

SB 901

Senate Bill No. 901  
As Amended

SENATE BILL NO. 901 - By: Brown of the Senate and Sullivan of the House.

[ workers' compensation - schedule - wage determination - effective date ]

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

SECTION 1. AMENDATORY 85 O.S. 2001, Section 22, as amended by Section 20, Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (85 O.S. Supp. 2008, Section 22), is amended to read as follows:

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

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

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

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

9 (b) With respect to injuries occurring on or after November 4,  
10 1994, in cases of temporary total disability, seventy percent (70%)  
11 of the employee's average weekly wages shall be paid to the employee  
12 during the continuance thereof, but not in excess of fifty-two (52)  
13 weeks, except as otherwise provided in the Workers' Compensation  
14 Act. Provided, after compensation has been paid for a period of  
15 forty-two (42) weeks, the employee may request a review of the case  
16 by a judge of the Court for continued temporary total disability  
17 benefits provided by the Workers' Compensation Act. Upon a finding  
18 that benefits should be extended beyond the initial fifty-two-week  
19 period, compensation may be continued for additional successive  
20 fifty-two-week periods, provided the employee has requested review  
21 of the case at forty-two (42) weeks during each period involved, and  
22 upon a finding by the Court that benefits should be extended. Total

1 payments of compensation for temporary total disability may not  
2 exceed a maximum of three hundred (300) weeks in the aggregate.

3 (c) With respect to injuries occurring on or after November 1,  
4 1997, total payments of compensation for temporary total disability  
5 may not exceed a maximum of one hundred fifty-six (156) weeks in the  
6 aggregate except for good cause shown, as determined by the Court.  
7 Total payments of compensation for temporary total disability,  
8 inclusive of consequential injuries, may not exceed a maximum of  
9 three hundred (300) weeks in the aggregate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21       Deafness: Deafness from industrial cause, including occupations  
22 which are hazardous to hearing, accident or sudden trauma, three  
23 hundred (300) weeks, and total deafness of one ear from industrial

1 cause, including occupations which are hazardous to hearing,  
2 accident or sudden trauma, one hundred (100) weeks. Except as  
3 otherwise provided herein, any examining physician shall only  
4 evaluate deafness or hearing impairment in accordance with the  
5 latest publication of the American Medical Association's "Guides to  
6 the Evaluation of Permanent Impairment" in effect at the time of the  
7 injury. The Physician Advisory Committee may, pursuant to Section  
8 201.1 of this title, recommend the adoption of a method or system to  
9 evaluate permanent impairment that shall be used in place of or in  
10 combination with the American Medical Association's "Guides to the  
11 Evaluation of Permanent Impairment". Such recommendation shall be  
12 made to the Administrator of the Workers' Compensation Court who may  
13 adopt the recommendation in part or in whole. The adopted method or  
14 system shall be submitted by the Administrator to the Governor, the  
15 Speaker of the House of Representatives and President Pro Tempore of  
16 the Senate within the first ten (10) legislative days of a regular  
17 session of the Legislature. Such method or system to evaluate  
18 permanent impairment that shall be used in place of or in  
19 combination with the American Medical Association's "Guides to the  
20 Evaluation of Permanent Impairment" shall be subject to disapproval  
21 in whole or in part by joint or concurrent resolution of the  
22 Legislature during the legislative session in which submitted. Such  
23 method or system shall be operative one hundred twenty (120) days

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

1 operative one hundred twenty (120) days after the last day of the  
2 month in which the Administrator submits the revisions to the  
3 Legislature if the Legislature takes no action or one hundred twenty  
4 (120) days after the last day of the month in which the Legislature  
5 disapproves them in part. The examining physician shall not follow  
6 the guides based on race or ethnic origin. The examining physician  
7 shall not deviate from said guides or any alternative thereof except  
8 as may be specifically provided for in the guides or modifications  
9 to the guides or except as may be specifically provided for in any  
10 alternative or modifications thereto adopted by the Administrator of  
11 the Workers' Compensation Court as provided for in Section 201.1 of  
12 this title. The guides or modifications thereto or alternative  
13 system or method of evaluating permanent impairment or modifications  
14 thereto shall be the exclusive basis for testimony and conclusions  
15 with regard to deafness or hearing impairment.

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

19 For the permanent partial loss of use of a member, loss of  
20 hearing or sight of an eye, seventy percent (70%) of the employee's  
21 average weekly wage during that portion of the number of weeks in  
22 the foregoing schedule provided for the loss of such member or sight

1 of an eye which the partial loss of use thereof bears to the total  
2 loss of use of such member, loss of hearing or sight of an eye.

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

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

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

19 Hernia: In case of an injury resulting in hernia, temporary  
20 total compensation for fourteen (14) weeks, and the cost of an  
21 operation shall be payable; provided, in any case where the injured  
22 employee has been twice previously operated for hernia in the same  
23 area and it is established by opinion of a competent surgeon that

1 further surgery in the same area will not result in full relief of  
2 the condition, the Court may then award compensation for disability  
3 resulting therefrom under paragraph 1 of this section, or, if not  
4 totally and permanently disabled, then under the "Other Cases"  
5 subdivision following, and, after a second surgical attempt to  
6 repair hernia, the injured may not be required to submit to further  
7 surgery in an effort to relieve the disability thereafter existing;  
8 provided, further, the use of any artificial reinforcement or  
9 device, with or without surgery, shall not be the basis of reducing  
10 extent of disability to be awarded.

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

20 (b) With respect to injuries occurring after November 4, 1994,  
21 through December 31, 2001, in case of disability, partial in  
22 character but permanent in quality, the compensation shall be  
23 seventy percent (70%) of the employee's average weekly wages, and

1 shall be paid to the employee for the period prescribed by the  
2 following schedule:

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

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

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

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

15 (c) With respect to injuries occurring on or after January 1,  
16 2002, through December 31, 2002, in case of disability, partial in  
17 character but permanent in quality, the compensation shall be  
18 seventy percent (70%) of the employee's average weekly wages, and  
19 shall be paid to the employee for the period prescribed by the  
20 following schedule:

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

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

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

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

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

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

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

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

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

22           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) weeks.

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

7        Deafness: Deafness from industrial cause, including occupations  
8 which are hazardous to hearing, accident or sudden trauma, three  
9 hundred fifteen (315) weeks, and total deafness of one ear from  
10 industrial cause, including occupations which are hazardous to  
11 hearing, accident or sudden trauma, one hundred five (105) weeks.

12 Except as otherwise provided herein, any examining physician shall  
13 only evaluate deafness or hearing impairment in accordance with the  
14 latest publication of the American Medical Association's "Guides to  
15 the Evaluation of Permanent Impairment" in effect at the time of the  
16 injury. The Physician Advisory Committee may, pursuant to Section  
17 201.1 of this title, recommend the adoption of a method or system to  
18 evaluate permanent impairment that shall be used in place of or in  
19 combination with the American Medical Association's "Guides to the  
20 Evaluation of Permanent Impairment". Such recommendation shall be  
21 made to the Administrator of the Workers' Compensation Court who may  
22 adopt the recommendation in part or in whole. The adopted method or  
23 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

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

1 shall be the exclusive basis for testimony and conclusions with  
2 regard to deafness or hearing impairment.

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

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

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

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

21 In case of an injury resulting in serious and permanent  
22 disfigurement, compensation shall be payable in an amount to be  
23 determined by the Court, but not in excess of Twenty Thousand

1 Dollars (\$20,000.00); provided, that compensation for permanent  
2 disfigurement shall not be in addition to the other compensation  
3 provided for in this section but shall be taken into consideration  
4 in fixing the compensation otherwise provided.

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

1        Other Cases: In all other classes of disabilities, excluding  
2 only those heretofore referred to in this paragraph, which  
3 disabilities result in loss of use of any portion of an employee's  
4 body, and which disabilities are partial in character but permanent  
5 in quality, disability shall mean the percentage of permanent  
6 impairment. The compensation ordered paid shall be seventy percent  
7 (70%) of the employee's average weekly wage for the number of weeks  
8 which the partial disability of the employee bears to five hundred  
9 (500) weeks.

10        (d) With respect to injuries occurring on or after January 1,  
11 2003, in case of disability, partial in character but permanent in  
12 quality, the compensation shall be seventy percent (70%) of the  
13 employee's average weekly wages, and shall be paid to the employee  
14 for the period prescribed by the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           Deafness: Deafness from industrial cause, including occupations  
2 which are hazardous to hearing, accident or sudden trauma, three  
3 hundred thirty (330) weeks, and total deafness of one ear from  
4 industrial cause, including occupations which are hazardous to  
5 hearing, accident or sudden trauma, one hundred ten (110) weeks.  
6 Except as otherwise provided herein, any examining physician shall  
7 only evaluate deafness or hearing impairment in accordance with the  
8 latest publication of the American Medical Association's "Guides to  
9 the Evaluation of Permanent Impairment" in effect at the time of the  
10 injury. The Physician Advisory Committee may, pursuant to Section  
11 201.1 of this title, recommend the adoption of a method or system to  
12 evaluate permanent impairment that shall be used in place of or in  
13 combination with the American Medical Association's "Guides to the  
14 Evaluation of Permanent Impairment". Such recommendation shall be  
15 made to the Administrator of the Workers' Compensation Court who may  
16 adopt the recommendation in part or in whole. The adopted method or  
17 system shall be submitted by the Administrator to the Governor, the  
18 Speaker of the House of Representatives and President Pro Tempore of  
19 the Senate within the first ten (10) legislative days of a regular  
20 session of the Legislature. Such method or system to evaluate  
21 permanent impairment that shall be used in place of or in  
22 combination with the American Medical Association's "Guides to the  
23 Evaluation of Permanent Impairment" shall be subject to disapproval

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

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

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

22 For the permanent partial loss of use of a member, loss of  
23 hearing or sight of an eye, seventy percent (70%) of the employee's

1 average weekly wage during that portion of the number of weeks in  
2 the foregoing schedule provided for the loss of such member or sight  
3 of an eye which the partial loss of use thereof bears to the total  
4 loss of use of such member, loss of hearing or sight of an eye.

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

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

14 In case of an injury resulting in serious and permanent  
15 disfigurement, compensation shall be payable in an amount to be  
16 determined by the Court, but not in excess of Twenty Thousand  
17 Dollars (\$20,000.00) for an injury occurring before November 1,  
18 2005, and not in excess of Fifty Thousand Dollars (\$50,000.00) for  
19 an injury occurring on or after November 1, 2005; provided, that  
20 compensation for permanent disfigurement shall not be in addition to  
21 the other compensation provided for in this section but shall be  
22 taken into consideration in fixing the compensation otherwise  
23 provided.

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

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

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

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

4 a. sensory or motor disturbances,

5 b. communication disturbances,

6 c. complex integrated disturbances of cerebral function,

7 d. episodic neurological disorders, or

8 e. other brain and closed-head injury conditions at least

9 as severe in nature as any condition provided in

10 subdivisions a through d of this division; or

11 (3) Total knee replacement.

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

20 Other Cases: In all other classes of disabilities, excluding  
21 only those heretofore referred to in this paragraph, which  
22 disabilities result in loss of use of any portion of an employee's  
23 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. No permanent disability shall be awarded unless there  
6 is objective medical evidence, as defined in Section 3 of this  
7 title, of a permanent anatomical abnormality. In determining the  
8 existence of such an abnormality, the Court may consider if there is  
9 credible medical evidence that the ability of the employee to earn  
10 wages at the same level as before the injury has been permanently  
11 impaired.

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

1 Compensation Act. Upon a finding that benefits should be extended  
2 beyond the initial one-hundred-fifty-week period, compensation may  
3 be continued for an additional one hundred fifty (150) weeks.

4 (b) With respect to injuries occurring on or after November 4,  
5 1994, in case of temporary partial disability, except the particular  
6 cases mentioned in paragraph 3 of this section, an injured employee  
7 shall receive seventy percent (70%) of the difference between the  
8 employee's average weekly wages and the employee's wage-earning  
9 capacity thereafter in the same employment or otherwise, if less  
10 than before the injury, during continuance of such partial  
11 disability, but not to exceed fifty-two (52) weeks. Provided, after  
12 compensation has been paid for a period of forty-two (42) weeks, the  
13 employee may request a review of the case by a judge of the Court  
14 for continued temporary partial disability benefits provided by the  
15 Workers' Compensation Act. Upon a finding that benefits should be  
16 extended beyond the initial fifty-two-week period, compensation may  
17 be continued for additional successive fifty-two-week periods  
18 provided the employee has requested review of the case at forty-two  
19 (42) weeks during each period involved, and upon a finding by the  
20 Court that benefits should be extended. Total payments of  
21 compensation for temporary partial disability may not exceed a  
22 maximum of three hundred (300) weeks in the aggregate.

1 (c) With respect to injuries occurring on or after November 1,  
2 1997, total payments of compensation for temporary partial  
3 disability may not exceed a maximum of one hundred fifty-six (156)  
4 weeks in the aggregate except for good cause shown, as determined by  
5 the Court. Total payments of compensation for temporary partial  
6 disability, inclusive of consequential injuries, may not exceed a  
7 maximum of three hundred (300) weeks in the aggregate.

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

16 If any compensation payments owed without an award are not paid  
17 within ten (10) days after becoming due, there shall be added to  
18 such owed payments an amount equal to ten percent (10%) of the  
19 amount due which shall be paid at the same time in addition to the  
20 owed payments unless such nonpayment is excused by the Court after a  
21 showing by the employer that conditions exist over which the  
22 employer had no control in that either payments were not made within

1 the prescribed time or the employer denies coverage within the time  
2 specified for the employer to respond.

3       6. Limitation. The compensation payments under the provisions  
4 of the Workers' Compensation Act shall not exceed the sum of  
5 seventy-five percent (75%) of the state's average weekly wage as  
6 determined by the Oklahoma Employment Security Commission, the sum  
7 of ninety percent (90%) of the state's average weekly wage beginning  
8 January 1, 1995, for injuries occurring after December 31, 1994, and  
9 the sum of one hundred percent (100%) of the state's average weekly  
10 wage beginning January 1, 1996, for injuries occurring after  
11 December 31, 1995, for temporary disability; Sixty Dollars (\$60.00)  
12 per week beginning as of the effective date of the Workers'  
13 Compensation Act, and Seventy Dollars (\$70.00) per week beginning  
14 January 1, 1979, and Eighty Dollars (\$80.00) per week beginning  
15 January 1, 1980, and Ninety Dollars (\$90.00) per week beginning  
16 January 1, 1981, and to fifty percent (50%) of the state's average  
17 weekly wage beginning January 1, 1982, for permanent partial  
18 disability; Seventy-five Dollars (\$75.00) per week beginning as of  
19 the effective date of the Workers' Compensation Act, and Ninety  
20 Dollars (\$90.00) per week beginning January 1, 1979, and One Hundred  
21 Ten Dollars (\$110.00) per week beginning January 1, 1980, to sixty-  
22 six and two-thirds percent (66 2/3%) of the state's average weekly  
23 wage beginning January 1, 1981, to seventy-five percent (75%) of the

1 state's average weekly wage beginning September 1, 1992, to ninety  
2 percent (90%) of the state's average weekly wage beginning January  
3 1, 1995, for injuries occurring after December 31, 1994, and to one  
4 hundred percent (100%) of the state's average weekly wage beginning  
5 January 1, 1996, for injuries occurring after December 31, 1995, for  
6 permanent total disability, or at any time be less than Thirty  
7 Dollars (\$30.00) per week; provided, however, that if the employee's  
8 wages at the time of the injury are less than Thirty Dollars  
9 (\$30.00) per week, the employee shall receive the employee's full  
10 weekly wages; provided further, that the compensation received, as  
11 provided for temporary partial disability, shall not, when added to  
12 the wages received by such employee after such injury, amount to a  
13 greater sum than eighty percent (80%) of the average weekly wages of  
14 the employee received prior to said injury.

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

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

6           7. Previous Disability. The fact that an employee has suffered  
7 previous disability or impairment or received compensation therefore  
8 shall not preclude the employee from compensation for a later  
9 accidental personal injury or occupational disease; but in  
10 determining compensation for the later accidental personal injury or  
11 occupational disease the employee's average weekly wages shall be  
12 such sum as will reasonably represent the employee's earning  
13 capacity at the time of the later accidental personal injury or  
14 occupational disease. In the event there exists a previous  
15 impairment, including a previous non-work-related injury or  
16 condition which produced permanent disability and the same is  
17 aggravated or accelerated by an accidental personal injury or  
18 occupational disease, compensation for permanent disability shall be  
19 only for such amount as was caused by such accidental personal  
20 injury or occupational disease and no additional compensation shall  
21 be allowed for the pre-existing disability or impairment. The sum  
22 of all permanent partial disability awards, excluding awards against  
23 the Multiple Injury Trust Fund and awards for amputations, and

1 surgeries, shall not exceed one hundred percent (100%) permanent  
2 partial disability for any individual. An individual may not  
3 receive more than five hundred twenty (520) weeks' compensation for  
4 permanent partial disability, but may receive other benefits under  
5 the Workers' Compensation Act if otherwise eligible as provided in  
6 the Workers' Compensation Act.

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

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

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

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

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

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

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

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

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

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

19 d. when the child has been enrolled as a full-time  
20 student in any accredited educational institution or  
21 has been receiving education by other means, including  
22 education at home pursuant to Section 4 of Article  
23 XIII of the Oklahoma Constitution, and the child

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

12 (6) To each parent, if actually dependent, twenty-five percent  
13 (25%) of the average weekly wages the deceased was earning subject  
14 to the provisions of subparagraphs (c) and (d) of this paragraph.

15 (7) To the brothers, sisters, grandparents and grandchildren, if  
16 actually dependent, twenty-five percent (25%) of the average weekly  
17 wages the deceased was earning to each such dependent. If there  
18 should be more than one of such dependents, the total income  
19 benefits payable for the benefit of such dependents shall be divided  
20 to share and share alike subject to the provisions of subparagraphs  
21 (c) and (d) of this paragraph.

22 (8) The income benefits of each beneficiary under divisions (6)  
23 and (7) above shall be paid until the beneficiary, if a parent or

1 grandparent, dies, marries or ceases to be actually dependent, or,  
2 if a brother, sister or grandchild, dies, marries or reaches the age  
3 of eighteen (18), is over the age of eighteen (18) and ceases to be  
4 physically or mentally incapable of self-support or ceases to be  
5 actually dependent.

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

22 (b) Change in dependents. Upon the cessation of income benefits  
23 under this section to or for the benefit of any person, the income

1 benefits payable to the remaining persons who continue to be  
2 entitled to income benefits for the unexpired part of the period  
3 during which their income benefits are payable shall be that which  
4 such persons would have received if they had been the only persons  
5 entitled to income benefits at the time of the decedent's death.

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

17 (d) Maximum total payment. The maximum weekly income benefits  
18 payable for all beneficiaries in case of death shall not exceed one  
19 hundred percent (100%) of the average weekly wages the deceased was  
20 earning, subject to the maximum limits in subparagraph (c) of this  
21 paragraph. The maximum aggregate limitation shall not apply in case  
22 of payment of two (2) years' income benefits to the surviving spouse  
23 upon remarriage, as provided under division (3) of subparagraph (a)

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

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

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

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

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

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

21 (c) Any claim under this paragraph shall be substantiated by the  
22 filing of a properly executed and authenticated proof of loss, which  
23 form shall be prescribed by the Administrator, and payment of such

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

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

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

12 SECTION 2. This act shall become effective November 1, 2009.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO  
14 PASS, As Amended and Coauthored.