day of the month of
10 publication. Revisions to the guides made by the American Medical
11 Association which are published after December 31, 1994, may be
12 adopted in whole or in part by the Administrator following
13 recommendation by the Physician Advisory Committee. Revisions
14 adopted by the Administrator shall be submitted by the Administrator
15 to the Governor, the Speaker of the House of Representatives and
16 President Pro Tempore of the Senate within the first ten (10)
17 legislative days of a regular session of the Legislature. Such
18 revisions shall be subject to disapproval in whole or in part by
19 joint or concurrent resolution of the Legislature during the
20 legislative session in which submitted. Revisions shall be
21 operative one hundred twenty (120) days after the last day of the
22 month in which the Administrator submits the revisions to the
23 Legislature if the Legislature takes no action or one hundred twenty
24 (120) days after the last day of the month in which the Legislature

1 disapproves them in part. The examining physician shall not follow
2 the guides based on race or ethnic origin. The examining physician
3 shall not deviate from such guides or any alternative thereof except
4 as may be specifically provided for in the guides or modifications
5 to the guides or except as may be specifically provided for in any
6 alternative or modifications thereto adopted by the Administrator of
7 the Workers' Compensation Court as provided in Section 201.1 of this
8 title. The guides or modifications thereto or alternative system or
9 method of evaluating permanent impairment or modifications thereto
10 shall be the exclusive basis for testimony and conclusions with
11 regard to deafness or hearing impairment.

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

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

21 Amputations: Amputation between the elbow and the wrist shall
22 be considered as the equivalent of the loss of a hand. Amputation
23 between the knee and the ankle shall be considered as the loss of a
24 foot. Amputation at or above the elbow shall be considered as the

1 loss of an arm. Amputation at or above the knee shall be considered
2 as the loss of a leg.

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

6 In case of an injury resulting in serious and permanent
7 disfigurement, compensation shall be payable in an amount to be
8 determined by the Court, but not in excess of Twenty Thousand
9 Dollars (\$20,000.00) for an injury occurring before November 1,
10 2005, and not in excess of Fifty Thousand Dollars (\$50,000.00) for
11 an injury occurring on or after November 1, 2005; provided, that
12 compensation for permanent disfigurement shall not be in addition to
13 the other compensation provided for in this section but shall be
14 taken into consideration in fixing the compensation otherwise
15 provided.

16 Hernia: In case of an injury resulting in hernia, temporary
17 total compensation for six (6) weeks, and all necessary medical
18 costs including, but not limited to, the cost of an operation shall
19 be payable. A claimant who has had surgery for a hernia may
20 petition the court for one extension of temporary total compensation
21 and the court may order such an extension, not to exceed six (6)
22 additional weeks, if the treating physician indicates such an
23 extension is appropriate, or as agreed to by all parties.

24

1 Soft Tissue Injury: In case of a nonsurgical soft tissue
2 injury, temporary total compensation shall not exceed ~~eight (8)~~
3 ~~weeks~~ Three Hundred (300) weeks. A claimant who has been
4 recommended by a treating physician for surgery for a soft tissue
5 injury may petition the Court for one extension of temporary total
6 compensation and the court may order such an extension, not to
7 exceed sixteen (16) additional weeks, if the treating physician
8 indicates that such an extension is appropriate or as agreed to by
9 all parties. In the event the surgery is not performed, the
10 benefits for the extension period shall be terminated. For purposes
11 of this section, "soft tissue injury" means damage to one or more of
12 the tissues that surround bones and joints. "Soft tissue injury"
13 includes, but is not limited to: sprains, strains, contusions,
14 tendonitis, and muscle tears. Cumulative trauma is to be considered
15 a soft tissue injury. "Soft tissue injury" does not include any of
16 the following:

17 (1) Injury to or disease of the spine, spinal disks, spinal
18 nerves or spinal cord, where corrective surgery is performed;

19 (2) Brain or closed-head injury as evidenced by:

- 20 a. sensory or motor disturbances,
- 21 b. communication disturbances,
- 22 c. complex integrated disturbances of cerebral function,
- 23 d. episodic neurological disorders, or

24

1 e. other brain and closed-head injury conditions at least
2 as severe in nature as any condition provided in
3 subdivisions a through d of this division; or

4 (3) Total knee replacement.

5 In all cases of soft tissue injury, the employee shall only be
6 entitled to appropriate and necessary medical care and temporary
7 total disability as set out in paragraph 2 of this section, unless
8 there is objective medical evidence of a permanent anatomical
9 abnormality. In determining the existence of such an abnormality,
10 the Court may consider if there is credible medical evidence that
11 the ability of the employee to earn wages at the same level as
12 before the injury has been permanently impaired.

13 Other Cases: In all other classes of disabilities, excluding
14 only those heretofore referred to in this paragraph, which
15 disabilities result in loss of use of any portion of an employee's
16 body, and which disabilities are partial in character but permanent
17 in quality, disability shall mean the percentage of permanent
18 impairment. The compensation ordered paid shall be seventy percent
19 (70%) of the employee's average weekly wage for the number of weeks
20 which the partial disability of the employee bears to five hundred
21 (500) weeks. No permanent disability shall be awarded unless there
22 is objective medical evidence, as defined in Section 3 of this
23 title, of a permanent anatomical abnormality. In determining the
24 existence of such an abnormality, the Court may consider if there is

1 credible medical evidence that the ability of the employee to earn
2 wages at the same level as before the injury has been permanently
3 impaired.

4 4. Temporary Partial Disability. (a) With respect to injuries
5 occurring before November 4, 1994, in case of temporary partial
6 disability, except the particular cases mentioned in paragraph 3 of
7 this section, an injured employee shall receive seventy percent
8 (70%) of the difference between the employee's average weekly wages
9 and the employee's wage-earning capacity thereafter in the same
10 employment or otherwise, if less than before the injury, during
11 continuance of such partial disability, but not to exceed one
12 hundred fifty (150) weeks. Provided, after compensation has been
13 paid for a period of one hundred forty (140) weeks, the employee may
14 request a review of the case by a judge of the Court for continued
15 temporary partial disability benefits provided by the Workers'
16 Compensation Act. Upon a finding that benefits should be extended
17 beyond the initial one-hundred-fifty-week period, compensation may
18 be continued for an additional one hundred fifty (150) weeks.

19 (b) With respect to injuries occurring on or after November 4,
20 1994, in case of temporary partial disability, except the particular
21 cases mentioned in paragraph 3 of this section, an injured employee
22 shall receive seventy percent (70%) of the difference between the
23 employee's average weekly wages and the employee's wage-earning
24 capacity thereafter in the same employment or otherwise, if less

1 than before the injury, during continuance of such partial
2 disability, but not to exceed fifty-two (52) weeks. Provided, after
3 compensation has been paid for a period of forty-two (42) weeks, the
4 employee may request a review of the case by a judge of the Court
5 for continued temporary partial disability benefits provided by the
6 Workers' Compensation Act. Upon a finding that benefits should be
7 extended beyond the initial fifty-two-week period, compensation may
8 be continued for additional successive fifty-two-week periods
9 provided the employee has requested review of the case at forty-two
10 (42) weeks during each period involved, and upon a finding by the
11 Court that benefits should be extended. Total payments of
12 compensation for temporary partial disability may not exceed a
13 maximum of three hundred (300) weeks in the aggregate.

14 (c) With respect to injuries occurring on or after November 1,
15 1997, total payments of compensation for temporary partial
16 disability may not exceed a maximum of one hundred fifty-six (156)
17 weeks in the aggregate except for good cause shown, as determined by
18 the Court. Total payments of compensation for temporary partial
19 disability, inclusive of consequential injuries, may not exceed a
20 maximum of three hundred (300) weeks in the aggregate.

21 5. Notwithstanding any other section of the Workers'
22 Compensation Act, temporary disability shall be payable without an
23 award by the Court. The first payment of temporary disability
24 compensation shall become due on the tenth day after the employer

1 has received notice of injury as specified in Section 24.2 of this
2 title. All compensation owed on that date shall be paid and
3 thereafter payments shall be made weekly except when otherwise
4 ordered by the Court.

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

14 6. Limitation. The compensation payments under the provisions
15 of the Workers' Compensation Act shall not exceed the sum of
16 seventy-five percent (75%) of the state's average weekly wage as
17 determined by the Oklahoma Employment Security Commission, the sum
18 of ninety percent (90%) of the state's average weekly wage beginning
19 January 1, 1995, for injuries occurring after December 31, 1994, and
20 the sum of one hundred percent (100%) of the state's average weekly
21 wage beginning January 1, 1996, for injuries occurring after
22 December 31, 1995, for temporary disability; Sixty Dollars (\$60.00)
23 per week beginning as of the effective date of the Workers'
24 Compensation Act, and Seventy Dollars (\$70.00) per week beginning

1 January 1, 1979, and Eighty Dollars (\$80.00) per week beginning
2 January 1, 1980, and Ninety Dollars (\$90.00) per week beginning
3 January 1, 1981, and to fifty percent (50%) of the state's average
4 weekly wage beginning January 1, 1982, for permanent partial
5 disability; Seventy-five Dollars (\$75.00) per week beginning as of
6 the effective date of the Workers' Compensation Act, and Ninety
7 Dollars (\$90.00) per week beginning January 1, 1979, and One Hundred
8 Ten Dollars (\$110.00) per week beginning January 1, 1980, to sixty-
9 six and two-thirds percent (66 2/3%) of the state's average weekly
10 wage beginning January 1, 1981, to seventy-five percent (75%) of the
11 state's average weekly wage beginning September 1, 1992, to ninety
12 percent (90%) of the state's average weekly wage beginning January
13 1, 1995, for injuries occurring after December 31, 1994, and to one
14 hundred percent (100%) of the state's average weekly wage beginning
15 January 1, 1996, for injuries occurring after December 31, 1995, for
16 permanent total disability, or at any time be less than Thirty
17 Dollars (\$30.00) per week; provided, however, that if the employee's
18 wages at the time of the injury are less than Thirty Dollars
19 (\$30.00) per week, the employee shall receive the employee's full
20 weekly wages; provided further, that the compensation received, as
21 provided for temporary partial disability, shall not, when added to
22 the wages received by such employee after such injury, amount to a
23 greater sum than eighty percent (80%) of the average weekly wages of
24 the employee received prior to said injury.

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

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

15 7. Previous Disability. The fact that an employee has suffered
16 previous disability or impairment or received compensation therefor
17 shall not preclude the employee from compensation for a later
18 accidental personal injury or occupational disease; but in
19 determining compensation for the later accidental personal injury or
20 occupational disease the employee's average weekly wages shall be
21 such sum as will reasonably represent the employee's earning
22 capacity at the time of the later accidental personal injury or
23 occupational disease. In the event there exists a previous
24 impairment, including a previous non-work-related injury or

1 condition which produced permanent disability and the same is
2 aggravated or accelerated by an accidental personal injury or
3 occupational disease, compensation for permanent disability shall be
4 only for such amount as was caused by such accidental personal
5 injury or occupational disease and no additional compensation shall
6 be allowed for the pre-existing disability or impairment. The sum
7 of all permanent partial disability awards, excluding awards against
8 the Multiple Injury Trust Fund and awards for amputations, and
9 surgeries, shall not exceed one hundred percent (100%) permanent
10 partial disability for any individual. An individual may not
11 receive more than five hundred twenty (520) weeks' compensation for
12 permanent partial disability, but may receive other benefits under
13 the Workers' Compensation Act if otherwise eligible as provided in
14 the Workers' Compensation Act.

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

19 (a) Benefit amounts for particular classes of dependents.

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

24

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

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

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

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

- 19 a. when the child dies, marries, or reaches the age of
20 eighteen (18),
- 21 b. when the child over eighteen (18) years of age ceases
22 to be physically or mentally incapable of self-
23 support,

24

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

19 (6) To each parent, if actually dependent, twenty-five percent
20 (25%) of the average weekly wages the deceased was earning subject
21 to the provisions of subparagraphs (c) and (d) of this paragraph.

22 (7) To the brothers, sisters, grandparents and grandchildren,
23 if actually dependent, twenty-five percent (25%) of the average
24 weekly wages the deceased was earning to each such dependent. If

1 there should be more than one of such dependents, the total income
2 benefits payable for the benefit of such dependents shall be divided
3 to share and share alike subject to the provisions of subparagraphs
4 (c) and (d) of this paragraph.

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

12 (9) A person ceases to be actually dependent when the person's
13 income from all sources exclusive of workers' compensation income
14 benefits is such that, if it had existed at the time the original
15 determination of actual dependency was made, it would not have
16 supported a finding of dependency. If the present annual income of
17 an actually dependent person including workers' compensation income
18 benefits at any time exceeds the total annual support received by
19 the person from the deceased employee, the workers' compensation
20 benefits shall be reduced so that the total annual income is no
21 greater than such amount of annual support received from the
22 deceased employee. In all cases, a person found to be actually
23 dependent shall be presumed to be no longer actually dependent three
24 (3) years after the time as of which the person was found to be

1 actually dependent. This presumption may be overcome by proof of
2 continued actual dependency as defined in this paragraph and
3 paragraph (1) of Section 3.1 of this title.

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

11 (c) Maximum income benefits for death. For the purposes of
12 this section, the average weekly wage of the employee shall be taken
13 as not more than the average weekly wage of the state. If the
14 average weekly wages of the employee are equal to or greater than
15 the average weekly wage of the state, then the aggregate weekly
16 income benefits payable to all beneficiaries under this section
17 shall not exceed the average weekly wage of the state. If the
18 average weekly wages of the employee are less than the average
19 weekly wage of the state, the aggregate weekly income benefits
20 payable to all beneficiaries under this section shall not exceed one
21 hundred percent (100%) of the average weekly wages of the employee.

22 (d) Maximum total payment. The maximum weekly income benefits
23 payable for all beneficiaries in case of death shall not exceed one
24 hundred percent (100%) of the average weekly wages the deceased was

1 earning, subject to the maximum limits in subparagraph (c) of this
2 paragraph. The maximum aggregate limitation shall not apply in case
3 of payment of two (2) years' income benefits to the surviving spouse
4 upon remarriage, as provided under division (3) of subparagraph (a)
5 of this paragraph, to prevent the immediate recalculation and
6 payments of benefits to the remaining beneficiaries as provided
7 under subparagraph (b) of this paragraph. The weekly income
8 benefits as recalculated to the remaining beneficiaries shall not
9 exceed the weekly benefit that was or would have been payable for
10 total permanent disability to the deceased. The classes of
11 beneficiaries specified in divisions (1), (2) and (4) of
12 subparagraph (a) of this paragraph shall have priority over all
13 other beneficiaries in the apportionment of income benefits. If the
14 provisions of this subparagraph should prevent payments to other
15 beneficiaries of the income benefits to the full extent otherwise
16 provided for by this section, the gross remaining amount of income
17 benefits payable to such other beneficiaries shall be apportioned by
18 class, proportionate to the interest of each class in the remaining
19 amount. Parents shall be considered to be in one class and those
20 specified in division (7) of subparagraph (a) of this paragraph in a
21 separate class.

22 9. Where some pecuniary loss may be shown by heirs-at-law of
23 the deceased, as defined by the descent and distribution statutes of
24 Oklahoma, who are otherwise not entitled to receive benefits under

1 other provisions of this section, such heirs-at-law shall receive
2 compensation for their pecuniary loss not to exceed an aggregate of
3 Five Thousand Dollars (\$5,000.00).

4 10. For deaths occurring before November 1, 2005, in the event
5 that no benefits under other provisions of this section are paid to
6 the dependents or the heirs-at-law of the deceased, an amount not to
7 exceed Five Thousand Dollars (\$5,000.00) shall be paid for funeral
8 expenses. For deaths occurring on or after November 1, 2005, in the
9 event that no benefits under other provisions of this section are
10 paid to the dependents or the heirs-at-law of the deceased, an
11 amount not to exceed Eight Thousand Dollars (\$8,000.00) shall be
12 paid for funeral expenses.

13 11. (a) For deaths occurring before January 1, 1995, if there
14 is a surviving spouse and surviving children entitled to receive
15 death benefits herein, such survivors shall be entitled to an
16 immediate lump-sum payment of Ten Thousand Dollars (\$10,000.00) to
17 the spouse and Two Thousand Five Hundred Dollars (\$2,500.00) to each
18 surviving child not to exceed two children. For deaths occurring
19 after December 31, 1994, if there is a surviving spouse and
20 surviving children entitled to receive death benefits herein, such
21 survivors shall be entitled to an immediate lump-sum payment of
22 Twenty Thousand Dollars (\$20,000.00) to the spouse and Five Thousand
23 Dollars (\$5,000.00) to each surviving child not to exceed two
24 children. For deaths occurring on or after November 1, 2005, if

1 there is a surviving spouse and surviving children entitled to
2 receive death benefits herein, such survivors shall be entitled to
3 an immediate lump-sum payment of One Hundred Thousand Dollars
4 (\$100,000.00) to the spouse and Twenty-five Thousand Dollars
5 (\$25,000.00) to each surviving child not to exceed two children. In
6 addition, the survivors shall be entitled to receive funeral
7 benefits in an amount not to exceed Ten Thousand Dollars
8 (\$10,000.00).

9 (b) For deaths occurring before November 1, 2005, if there is
10 no surviving spouse but there are surviving children entitled to
11 receive death benefits herein, such surviving children shall be
12 entitled to a lump-sum payment of Ten Thousand Dollars (\$10,000.00)
13 to be divided among all the children to share and share alike. For
14 deaths occurring on or after November 1, 2005, if there is no
15 surviving spouse but there are surviving children entitled to
16 receive death benefits herein, each surviving child shall be
17 entitled to a lump-sum payment of Twenty-five Thousand Dollars
18 (\$25,000.00), provided the total amount of lump-sum payments shall
19 not exceed One Hundred Fifty Thousand Dollars (\$150,000.00), to be
20 divided among all the children to share and share alike. The
21 survivors shall also be entitled to receive funeral benefits in an
22 amount not to exceed Ten Thousand Dollars (\$10,000.00).

23 (c) Any claim under this paragraph shall be substantiated by
24 the filing of a properly executed and authenticated proof of loss,

1 which form shall be prescribed by the Administrator, and payment of
2 such sum shall be made within fifteen (15) days after adjudication
3 of entitlement by the Court. Such sum shall not be subject to any
4 award of attorney fees in uncontested cases, except the Court shall
5 appoint a guardian ad litem to represent known and unknown minor
6 children and said guardian ad litem shall be paid a reasonable fee
7 for the services.

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

1 all such trust funds received and deposited shall be rendered by
2 each banking institution to the Court granting the judgment.

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

6 13. (a) Any employee convicted of a misdemeanor or felony and
7 sentenced to a term of incarceration of at least ninety (90) days in
8 this state or in any other jurisdiction shall have all benefits for
9 temporary total disability awarded by the Workers' Compensation
10 Court forfeited by order of the Court on motion of the employer or
11 the employer's insurer after confirmation of the employee's
12 incarceration. The Court also may order the forfeiture of such
13 benefits on its own motion upon receipt of notice from the Director
14 of the Department of Corrections that the person awarded the
15 benefits is incarcerated as an inmate in a facility operated by or
16 under contract with the Department. The provisions of this
17 subparagraph shall not apply to any benefits awarded to an inmate
18 for compensable injuries sustained by the inmate while in the employ
19 of a private for-profit employer or while employed in private prison
20 industries, involving a for-profit employer, which deal in
21 interstate commerce or which sell products or services to the
22 federal government.

23 (b) Any employee convicted of a misdemeanor or felony and
24 sentenced to a term of incarceration of at least ninety (90) days in

1 this state shall have all benefits for permanent total disability or
2 temporary partial disability awarded by the Workers' Compensation
3 Court and paid during the period of incarceration deposited to the
4 credit of an account established pursuant to Section 549 of Title 57
5 of the Oklahoma Statutes for distribution in full to the Department
6 of Corrections for costs of incarceration. The State Board of
7 Corrections shall have the power to collect workers' compensation
8 benefits on behalf of the prisoner as provided in this subparagraph
9 and to distribute the benefits as provided by law.

10 SECTION 3. This act shall become effective November 1, 2007.

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