

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2166

By: McCullough

4  
5  
6 AS INTRODUCED

7 An Act relating to workers' compensation; defining  
8 terms; providing tax credit for certain employers;  
9 prohibiting use of credit to reduce certain tax  
10 liability; providing for carryover of credit;  
11 providing for time period to claim credit; requiring  
12 CompSource Oklahoma to provide certain data to  
13 information released to certain entity; creating the  
14 Workers' Compensation Law; stating purposes; defining  
15 terms; providing scope of Workers' Compensation Law;  
16 providing for tolling of time limitations in certain  
17 circumstance; providing for exclusive remedies;  
18 providing exception to exclusive remedies; providing  
19 penalty for certain conduct; providing for Workers'  
20 Compensation Fraud Investigation Unit; providing for  
21 director; providing for compensation of director;  
22 providing duties of unit; providing for certain  
23 personnel; providing penalty for certain conduct;  
24 requiring report by certain persons of certain  
wrongful actions and conduct; providing for immunity  
for reporting certain conduct; providing for  
prosecution of certain conduct; providing authority  
for establishment of rules and regulations;  
prohibiting discrimination in certain circumstances  
for certain reasons; providing penalty; providing for  
recovery of costs and certain fees; stating purpose;  
requiring certain workers' compensation coverage;  
providing for certain exclusions; prohibiting payment  
of certain premiums by certain persons; providing  
penalty; prohibiting certain legal processes;  
providing exception to prohibition of certain legal  
processes; providing for disposition of compensation  
of deceased individual to certain persons; providing  
for certain information to be provided for  
enforcement of certain obligations; providing  
limitations for withheld compensation; defining term;

1 providing for compensation to certain nonresidents;  
2 limiting compensation to certain persons; providing  
3 for designation and treatment of certain  
4 compensation; limiting certain types of injuries as  
5 compensable injuries; requiring disclosure of certain  
6 support obligations upon making an application for  
7 workers' compensation; requiring Insurance  
8 Commissioner to provide certain funding information  
9 to Workers' Compensation Commission; providing  
10 requirements of information to be reported; providing  
11 for certification of available funds by Workers'  
12 Compensation Commission; providing maximum amount of  
13 funds transferred; providing for Workers'  
14 Compensation Commission to enact certain guidelines  
15 for certain medical condition; prohibiting certain  
16 health care entities from attempting to bill or  
17 collect fees for work-related injuries; prohibiting  
18 certain health care entities from reporting certain  
19 information to credit reporting agencies; providing  
20 notice requirements of employee; providing exception  
21 for collection of fee from employee; providing for  
22 tolling of statute of limitations; providing for stay  
23 of proceedings in certain circumstances; providing  
24 for membership of the Workers' Compensation  
Commission; providing for appointment and  
confirmation; providing term limits; providing  
requirements of membership; providing for salaries;  
providing for vacancies; requiring bond; allowing  
removal of members of Workers' Compensation  
Commission under certain circumstances; providing for  
notice of removal; providing for hearing; requiring  
oath of members of the Workers' Compensation  
Commission; providing for quorum; providing office  
requirements; providing for locations of hearings or  
sessions; requiring seal; authorizing certain  
activities of the Workers' Compensation Commission;  
requiring notice of certain activities; providing  
notice requirements; providing for reasonable comment  
period for interested persons; providing time for  
rules to take effect; providing requirements for  
expenditures; providing for appointment of certain  
persons; providing for salaries; providing duties of  
certain persons; providing for reimbursement of  
certain travel expenses; providing duties; providing  
for imposition of certain fees; requiring certain  
report to Legislature; providing for time of report;  
requiring publication of certain information;

1 authorizing funding for certain trust fund; providing  
2 for adoption of rules and regulations for  
3 administration of certain fund; creating Workers'  
4 Compensation Fund, Second Injury Trust Fund, and  
5 Death and Permanent Total Disability Trust Fund;  
6 providing for administration of funds; providing for  
7 suspension of certain fund if balance of fund is  
8 insufficient; providing for transfer of balance of  
9 certain funds at certain point in time; requiring  
10 carriers of workers' compensation insurance to pay  
11 certain monies to Insurance Commissioner; requiring  
12 payment of certain taxes by carriers of workers'  
13 compensation insurance; defining term; providing for  
14 assessment and collection of certain taxes; providing  
15 for form of tax payment; providing for  
16 decertification of certain employers upon failure to  
17 pay certain taxes; providing for annual determination  
18 of surplus for certain funds; providing for  
19 determination of rates of taxation for certain funds;  
20 requiring notification to certain insurance carriers  
21 of rates of taxation; authorizing promulgation of  
22 necessary rules regarding assessment and collection  
23 of tax; requiring report of tax collections to  
24 Insurance Commissioner; requiring certification of  
certain costs to Chief Fiscal Officer; providing time  
for certification of certain costs; requiring  
transfer of certain funds; requiring employers to  
secure and provide compensation for work-related  
injuries or death; providing exception; providing for  
liability of prime contractor when subcontractor  
fails to secure compensation; providing exception;  
providing for lien of prime contractor in certain  
circumstances; providing penalty against prime  
contractor under certain circumstances of wrongful  
conduct; providing for validity of certification of  
noncoverage for certain amount of time; providing for  
assessment of fee for applications or renewals of  
certification of noncoverage; providing requirements  
of certification of noncoverage; authorizing Workers'  
Compensation Commission to prescribe certain forms  
and procedures for certification of noncoverage;  
requiring notice by certain employers if exempted or  
excepted from compensation requirements and  
compliance; requiring employers to secure payment of  
workers' compensation; providing requirements  
applicable to securing payment of worker's  
compensation; requiring employers to furnish proof of

1 financial ability to pay compensation; providing  
2 requirements; providing for self-insurers; providing  
3 requirements of certain self-insurers; providing  
4 penalty for filing false or fraudulent financial  
5 statements; providing for jurisdiction for  
6 enforcement of provisions under the Workers'  
7 Compensation Law; providing for suspension or  
8 revocation of authorization of certain self-insurers;  
9 providing for discharge of liability by the employer;  
10 providing penalty for failure to secure the payment  
11 of compensation; providing for proposed order and  
12 hearing if employer fails to secure compensation;  
13 providing for penalty; requiring notices of  
14 compliance with compensation requirements to be  
15 posted in workplace; providing requirements of  
16 notice; providing requirements of policies or  
17 contracts of insurance issued for workers'  
18 compensation; providing for cancellation of workers'  
19 compensation coverage; requiring notice of  
20 cancellation; creating the Workers' Health and Safety  
21 Division; stating duties of the Workers' Health and  
22 Safety Division; providing for an advisory committee;  
23 providing for membership on advisory committee;  
24 establishing a job safety information system;  
providing requirements of a job safety information  
system; establishing an extra-hazardous employer  
program; defining term; providing requirements of an  
extra-hazardous employer program; providing for  
prerequisites of casualty insurers desiring to write  
workers' compensation insurance; requiring certain  
accident prevention services; requiring notice of  
accident prevention services; providing requirements  
of notice; requiring inspections of accident  
prevention services; providing immunity from  
liability regarding lack of accident prevention  
services; providing for legal actions against third  
parties outside of claims for compensation against  
employers or insurance carriers; providing for  
certain liens in certain legal actions; providing for  
application of any award; providing for subrogation;  
stating purpose of subrogation; requiring court  
approval for settlement of certain claims; providing  
for indemnification payments to be placed in certain  
account; stating purpose of certain account;  
providing for dollar-for-dollar payable benefits  
under benefit plan; requiring disclosure of entity  
paying benefits; requiring release of subrogation

1 claims; providing for determination of potential  
2 subrogation claims; requiring insurance carrier to  
3 hold certain sums in reserve for specific time  
4 period; directing insurance carrier to tender certain  
5 sums to certain funds after specific time period in  
6 certain circumstances; providing time periods for  
7 compensation after injury; providing percentage of  
8 weekly benefit payments for certain disabilities;  
9 providing certain time limits for payment of certain  
10 disabilities; providing for payment of certain  
11 disabilities from certain funds; providing conditions  
12 for designation as an extra-hazardous employer;  
13 providing for doubled benefits if employee is a  
14 minor; providing exception to doubled benefits;  
15 providing for payment of difference if employer  
16 refuses to return employee to work; providing certain  
17 time period for payment of difference; providing for  
18 employee to return to work; providing for voluntary  
19 vocational rehabilitation; providing limitation in  
20 benefits payment if employee chooses not to attend  
21 vocational rehabilitation; providing for mandatory  
22 vocational rehabilitation assessments if employee  
23 elects to attend vocational rehabilitation;  
24 prohibiting employee from receiving disability  
payments and unemployment benefits during the same  
time period; providing exception to receiving  
disability and unemployment benefits during the same  
time period; providing for allocation of funding for  
certain projects; requiring employer to provide  
certain necessary medical care or services; providing  
for necessary care at expense of employer in certain  
circumstances; authorizing Workers' Compensation  
Commission to establish certain system of care;  
authorizing Workers' Compensation Commission to  
develop certain rules, regulations and policies;  
providing time periods and amounts payable for  
certain injuries; providing exception to liability  
for payment; requiring employee to submit to certain  
examinations; providing for reasonable place of  
examination; providing for participation by certain  
physicians selected by certain entities; providing  
for stay of proceedings when Workers' Compensation  
Commission directs medical examination; providing  
penalty when employee fails to comply with order of  
examination; authorizing Workers' Compensation  
Commission to consider certain inactions of employee  
when determining award; providing for submission of

1 incurred charges for certain services; providing  
2 exception to submission of charges; providing for  
3 selection of physician; providing for change of  
4 physician; requiring certain service providers to  
5 furnish certain information to certain entities;  
6 providing for payment of copying costs; authorizing  
7 Workers' Compensation Commission to establish certain  
8 rules regarding costs of specified medical services;  
9 providing for computation of compensation; providing  
10 for notice requirement of certain disability;  
11 providing requirements of notice; defining term;  
12 authorizing Workers' Compensation Commission to adopt  
13 certain impairment ratings; providing schedule for  
14 certain compensation benefits for certain injuries;  
15 providing for compensation for certain claims;  
16 stating purpose of certain fund; providing for  
17 determination by certain persons of compensation  
18 liability for subsequent injuries; providing source  
19 of payment for subsequent injuries; prohibiting  
20 compensation during certain periods of refusal of  
21 employment; providing for payment of funeral expenses  
22 in certain circumstances; providing for payment of  
23 compensation to beneficiaries in certain  
24 circumstances; providing schedule of payment to  
certain beneficiaries; providing for termination of  
compensation under certain circumstances; providing  
for apportionment of benefits to class; providing for  
determination of beneficiaries within a class;  
providing for determination of dependency; requiring  
employer to keep certain employment records;  
requiring employer to provide certain report to  
Workers' Compensation Commission; providing  
requirements of report; providing penalty for failure  
to provide report; providing for contest by employer  
for failure to provide report; providing for  
compensation for certain occupational diseases;  
providing limitations; defining terms; providing for  
reporting of injuries to employer under certain  
circumstances within certain time period; providing  
time for filing certain claims for compensation;  
providing time for filing for additional  
compensation; providing limitations for additional  
compensation; providing exceptions for failure to  
file a claim; authorizing Workers' Compensation  
Commission to promulgate rules for certain  
preliminary conference procedures; providing for  
notice to certain persons upon filing of a claim for

1 compensation; providing for hearing on a claim for  
2 compensation; providing for notice of hearing;  
3 stating venue for hearing; providing for review of  
4 record; providing for introduction and presentation  
5 of evidence; providing for conduct of hearing and  
6 certain court proceedings; stating prima facie  
7 presumptions; providing for appeal of compensation  
8 order; providing requirements of appeal; providing  
9 for judgment lien upon failure to pay award;  
10 providing for review of compensation order by  
11 Workers' Compensation Commission; providing for  
12 assessment of costs for certain court proceedings;  
13 providing for assessment and payment of certain fees;  
14 providing certain requirements for submission of  
15 claim; providing requirements for payments of  
16 compensation; providing requirements for  
17 controversion of compensation; providing for lump-sum  
18 settlements; providing table for calculating the  
19 present value of lump-sum settlements; providing for  
20 petition for final settlement to Workers'  
21 Compensation Commission; directing certain payments  
22 be made by certain insurance carriers or employers;  
23 providing for reimbursement of advanced compensation  
24 payments; providing for bond or deposit to secure  
payment of compensation; providing for interest on  
compensation; providing for notice to certain  
entities of final payment of compensation;  
authorizing Workers' Compensation Commission to  
investigate claim under certain circumstances;  
providing for award of compensation to certain  
persons if person receiving award is incarcerated;  
providing for various deductibles to policyholders of  
workers' compensation insurance; providing for  
payment of deductible; providing exception to  
deductible requirements; authorizing Workers'  
Compensation Commission to recognize certain guaranty  
funds; stating purpose of guaranty funds; defining  
term; authorizing Workers' Compensation Commission to  
promulgate certain regulations concerning guaranty  
funds; providing for contributions to guaranty funds;  
providing for report of payment of potential claims  
to funds; requiring annual audit of guaranty funds;  
providing for investment and use of monies in  
guaranty funds; providing for subrogation by guaranty  
fund; authorizing guaranty fund to bring actions at  
law or in equity in certain instances; providing for  
award of costs and fees if guaranty fund brings

1 actions at law or in equity; providing requirements  
2 for membership in guaranty fund; providing for  
3 liability of self-insurer if certain status is  
4 terminated; stating legislative intent; amending 74  
5 O.S. 2001, Sections 18m-1, 18m-2 and 19.2, which  
6 relate to the Office of the Attorney General;  
7 transferring the Workers' Compensation Fraud Unit  
8 from the Office of the Attorney General to the  
9 Insurance Department; transferring the duties of the  
10 Workers' Compensation Fraud Unit to the Insurance  
11 Department; transferring certain personnel, funds,  
12 records, encumbrances, equipment, and other items to  
13 the Insurance Department; providing requirements  
14 pertaining to transfer of employees; modifying grant  
15 of powers as a district attorney to reflect transfer  
16 of administration and enforcement from the Office of  
17 the Attorney General to the Insurance Department;  
18 modifying confidentiality of records, documents,  
19 reports and evidence to reflect transfer of  
20 administration and enforcement from the Office of the  
21 Attorney General to the Insurance Department;  
22 modifying and renaming certain revolving fund to  
23 reflect transfer of administration and enforcement  
24 from the Office of the Attorney General to the  
Insurance Department; repealing 85 O.S. 2001,  
Sections 1, 1.1, as amended by Section 7, Chapter 1,  
1st Extraordinary Session, O.S.L. 2005, 1.2, 1.2A,  
1.3, as amended by Section 8, Chapter 1, 1st  
Extraordinary Session, O.S.L. 2005, 2b, 2e, 2.1, 2.2,  
2.3, 2.4, 2.5, 2.6, 2.7, 3, as last amended by  
Section 9, Chapter 1, 1st Extraordinary Session,  
O.S.L. 2005, 3.1, 3.4, 3.5, as amended by Section 10,  
Chapter 1, 1st Extraordinary Session, O.S.L. 2005,  
3.6, 3.7, 3.8, 3.9 and 3.10, as amended by Sections  
11 and 12, Chapter 1, 1st Extraordinary Session,  
O.S.L. 2005, 3.11, 4, 5, as amended by Section 13,  
Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 6,  
6.1, 7, 9, 11, as amended by Section 77, Chapter 264,  
O.S.L. 2006, 12, as amended by Section 14, Chapter 1,  
1st Extraordinary Session, O.S.L. 2005, 13, 14, as  
last amended by Section 15, Chapter 1, 1st  
Extraordinary Session, O.S.L. 2005, 14.1, 14.2 and  
14.3, as amended by Sections 16 and 17, Chapter 1,  
1st Extraordinary Session, O.S.L. 2005, 15, 16, as  
amended by Section 18, Chapter 1, 1st Extraordinary  
Session, O.S.L. 2005, 17, as last amended by Section  
19, Chapter 1, 1st Extraordinary Session, O.S.L.

1 2005, 21, 22, as amended by Section 20, Chapter 1,  
2 1st Extraordinary Session, O.S.L. 2005, 22.1, 24.1,  
3 as amended by Section 21, Chapter 1, 1st  
4 Extraordinary Session, O.S.L. 2005, 24.2, 24.3, 25,  
5 26, as amended by Section 22, Chapter 1, 1st  
6 Extraordinary Session, O.S.L. 2005, 27.1, 28, 30, as  
7 amended by Section 23, Chapter 1, 1st Extraordinary  
8 Session, O.S.L. 2005, 41, 41.1, 42, 43 and 44, as  
9 amended by Sections 24 and 25, Chapter 1, 1st  
10 Extraordinary Session, O.S.L. 2005, 45, 46, 47, 47.1,  
11 48, as amended by Section 26, Chapter 1, 1st  
12 Extraordinary Session, O.S.L. 2005, 48.1, 49, 61, as  
13 amended by Section 78, Chapter 264, O.S.L. 2006,  
14 61.1, 61.2, 63, 63.1, 63.2, 63.3, 63.4, 64, as last  
15 amended by Section 79, Chapter 264, O.S.L. 2006, 65,  
16 as amended by Section 80, Chapter 264, O.S.L. 2006,  
17 65.2, 65.3, 66.1, 66.2, 67.1, 69.5, 80, 81, 84, 85,  
18 92, 93, 93.2, 95, 101, 103, 104, 106, 107, 109, 110,  
19 as amended by Section 1, Chapter 338, O.S.L. 2002,  
20 112, 122, 171 and 172, as amended by Sections 27 and  
21 28, Chapter 1, 1st Extraordinary Session, O.S.L.  
22 2005, 173, as last amended by Section 29, Chapter 1,  
23 1st Extraordinary Session, O.S.L. 2005, 173.1, 173.2,  
24 173.3, 174, 175, as last amended by Section 30,  
Chapter 1, 1st Extraordinary Session, O.S.L. 2005,  
176, 177, 178, 179, 180, 201, 201.1, as last amended  
by Section 31, Chapter 1, 1st Extraordinary Session,  
O.S.L. 2005, 201.2, 203 and 211 (85 O.S. Supp. 2008,  
Sections 1.1, 1.3, 3, 3.5, 3.9, 3.10, 5, 11, 12, 14,  
14.2, 14.3, 16, 17, 22, 24.1, 26, 30, 43, 44, 48, 61,  
64, 65, 110, 171, 172, 173, 175 and 201.1), which  
relate to the Workers' Compensation Act; providing  
for codification; providing for recodification; and  
providing effective dates.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2357.305 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Qualified employer" means a sole proprietor, general  
2 partnership, limited partnership, limited liability company,  
3 corporation or other legally recognized business entity;

4 2. "Small employer" means a sole proprietor, general  
5 partnership, limited partnership, limited liability company,  
6 corporation or other legally recognized business entity with fewer  
7 than fifty (50) employees;

8 3. "Large employer" means a sole proprietor, general  
9 partnership, limited partnership, limited liability company,  
10 corporation or other legally recognized business entity with fifty  
11 (50) or more employees;

12 4. "Qualified person" means any person whose occupation is an  
13 in-house safety officer or a workers' compensation case worker; and

14 5. "Qualified wage cost" means either payments in the form of  
15 contract labor for which the payor is required to provide a Form  
16 1099 to the person paid, or wages subject to withholding paid to a  
17 part-time employee or full-time employee for wages, salary or other  
18 remuneration paid to such person, exclusive of any employer-provided  
19 retirement benefit, employer-provided medical or health care  
20 benefit, reimbursement for travel, meals, lodging or any other  
21 expense reimbursed to the qualified person.

22 B. For taxable years beginning after December 31, 2009, there  
23 shall be allowed a credit against the tax imposed pursuant to  
24 Section 2355 of Title 68 of the Oklahoma Statutes for qualified wage

1 costs incurred with respect to a qualified person by a qualified  
2 employer.

3 C. The credit authorized by subsection B of this section shall  
4 be in the amount of Five Thousand Dollars (\$5,000.00) for small  
5 employers and up to, but not exceeding, Fifty Thousand Dollars  
6 (\$50,000.00). The credit for large employers shall be determined on  
7 a sliding scale based upon the qualified wage cost of that employer.

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

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

12 F. No credit otherwise authorized pursuant to this section  
13 shall be claimed by a qualified employer based upon qualifying wage  
14 costs with respect to a qualified person after the fifth taxable  
15 year for which any credit authorized by this section is claimed  
16 based upon qualified wage costs with respect to such qualified  
17 person, regardless of the total number of employers claiming a  
18 credit authorized by this section.

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

24

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

4 When information is furnished by CompSource Oklahoma to the  
5 National Council on Compensation Insurance, Incorporated (NCCI), all  
6 information shall be accurate, complete, and truthful. CompSource  
7 Oklahoma shall provide certain data to all information released to  
8 NCCI.

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

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

14 B. The primary purposes of the workers' compensation laws are  
15 to pay timely temporary and permanent disability benefits to all  
16 legitimately injured workers who suffer an injury or disease arising  
17 out of and in the course of their employment, to pay reasonable and  
18 necessary medical expenses resulting therefrom, and then to return  
19 the worker to the work force; to improve workplace safety through  
20 safety programs; to improve health care delivery through use of  
21 managed care concepts; to encourage the return to work of injured  
22 workers; to deter and punish frauds of agents, brokers, solicitors,  
23 employers, and employees relating to procurement of workers'  
24 compensation coverage or the provision or denial of benefits; to

1 curtail the rise in medical costs associated with the provision of  
2 workers' compensation benefits; and to emphasize that the workers'  
3 compensation system in this state must be returned to a state of  
4 economic viability.

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

8 As used in this act:

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

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

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

19 4. a. "Compensable injury" means:

20 (1) an accidental injury causing internal or external  
21 physical harm to the body or accidental injury to  
22 prosthetic appliances, including, but not limited  
23 to, eyeglasses, contact lenses, or hearing aids,  
24 arising out of and in the course of employment

1 and which requires medical services or results in  
2 disability or death. An injury is "accidental"  
3 only if it is caused by a specific incident and  
4 is identifiable by time and place of occurrence,  
5 or

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

11 (a) caused by rapid repetitive motion. Carpal  
12 tunnel syndrome is specifically categorized  
13 as a compensable injury falling within this  
14 definition,

15 (b) a back or neck injury which is not caused by  
16 a specific incident or which is not  
17 identifiable by time and place of  
18 occurrence, or

19 (c) hearing loss which is not caused by a  
20 specific incident or which is not  
21 identifiable by time and place of  
22 occurrence.

23 b. "Compensable injury" includes, but is not limited to:  
24

- 1 (1) "mental illness", which means an illness as  
2 provided for in Section 15 of this act,
- 3 (2) "heart" or "cardiovascular injury", "accident",  
4 or "disease", which means an injury, accident, or  
5 disease as provided for in Section 16 of this  
6 act,
- 7 (3) a "hernia", which means an injury as provided for  
8 in Section 66 of this act, or
- 9 (4) an "adverse reaction", which means a reaction  
10 experienced by any employee of the Department of  
11 Health and Human Services or any employee of a  
12 hospital licensed by the Department related to  
13 vaccination with Vaccinia vaccines for smallpox,  
14 including, but not limited to, the Dryvax  
15 vaccine, regardless of whether the adverse  
16 reaction is the result of voluntary action by the  
17 injured employee.

18 c. "Compensable injury" does not include:

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

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

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

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

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

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

1 (b) Every employee is deemed by his or her  
2 performance of services to have impliedly  
3 consented to reasonable and responsible  
4 testing by properly trained medical or law  
5 enforcement personnel for the presence of  
6 any of the aforementioned substances in the  
7 body of the employee.

8 (c) An employee shall not be entitled to  
9 compensation unless it is proved by a  
10 preponderance of the evidence that the  
11 alcohol, illegal drugs, or prescription  
12 drugs utilized in contravention of the  
13 orders of the physician did not  
14 substantially occasion the injury or  
15 accident.

16 d. The definition of "compensable injury" as set forth in  
17 this paragraph shall not be deemed to limit or  
18 abrogate the right to recover for mental injuries as  
19 set forth in Section 15 of this act or occupational  
20 diseases as set forth in Sections 74 through 76 of  
21 this act.

22 e. A compensable injury must be established by medical  
23 evidence supported by objective findings as defined in  
24 paragraph 16 of this section.

1 f. BURDEN OF PROOF. The burden of proof of a compensable  
2 injury shall be on the employee and shall be as  
3 follows:

4 (1) for injuries falling within the definition of  
5 compensable injury under division (1) of  
6 subparagraph a of this paragraph, the burden of  
7 proof shall be a preponderance of the evidence,  
8 or

9 (2) for injuries falling within the definition of  
10 compensable injury under division (2) of  
11 subparagraph a of this paragraph, the burden of  
12 proof shall be by a preponderance of the  
13 evidence, and the resultant condition is  
14 compensable only if the alleged compensable  
15 injury is the major cause of the disability or  
16 need for treatment.

17 g. BENEFITS.

18 (1) When an employee is determined to have a  
19 compensable injury, the employee is entitled to  
20 medical and temporary disability as provided by  
21 this section.

22 (2) (a) Permanent benefits shall be awarded only  
23 upon a determination that the compensable  
24

1 injury was the major cause of the disability  
2 or impairment.

3 (b) If any compensable injury combines with a  
4 preexisting disease or condition or the  
5 natural process of aging to cause or prolong  
6 disability or a need for treatment,  
7 permanent benefits shall be payable for the  
8 resultant condition only if the compensable  
9 injury is the major cause of the permanent  
10 disability or need for treatment.

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

19 (4) Nothing in this subparagraph shall limit the  
20 payment of rehabilitation benefits or benefits  
21 for disfigurement as set forth in this section;

22 5. "Compensation" means the monetary award payable to the  
23 employee or to his or her dependents in the form of a temporary  
24 total or permanent partial disability award that shall be placed in

1 a designated escrow account which shall be used for future medical  
2 care or for any fees and costs associated with the vocational  
3 rehabilitation and includes the allowances provided for in Section  
4 53 of this act and funeral expenses;

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

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

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

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

23 b. The term "employee" shall not include any individual  
24 who is both a licensee as defined in Section 858-102

1 of Title 59 of the Oklahoma Statutes and a qualified  
2 real estate agent as that term is defined in Section  
3 3508(b)(1) of the Internal Revenue Code of 1986,  
4 including all regulations under the Internal Revenue  
5 Code of 1986.

6 c. Any individual holding from the Commission a current  
7 certification of noncoverage under this act shall be  
8 conclusively presumed not to be an employee for  
9 purposes of this act or otherwise during the term of  
10 his or her certification or any renewals thereof or  
11 until he or she elects otherwise, whichever time  
12 period is shorter.

13 d. Any reference to an employee who has been injured,  
14 when that employee is dead, shall also include his or  
15 her legal representative, dependents, and other  
16 persons to whom compensation may be payable;

17 10. "Employer" means any individual, partnership, limited  
18 liability company, association, or corporation carrying on any  
19 employment, the receiver or trustee of the same, or the legal  
20 representative of a deceased employer;

21 11. "Employment" means:

22 a. every employment in the state in which three or more  
23 employees are regularly employed by the same employer  
24 in the course of business except:

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

1 Internal Revenue Code of 1986, including all  
2 regulations under the Internal Revenue Code of  
3 1986,

4 b. every employment in which two or more employees are  
5 employed by any person engaged in building or building  
6 repair work,

7 c. every employment in which one or more employees are  
8 employed by a contractor who subcontracts any part of  
9 his or her contract, and

10 d. every employment in which one or more employees are  
11 employed by a subcontractor;

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

14 13. "Insurance Commissioner" means the Insurance Commissioner  
15 of the State of Oklahoma;

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

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

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

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

1 (2) (a) When determining physical or anatomical  
2 impairment, neither a physician, any other  
3 medical provider, an administrative law  
4 judge, the Workers' Compensation Commission,  
5 nor the courts may consider complaints of  
6 pain.

7 (b) For the purpose of making physical or  
8 anatomical impairment ratings to the spine,  
9 straight-leg-raising tests or range-of-  
10 motion tests shall not be considered  
11 objective findings.

12 (3) (a) Objective evidence necessary to prove  
13 physical or anatomical impairment in  
14 occupational hearing loss cases may be  
15 established by medically recognized and  
16 accepted clinical diagnostic methodologies,  
17 including, but not limited to, audiological  
18 tests that measure air and bone conduction  
19 thresholds and speech discrimination  
20 ability.

21 (b) Any difference in the baseline hearing  
22 levels must be confirmed with a subsequent  
23 test within four (4) weeks following the  
24 initial test or tests performed pursuant to

1 subdivision (a) of division (3) of  
2 subparagraph a of this paragraph but not  
3 before five (5) days and being adjusted for  
4 presbycusis.

5 b. Medical opinions addressing compensability and  
6 permanent impairment must be stated within a  
7 reasonable degree of medical certainty;

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

12 b. If, for any reason, the determination is not  
13 available, the Commission shall determine the wage  
14 annually after reasonable investigation and public  
15 hearing;

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

19 19. "Wages" means the money rate at which the service rendered  
20 is recompensed under the contract of hiring in force at the time of  
21 the accident, including the reasonable value of board, rent,  
22 housing, lodging, or similar advantage received from the employer  
23 and includes the amount of tips required to be reported by the  
24 employer pursuant to Section 6053 of the Internal Revenue Code of

1 1954 and the regulations promulgated pursuant thereto or the amount  
2 of actual tips reported, whichever amount is greater; and

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

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

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

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

18 B. This act shall apply only to claims for injuries and death  
19 based upon accidents which occur on or after December 1, 2009.

20 C. The Workers' Compensation Act in effect prior to December 1,  
21 2009, shall govern all rights in respect to claims for injuries and  
22 death based upon accidents occurring prior to December 1, 2009.

23

24

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

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

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

16 A. The rights and remedies granted to an employee subject to  
17 the provisions of this act, on account of injury or death, shall be  
18 exclusive of all other rights and remedies of the employee, the  
19 legal representative of the employee, dependents, next of kin, or  
20 anyone otherwise entitled to recover damages from the employer, or  
21 any principal, officer, director, stockholder, or partner acting in  
22 the capacity as an employer, or prime contractor of the employer, on  
23 account of the injury or death, and the negligent acts of a  
24 coemployee shall not be imputed to the employer. No role, capacity,

1 or persona of any employer, principal, officer, director, or  
2 stockholder other than that existing in the role of employer of the  
3 employee shall be relevant for consideration for purposes of this  
4 act, and the remedies and rights provided by this act shall in fact  
5 be exclusive regardless of the multiple roles, capacities, or  
6 personas the employer may be deemed to have.

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

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

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

22 A. 1. a. Any person or entity who willfully and knowingly makes  
23 any material false statement or representation, who  
24 willfully and knowingly omits or conceals any material

1 information, or who willfully and knowingly employs  
2 any device, scheme, or artifice for the purpose of:

3 (1) obtaining any benefit or payment,

4 (2) defeating or wrongfully increasing or wrongfully  
5 decreasing any claim for benefit or payment, or

6 (3) obtaining or avoiding workers' compensation

7 coverage or avoiding payment of the proper

8 insurance premium, or who aids and abets for any

9 of said purposes, under this act,

10 shall be guilty of a felony and shall be punished by a

11 fine of not less than Five Hundred Dollars (\$500.00),

12 nor more than Two Thousand Dollars (\$2,000.00), or by

13 imprisonment in the county jail for a term of not less

14 than one (1) year, or by both fine and imprisonment.

15 b. Fifty percent (50%) of any criminal fine imposed and  
16 collected under this paragraph or paragraph 2 of this  
17 subsection shall be paid and allocated in accordance  
18 with applicable law to the Death and Permanent Total  
19 Disability Trust Fund administered by the Workers'  
20 Compensation Commission.

21 2. It is to be understood that any person or entity with whom  
22 any person identified in paragraph 1 of this subsection has  
23 conspired to achieve the proscribed ends shall, by reason of such  
24 conspiracy, be guilty as a principal of a felony and shall be

1 punished by a fine of not less than Five Hundred Dollars (\$500.00),  
2 nor more than Two Thousand Dollars (\$2,000.00), or by imprisonment  
3 in the county jail for a term of not less than one (1) year, or by  
4 both fine and imprisonment.

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

10 C. Where the Workers' Compensation Commission or the Insurance  
11 Commissioner finds that false statements or representations were  
12 made willfully and knowingly, that material information was  
13 willfully and knowingly omitted or concealed, or that any device,  
14 scheme, or artifice was willfully and knowingly employed for the  
15 purpose of:

16 1. Obtaining benefits or payments;

17 2. Obtaining, wrongfully increasing, wrongfully decreasing, or  
18 defeating any claim for benefit or payment; or

19 3. Obtaining or avoiding workers' compensation coverage or  
20 avoiding payment of the proper insurance premium under this act or  
21 that any other related criminal violations were committed,  
22 the chairman of the Workers' Compensation Commission or the  
23 Insurance Commissioner shall refer the matter for appropriate action  
24

1 to the prosecuting attorney having criminal jurisdiction in the  
2 matter.

3 D. 1. a. There shall be established within the Oklahoma  
4 Insurance Department a Workers' Compensation Fraud  
5 Investigation Unit, funded by the Commission, which  
6 will be headed and supervised by a director who may  
7 also serve as the director of any other designated  
8 insurance fraud investigation division within the  
9 Department, in which event the compensation of the  
10 director shall be paid solely from the funds of such  
11 insurance fraud investigation division.

12 b. (1) The unit designated in subparagraph a of this  
13 paragraph will investigate workers' compensation  
14 fraud, additional criminal violations that may be  
15 related to workers' compensation fraud, and any  
16 other insurance fraud matters as may be assigned  
17 at the discretion of the director.

18 (2) The Insurance Commissioner shall designate the  
19 personnel assigned to the unit, who shall have  
20 the powers of specialized law enforcement  
21 officers of the State of Oklahoma for the purpose  
22 of conducting investigations under this  
23 subparagraph. Personnel hired as specialized law  
24 enforcement officers shall have a minimum of

1 three (3) years of certified law enforcement  
2 experience or its equivalent in national or  
3 military law enforcement experience as approved  
4 by the Council on Law Enforcement Education and  
5 Training.

6 2. The Insurance Commissioner and the deputies and assistants  
7 of the Insurance Commissioner and the fraud director and the  
8 deputies and assistants of the fraud director shall be vested with  
9 the power of enforcing this section and rendering more effective the  
10 disclosure and apprehension of persons or entities who abuse the  
11 workers' compensation system as established by the Legislature by  
12 making false or misleading statements for the purpose of either  
13 obtaining, wrongfully increasing, wrongfully decreasing or defeating  
14 the payment of benefits, obtaining or avoiding workers' compensation  
15 coverage, or avoiding payment of the proper insurance premium.

16 3. It shall be the duty of the unit to assist the Insurance  
17 Commissioner and the Department in the performance of duties, and,  
18 further, to determine the identity of carriers, employers, or  
19 employees who within the State of Oklahoma have violated subsection  
20 A of this section and report the violation to the Workers'  
21 Compensation Commission and to the Insurance Commissioner, who  
22 shall, in turn, be responsible for reporting the violation to the  
23 prosecuting attorney having criminal jurisdiction in the matter.  
24

1 4. a. With respect to the subject of any investigation being  
2 conducted by the unit, the Insurance Commissioner and  
3 the deputies and assistants of the Insurance  
4 Commissioner and the fraud director and the deputies  
5 and assistants of the fraud director shall have the  
6 power of subpoena and may:

7 (1) subpoena witnesses,

8 (2) administer oaths or affirmations and examine any  
9 individual under oath, and

10 (3) require and compel the production of records,  
11 books, papers, contracts, and other documents.

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

14 c. (1) If any individual fails to obey a subpoena issued  
15 and served pursuant to this section with respect  
16 to any matter concerning which the individual may  
17 be lawfully interrogated, then upon application  
18 of the Commissioner or fraud director, the  
19 district court of the county where the subpoena  
20 was served may issue an order requiring the  
21 individual to comply with the subpoena and to  
22 testify.

23 (2) Any failure to obey the order of the court may be  
24 punished by the court as a contempt.

1 d. If any person has refused, in connection with an  
2 investigation by the fraud director, to be examined  
3 under oath concerning the affairs of that person, then  
4 the fraud director is authorized to conduct and  
5 enforce by all appropriate and available means any  
6 examination under oath in any state or territory of  
7 the United States in which any officer, director, or  
8 manager may then presently be to the full extent  
9 permitted by the laws of the state or territory.

10 e. Any person testifying falsely under oath or  
11 affirmation in this state as to any matter material to  
12 any investigation or hearing conducted pursuant to  
13 subparagraph d of this paragraph, or any workers'  
14 compensation hearing, shall upon conviction be guilty  
15 of perjury and punished accordingly.

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

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

23 b. No carrier shall be liable to any employer or employee  
24 for any report, and no employer shall be liable to any

1 employee for a report unless it knowingly and  
2 intentionally includes false information.

3 c. (1) Any carrier or employer who willfully and  
4 knowingly fails to report any violation shall be  
5 guilty of a misdemeanor and upon conviction shall  
6 be punished by a fine not to exceed One Thousand  
7 Dollars (\$1,000.00) or by imprisonment for a  
8 period not to exceed one (1) year, or by both  
9 fine and imprisonment.

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

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

20 e. In addition, any immunity from liability provisions of  
21 the Oklahoma Insurance Code applicable to the  
22 reporting of suspected fraudulent insurance acts shall  
23 also be applicable to the reporting of information  
24 under this paragraph.

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

6 2. The prosecuting attorney of the district to whom a suspected  
7 violation of subsection A of this section, Section 35 of this act,  
8 Section 39 of this act, or any other criminal violations that may be  
9 related to a violation of this act, have been referred shall, for  
10 the purpose of assisting the prosecuting attorney in the  
11 prosecutions, have the authority to appoint as special deputy  
12 prosecuting attorneys, licensed attorneys at law in the employment  
13 of the unit or any other designated insurance fraud investigation  
14 division within the Department. The special deputy prosecuting  
15 attorneys shall, for the purpose of the prosecutions to which they  
16 are assigned, be responsible to and report to the prosecuting  
17 attorney.

18 F. It is the specific intent of this section that active  
19 investigatory files as maintained by the Department and by the unit  
20 be deemed confidential and privileged and not be made open to the  
21 public until the matter under investigation is closed by the fraud  
22 director with the consent of the Insurance Commissioner, except that  
23 the active investigatory files shall also be subject to any  
24

1 confidentiality provisions of the Oklahoma Insurance Code that are  
2 applicable to the investigation of fraudulent insurance acts.

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

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

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

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

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

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

23 2. Provided, however, if the employee is the nonprevailing  
24 party, the attorney fee and costs shall, at the election of the

1 employer, be paid by the employee or deducted from future workers'  
2 compensation benefits.

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

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

9 E. The purpose of this section is to preserve the exclusive  
10 remedy doctrine and specifically annul any inconsistent case law.

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

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

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

1           2. If the exclusion from coverage of the officer of a  
2 corporation, sole proprietor, partner of a partnership, member of a  
3 limited liability company, member of a professional association, or  
4 self-employed employer reduces the number of employees of the  
5 business to fewer than three, the employer shall nevertheless  
6 continue to provide workers' compensation coverage for the  
7 employees.

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

11           A. No agreement by an employee to pay any portion of the  
12 premium paid by the employer to a carrier or to contribute to a  
13 safety program as provided under Section 42 of this act or a benefit  
14 fund or department maintained by the employer for the purpose of  
15 providing compensation or medical services and supplies as required  
16 by this act shall be valid.

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

23  
24

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

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

8 B. Money compensation to dependents of a deceased employee  
9 shall not constitute assets of the estate of the deceased employee  
10 and shall be payable to and for the benefit of the dependents alone.

11 C. 1. After December 1, 2009, the Workers' Compensation  
12 Commission shall forward monthly a computer tape, compact disc, or  
13 other memory data storage device listing the name, address, and  
14 social security number, if available, on all persons for whom the  
15 Commission has established a file during the preceding month to the  
16 Child Support Enforcement Division. The computer tape, compact  
17 disc, or other memory data storage device shall also include the  
18 name of the workers' compensation carrier and the name of the  
19 employer.

20 2. The same information shall be provided to individuals who  
21 apply for the information with the Commission on an individual  
22 employee to an individual certifying that they have an interest in  
23 the child support obligations of the employee on whom the  
24 information is requested.

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

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

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

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

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

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

21 A. Compensation to alien nonresidents of the United States or  
22 Canada shall be the same in amount as provided for residents, except  
23 that alien nonresident dependents in any foreign country shall be  
24 limited to the surviving wife or children or, if there is no

1 surviving wife or children, to the surviving father or mother whom  
2 the employee has supported, either wholly or in part, for the period  
3 of one (1) year prior to the date of the injury.

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

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

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

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

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

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

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

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

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

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

20           A. A cardiovascular, coronary, pulmonary, respiratory, or  
21 cerebrovascular accident or myocardial infarction causing injury,  
22 illness, or death is a compensable injury only if, in relation to  
23 other factors contributing to the physical harm, an accident is the  
24 major cause of the physical harm.

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

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

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

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

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

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

24

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

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

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

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

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

24

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

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

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

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

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

1 (5) days after mailing by certified mail by the employee or the  
2 representative of the employee to the hospital, physician, or health  
3 care provider.

4 B. The notice shall include:

5 1. The name of the employer;

6 2. The name of the insurer, if known;

7 3. The name of the employee receiving the services;

8 4. The general nature of the injury, if known; and

9 5. Where a claim has been filed and the claim number, if known.

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

23 D. This section shall not avoid, modify, or amend any other  
24 section or subsection of this act, including, but not limited to,

1 the prohibition against balanced billing contained in Section 52 of  
2 this act and any rules and regulations adopted pursuant to Section  
3 52 of this act.

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

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

9 A. The Workers' Compensation Commission shall consist of three  
10 (3) members appointed by the Governor who shall be confirmed by the  
11 State Senate for terms of six (6) years who shall devote their  
12 entire time to the duties of the Commission and shall administer the  
13 provisions of this act.

14 One member shall be an attorney, who shall be chair of the  
15 Commission and who shall have been engaged in active practice of law  
16 in the State of Oklahoma for not less than five (5) years next  
17 preceding the date of appointment and who shall have at least five  
18 (5) years of experience in workers' compensation matters. Two  
19 members shall be individuals who shall have at least five (5) years  
20 of experience and expertise in the field of workers' compensation.  
21 These two members shall not be required to be attorneys.

22 B. Each member shall receive a salary as may be established by  
23 law for salaries of state employees. The salaries shall be paid  
24

1 from the Workers' Compensation Fund and shall be paid in the manner  
2 as are salaries of other state officials or employees.

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

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

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

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

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

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

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

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

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

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

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

21 D. If a member is removed, the Governor shall file in the  
22 Office of the Secretary of State a complete statement of all charges  
23 made against the member and findings, together with a complete  
24

1 record of all proceedings and a transcript of testimony. It shall  
2 constitute a public record of the state.

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

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

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

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

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

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

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

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

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

9 a. to make such rules and regulations as may be found  
10 necessary,

11 b. to appoint and fix the compensation of temporary  
12 technical assistants and medical and legal advisers  
13 and to appoint and to fix the compensation of clerical  
14 assistants and other officers and employees, and

15 c. to make such expenditures, including those for  
16 personal service, rent, books, periodicals, office  
17 equipment, and supplies, and for printing and binding  
18 as may be necessary.

19 2. a. Prior to the adoption, prescription, amendment,  
20 modification, or repeal of any rule, regulation, or  
21 form, the Commission shall give at least forty-five  
22 (45) days' notice of its intended action.

23 b. The notice shall include a statement of the terms or  
24 substance of the intended action or description of the

1 subjects and issues involved, and the time, place, and  
2 manner in which interested persons may present their  
3 views thereon.

4 c. The notice shall be mailed to any person specified by  
5 law or who shall have requested advance notice of  
6 rule-making proceedings.

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

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

14 5. All expenditures of the Commission in the administration of  
15 this act shall be allowed and paid from the Workers' Compensation  
16 Fund upon the presentation of itemized vouchers approved by the  
17 Commission.

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

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

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

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

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

15           Any member or employee of the Workers' Compensation Commission  
16 shall be entitled to receive necessary traveling expenses actually  
17 incurred and for subsistence while traveling on official business  
18 and away from the designated station of that member or employee.  
19 The expenses shall be certified by the person who incurred them and  
20 shall be allowed and paid upon presentation of vouchers approved by  
21 the Commission.

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

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

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

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

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

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

15       5. Approve agreements, make, modify, or rescind awards, and  
16 make and enter findings of fact and rulings of law;

17       6. Enter orders in appealed cases;

18       7. Determine the time for the payment of compensation and order  
19 the reimbursement of employers for amounts advanced;

20       8. Assess penalties;

21       9. Prescribe rules and regulations governing the representation  
22 of employees, employers, and carriers in respect to claims before  
23 the Commission;

24

1       10. Issue subpoenas, administer oaths, and take testimony, by  
2 deposition or otherwise;

3       11. Make surveys and determine the existence and prevalence of  
4 occupational disease hazards within this state, to determine the  
5 measures necessary to eliminate or reduce these hazards, and add to  
6 the schedule of occupational diseases subject to appropriate  
7 conditions and after public hearing;

8       12. Make available to the Director of the Department of Labor  
9 all records in connection with all cases of personal injury. The  
10 Director may propose rules for the prevention of injuries and  
11 transmit the rules to the Commission. The Commission may recommend  
12 to the Director proposed rules for prevention of injuries;

13       13. Have and exercise all other powers and duties conferred or  
14 imposed by this act; and

15       14. Transfer the excess of income over expenses from the  
16 Commission's annual educational conference to any nonprofit  
17 charitable organization designed to provide scholarships to children  
18 of workers who have been killed or become permanently and totally  
19 disabled from a compensable injury, including, but not limited to,  
20 any accumulation from prior years' conferences.

21       B. 1. In addition to the other powers and duties granted to  
22 the Commission in this section and otherwise provided by law, the  
23 Commission is authorized to establish and impose reasonable fees to

24

1 recover the cost of preparation of various informative materials  
2 distributed by the Commission.

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

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

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

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

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

20 A. The Workers' Compensation Commission shall publish annually,  
21 on an aggregate basis, information pertaining to the distribution of  
22 workers' compensation insurance premiums, losses, expenses, and net  
23 income to be compiled from reports required to be filed with the  
24 Insurance Commissioner, as amended, or any similar information

1 required to be filed by the Insurance Commissioner regarding  
2 workers' compensation insurance.

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

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

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

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

- 20 a. licensed to do business in Oklahoma and authorized to  
21 write annuities as regulated by the Oklahoma Insurance  
22 Department,  
23 b. experienced in the business of writing and  
24 administering structured annuities,

- c. determined to be financially sound and having an A.M. Best rating of A+ and category size VIII or greater, or equivalent independent industry rating, and
- d. be rated AA+ or better by Standard and Poor's, Moody's, or an equivalent rating by an equivalent rating service.

3. Structured annuity contracts purchased by the Commission shall:

- a. include a separate contract for each claimant or beneficiary covered,
- b. require that the payments to the claimant or beneficiary be sent to the Commission so that it can maintain administrative control over the payments, and the Commission will distribute the payments in full to the claimants or beneficiaries, and
- c. provide for return of principal to the appropriate fund in the event that the obligations of the Death and Permanent Total Disability Trust Fund to any claimant or beneficiary cease prior to the end of the period of certain guarantee in the contract.

B. The Commission shall adopt such appropriate rules and regulations consistent with the provisions of this section as it deems necessary to enable it to efficiently and effectively administer the provisions of this section and any structured annuity

1 arrangement it may enter into pursuant to the authority granted in  
2 this act.

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

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

- 9 1. The "Workers' Compensation Fund";
- 10 2. The "Second Injury Trust Fund"; and
- 11 3. The "Death and Permanent Total Disability Trust Fund".

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

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

19 D. All incomes derived through investment of the Workers'  
20 Compensation Fund, the Second Injury Trust Fund, and the Death and  
21 Permanent Total Disability Trust Fund shall be credited as  
22 investment income, to the fund which participated in the investment.  
23 For the purpose of investment, Workers' Compensation Fund monies

24

1 shall be invested in accordance with the laws of the Oklahoma State  
2 Treasury.

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

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

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

18 2. The free balances of the Death and Permanent Total  
19 Disability Bank Fund shall be transferred to the Death and Permanent  
20 Total Disability Trust Fund.

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

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

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

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

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

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

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

22       A. During the annual period beginning July 1, 2010, and  
23 thereafter, the Oklahoma Insurance Department shall certify to the  
24

1 chief fiscal officer of the state the cost of administering the  
2 Public Employee Claims Division.

3 B. The certification shall be made the month following each  
4 quarter of the fiscal year and shall include a report of the  
5 expenditures of the Division for workers' compensation claims paid  
6 on behalf of the cities, the counties, and the public schools, each  
7 of the three reported as a class of employers, and each state agency  
8 supported from Treasury funds or fund accounts.

9 C. After the certification has been received and approved by  
10 the chief fiscal officer of the state, the chief fiscal officer of  
11 the state shall transfer funds from the Public School Fund, the  
12 Municipal Aid Fund, the County Aid Fund, and from the various  
13 Treasury funds of state agencies to the State General Services Fund  
14 Account.

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

19 E. The amount transferred shall be the proportional cost  
20 associated with the fund as certified to and approved by the chief  
21 fiscal officer of the state.

22 F. Should a state agency be supported from more than one  
23 Treasury fund, the fund transfers from that agency shall be in the  
24

1 same proportion that appropriations were made to that agency for  
2 regular salaries from the respective funds.

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

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

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

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

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

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

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

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

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

13 C. 1. a. When a sole proprietorship or partnership fails to  
14 elect to cover the sole proprietor or partners under  
15 this act, the prime contractor is not liable under  
16 this act for injuries sustained by the sole  
17 proprietor or partners if the sole proprietor or  
18 partners are not employees of the prime contractor.

19 b. (1) A sole proprietor or the partners of a  
20 partnership who do not elect to be covered by  
21 this act and be deemed employees under this act,  
22 and who deliver to the prime contractor a current  
23 certification of noncoverage issued by the  
24 Workers' Compensation Commission shall be

1 conclusively presumed not to be covered by the  
2 law or to be employees of the prime contractor  
3 during the term of certification or any renewals  
4 of the certification.

5 (2) A certificate of noncoverage may not be presented  
6 to a subcontractor who does not have workers'  
7 compensation coverage.

8 (3) This provision shall not affect the rights or  
9 coverage of any employees of the sole proprietor  
10 or of the partnership.

11 2. Furthermore, the insurance carrier of the prime contractor  
12 is not liable for injuries to the sole proprietor or partners  
13 described in this section who have provided a current certification  
14 of noncoverage, and the carrier shall not include compensation paid  
15 by the prime contractor to the sole proprietor or partners described  
16 above in computing the insurance premium for the prime contractor.

17 3. a. Any prime contractor who, after being presented with a  
18 current certification of noncoverage by a sole  
19 proprietor or partnership, nonetheless compels the  
20 sole proprietor or partnership to pay or contribute to  
21 workers' compensation coverage of that sole proprietor  
22 or partnership, shall be guilty of a misdemeanor and  
23 shall be punished by a fine not to exceed Five Hundred  
24 Dollars (\$500.00), or by imprisonment in the county

1 jail for a term not to exceed one (1) year, or by both  
2 fine and imprisonment.

3 b. Any prime contractor who compels a sole proprietor or  
4 partnership to obtain a certification of noncoverage  
5 when the sole proprietor or partnership does not  
6 desire to do so is guilty of a misdemeanor and shall  
7 be punished by a fine not to exceed Five Hundred  
8 Dollars (\$500.00), or by imprisonment in the county  
9 jail for a term not to exceed one (1) year, or by both  
10 fine and imprisonment.

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

18 D. 1. A certification of noncoverage issued by the Commission  
19 after July 1, 2010, shall be valid for two (2) years after the  
20 effective date stated on the certification. Both the effective date  
21 and the expiration date must be listed on the face of the  
22 certification by the Commission. The certification must expire at  
23 midnight two (2) years from its issue date, as noted on the face of  
24 the certification.

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

4           3. Any certification of noncoverage issued by the Commission  
5 shall contain the social security number and notarized signature of  
6 the applicant. The notarization shall be in a form and manner  
7 prescribed by the Commission.

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

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

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

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

21           1. Every employer who waives the exemption or exception shall  
22 post, and keep posted, in and about the employer's place of  
23 business, typewritten or printed notices to that effect in  
24 accordance with a form to be prescribed by the Workers' Compensation

1 Commission, and the employer shall file a duplicate of the notice  
2 with the Commission; and

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

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

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

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

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

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

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

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

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

19 B. 1. The Commission, under the rules and regulations as it  
20 may prescribe, may permit two or more employers engaged in the same  
21 type of business activity or pursuit to enter into agreements to  
22 pool their liabilities under this section for the purpose of  
23 qualifying as self-insurers, and each approved group shall be  
24 classified as a homogeneous self-insurer.

1           2. a.     The Commission, under the rules and regulations as it  
2                    may prescribe, may permit two or more employers who  
3                    are members of the same trade or professional  
4                    association to enter into agreements to pool their  
5                    liabilities under this section for the purpose of  
6                    qualifying as self-insurers, and each approved group  
7                    shall be classified as a common self-insurer.

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

18           c.     No two trade or professional associations shall be  
19                    allowed to combine or join each other and qualify as a  
20                    common self-insurer.

21           3.     In order to qualify as group self-insurers, these groups  
22 shall furnish to or satisfy the Commission as to the following:

23            a.     an application on a form prescribed by the Commission  
24                    by an elected board of trustees to establish a self-

1 insurance fund to be administered under the direction  
2 of the trustees,

3 b. the application shall be accompanied by:

4 (1) an indemnity agreement in a form satisfactory to  
5 the Commission jointly and severally binding the  
6 groups and each member of the groups to comply  
7 with the provisions of the Workers' Compensation  
8 Law, as provided by this act, and

9 (2) an individual application by each member of the  
10 groups applying for coverage in the fund,

11 c. a current, audited financial statement of each member  
12 of the groups showing a combined net worth of all  
13 members applying for coverage of not less than One  
14 Million Dollars (\$1,000,000.00), a combined ratio of  
15 current assets to current liabilities of not less than  
16 one-to-one, and working capital of an amount  
17 establishing financial ability and liquidity  
18 sufficient to pay normal compensation claims promptly,

19 d. (1) that the groups deposit and maintain with the  
20 Commission acceptable securities or have posted a  
21 surety bond issued by a corporate surety  
22 authorized to do business in the State of  
23 Oklahoma, in an amount determined by the  
24

1 Commission, but not less than Two Hundred  
2 Thousand Dollars (\$200,000.00).

3 (2) However, this division shall not be applicable to  
4 municipalities, counties, or the State of  
5 Oklahoma and its political subdivisions,

6 e. that there exist ample facilities and competent  
7 personnel of good character within the groups, or  
8 through an approved service organization, for the  
9 groups to service their own programs with respect to  
10 underwriting matters, claims and adjusting, industrial  
11 safety engineering, accounting, and financial  
12 management,

13 f. (1) that the groups maintain excess insurance with an  
14 insurance company authorized to do business in  
15 this state in an amount acceptable to the  
16 Commission.

17 (2) However, this division shall not be applicable to  
18 municipalities, counties, or the State of  
19 Oklahoma and its political subdivisions,

20 g. (1) that such financial statements, payroll records,  
21 accident experience, compensation reports, and  
22 other reports and statements are filed at the  
23 time and in the manner as the Commission shall  
24 require.

1           (2) However, any fund which fails or refuses to file  
2           the reports within the time limits prescribed by  
3           the Commission shall be subject to a civil  
4           penalty in an amount as the Commission may  
5           prescribe not to exceed One Hundred Dollars  
6           (\$100.00) per infraction per day, and the failure  
7           or refusal may be considered good cause for  
8           revocation or suspension of self-insurance  
9           privileges.

10          C. Each member of the groups shall file financial reports and  
11          statements at the times and in the manner as the Commission may  
12          require to satisfy itself as to the continued financial stability of  
13          the member.

14          D. In order to continue to qualify as a homogeneous self-  
15          insurer fund or common self-insurer fund, the groups shall continue  
16          to meet the minimum requirements as set forth in subsection B of  
17          this section or as prescribed by the Commission.

18          E. 1. Except for the initial qualification of the groups, a  
19          certified audited financial statement shall not be required of any  
20          member of a group either for initial membership or as a condition  
21          for continued membership in the group.

22          2. However, each financial statement filed with the Commission  
23          shall be duly certified by the president and treasurer of the  
24          member, in the case of a corporation, and by the owner and general

1 partners, respectively, in the case of an individual proprietorship  
2 or partnership, to the effect that the financial statement is true  
3 and correct to the best of the knowledge and belief of the officer,  
4 individual owner, or partner and truly reflects the financial  
5 condition of the member.

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

10 G. Jurisdiction for the enforcement of the provisions of this  
11 act or any appeal taken from the enforcement of the provisions of  
12 this act shall be in the Oklahoma County district court. The  
13 underlying purpose of this act is to assure the payment of benefits  
14 due employees, and this act shall be strictly construed to that end.

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

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

21 I. Authorization to write compensation insurance under this act  
22 shall be given to a carrier only after the carrier has received a  
23 certificate of authority from the Insurance Commissioner to transact  
24 the business of workers' compensation insurance in Oklahoma and the

1 Commission has been notified in writing of the issuance of the  
2 certificate of authority.

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

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

15 B. For such purpose:

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

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

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

24

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

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

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

14           B.   1.   Whenever the Commission has reason to believe that any  
15 employer required to secure the payment of compensation under this  
16 act has failed to do so, the Commission shall serve upon the  
17 employer a proposed order declaring the employer to be in violation  
18 of this act and containing the amount, if any, of the civil penalty  
19 to be assessed against the employer pursuant to paragraph 5 of this  
20 subsection.

21           2.   a.   An employer may contest a proposed order of the  
22                   Commission issued pursuant to paragraph 1 of this  
23                   subsection by filing with the Commission, within  
24

1 twenty (20) days of receipt of the proposed order, a  
2 written request for a hearing.

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

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

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

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

21 b. The Commission shall promptly notify the carrier of  
22 the allegation of the employer and of the date of  
23 hearing.  
24

1 c. The carrier shall promptly, and no later than five (5)  
2 days prior to the hearing, respond in writing to the  
3 allegation of the employer by providing evidence of  
4 coverage for the period in question or by  
5 affirmatively denying the allegation of the employer.

6 4. Hearings conducted under this section shall proceed as  
7 provided in Sections 80 through 87 of this act.

8 5. The Commission may assess a fine against an employer who  
9 fails to secure the payment of compensation in an amount up to One  
10 Thousand Dollars (\$1,000.00) per day of violation payable to the  
11 fund.

12 6. If an employer fails to secure the payment of compensation  
13 or pay any civil penalty assessed against the employer after an  
14 order issued pursuant to this section has become final by operation  
15 of law or upon appeal, the Commission may petition the district  
16 court of Oklahoma County or of the county where the principal place  
17 of business of the employer is located for an order enjoining the  
18 employer from engaging in further employment until the employer  
19 secures the payment of compensation or makes full payment of all  
20 civil penalties.

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

1       A. Every employer who has secured compensation under the  
2 provisions of this act shall keep posted in a conspicuous place in  
3 and about the place of business of the employer, typewritten or  
4 printed notices in accordance with a form prescribed by the Workers'  
5 Compensation Commission. The notices shall state that the employer  
6 has secured the payment of compensation in accordance with the  
7 provisions of this act.

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

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

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

17       1.    a.   Provisions that identify the insured employer and  
18            either identify each covered employee or describe  
19            covered employees by class or type of labor performed  
20            and the estimated number of employees of each such  
21            class or type.

22        b.   No single policy of workers' compensation insurance  
23            may be issued to any group of employers who are  
24            unaffiliated with one another in terms of ownership,

1 control, or right to participate in the profits of the  
2 affiliated enterprises;

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

7 3. a. The agreement of the carrier that it will promptly pay  
8 to the person entitled to compensation every  
9 installment of compensation that may be awarded or  
10 agreed upon and that this obligation shall not be  
11 affected by any default of the employer or by any  
12 default in the giving of any notice required by the  
13 policy or otherwise.

14 b. The agreement shall be construed to be a direct  
15 obligation by the carrier to the person entitled to  
16 compensation, enforceable in the name of that person;  
17 and

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

21 B. CANCELLATION.

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

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

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

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

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

15 b. A carrier shall not cancel coverage issued to an  
16 employer under this act prior to the date specified  
17 for expiration in the policy or contract or until at  
18 least thirty (30) days have elapsed after a notice of  
19 cancellation has been mailed to the Workers'  
20 Compensation Commission and to the employer, or until  
21 ten (10) days have elapsed after the notice has been  
22 mailed to the employer and to the Commission if the  
23 cancellation is for nonpayment of premium.

24

1           c.    However, if the employer procures other insurance  
2                    within the notice period, the effective date of the  
3                    new policy shall be the cancellation date of the old  
4                    policy.

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

8           C.    COVERAGE.

9           1.    No policy or contract of insurance shall be issued against  
10   liability under this act unless the policy or contract covers the  
11   entire liability of the employer. Split coverage, whereby some  
12   employees of an employer are insured by one carrier and other  
13   employees are insured by another carrier, or by the Oklahoma  
14   Workers' Compensation Insurance Plan, or a plan of self-insurance is  
15   expressly prohibited except for:

16           a.    a policy issued whereby all employees performing  
17                    services for a client under a professional employer  
18                    organization are covered under the same policy,  
19                    contract, or plan, or

20           b.    a policy issued covering the liability of an employer  
21                    or of multiple employers as to specific jobs,  
22                    ventures, contracts, or undertakings, but only if the  
23                    policy meets with the reasonable satisfaction and  
24                    approval of the Insurance Commissioner that the policy

1 is in the best interest of the employers and the  
2 employees concerned and does not unduly or improperly  
3 affect the continuity of workers' compensation  
4 coverage by seriously and negatively affecting other  
5 carriers and agents with outstanding policies issued  
6 to any of the employers in issue.

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

9 D. Under the rules and regulations as may be adopted by the  
10 Insurance Commissioner, and notwithstanding other provisions of this  
11 act, the Insurance Commissioner may certify five or more employers  
12 as an insurance group which shall be considered an employer for the  
13 purposes of this act.

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

17 A. WORKERS' HEALTH AND SAFETY DIVISION.

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

21 2. The Division shall collect and serve as a repository for  
22 statistical information on workers' health and safety. As may be  
23 deemed necessary by the Commission, and in cooperation with and with  
24 the assistance of the Department of Labor, the Oklahoma Insurance

1 Department, the state-sponsored career and technology education  
2 centers, also known as Career Tech, and the Department of  
3 Rehabilitation Services, the Division shall analyze and use the  
4 information to identify and assign priorities to safety needs and to  
5 better coordinate the safety services provided by public or private  
6 organizations, including insurance carriers. In cooperation with  
7 and with the assistance of the Department of Labor and the Oklahoma  
8 Insurance Department, the Division shall promote workers' health and  
9 safety through educational programs and other innovative programs  
10 developed by the Division.

11 3. In cooperation with and with the assistance of the  
12 Department of Labor and the Oklahoma Insurance Department, the  
13 Division shall coordinate or supervise the collection of information  
14 relating to job safety.

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

20 5. a. In cooperation with and with the assistance of the  
21 Department of Labor and the Oklahoma Insurance  
22 Department, the Division shall publish or procure and  
23 issue educational books, pamphlets, brochures, films,  
24 videotapes, and other informational and educational

1 material. Specific educational material shall be  
2 directed to high-risk industries and jobs and shall  
3 specifically address means and methods of avoiding  
4 high-frequency but preventable workers' injuries.  
5 Other educational material shall be directed to  
6 business and industry generally, and shall  
7 specifically address means and methods of avoiding  
8 common workers' injuries.

9 b. Specific decisions as to what issues and problems  
10 should be addressed by such information shall be made  
11 by the Division in cooperation with and with the  
12 assistance of the Department of Labor and the Oklahoma  
13 Insurance Department and with Commission approval  
14 after assigning appropriate priorities based on  
15 frequency of injuries, degree of hazard, severity of  
16 injuries, and similar considerations.

17 c. The educational materials shall include specific  
18 references to the requirements of state and federal  
19 laws and regulations, to recommendations and practices  
20 of business, industry, and trade associations, and,  
21 where needed, to recommended work practices based on  
22 recommendations made by the Division, in cooperation  
23 with and with the assistance of the Department of  
24

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

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

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

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

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

1 and priorities recommended by the Division in cooperation with and  
2 with the assistance of the Department of Labor and the Oklahoma  
3 Insurance Department.

4 B. JOB SAFETY INFORMATION SYSTEM.

5 1. In cooperation with and with the assistance of the  
6 Department of Labor and the Oklahoma Insurance Department, the  
7 Division shall establish and maintain a job safety information  
8 system.

9 2. a. The job safety information system shall include a  
10 comprehensive data base that incorporates all  
11 pertinent information relating to each reported  
12 injury.

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

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

19 4. In cooperation with and with the assistance of the  
20 Department of Labor and the Oklahoma Insurance Department, the  
21 Division is authorized, empowered, and directed to obtain, from any  
22 state agency, data and statistics, including those compiled for the  
23 purpose of rate making.

24

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

5       C. EXTRA-HAZARDOUS EMPLOYER PROGRAM.

6       1. a. In cooperation with and with the assistance of the  
7 Department of Labor and the Oklahoma Insurance  
8 Department, the Division shall develop a program,  
9 including injury frequency, to identify extra-  
10 hazardous employers. The term "extra-hazardous  
11 employer" includes an employer whose injury  
12 frequencies substantially exceed those that may  
13 reasonably be expected in the business or industry of  
14 that employer, an employer whose experience modifier  
15 is identified by the Commission as too high, and other  
16 employers as may, following a public hearing, be  
17 identified as extra-hazardous.

18       b. The Division shall notify each identified extra-  
19 hazardous employer or the carrier for the employer  
20 that the employer has been identified as an extra-  
21 hazardous employer.

22       2. a. An employer who receives notification under  
23 subparagraph b of paragraph 1 of this subsection must  
24 obtain a safety consultation within thirty (30) days

1 from the Department of Labor, the insurance carrier of  
2 the employer, or another professional source approved  
3 by the Division for that purpose.

4 b. The safety consultant shall file a written report with  
5 the Division and the employer setting out any  
6 hazardous conditions or practices identified by the  
7 safety consultation.

8 3. The employer and the consultant shall formulate a specific  
9 accident prevention plan that addresses the hazards identified by  
10 the consultant. The employer shall comply with the accident  
11 prevention plan.

12 4. The Division may investigate accidents occurring at the work  
13 sites of an employer for whom a plan has been formulated under  
14 paragraph 3 of this subsection, and the Division may otherwise  
15 monitor the implementation of the accident prevention plan as it  
16 finds necessary.

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

1           b.    If the Division determines that the employer has  
2                    complied with the terms of the accident prevention  
3                    plan or has implemented other acceptable corrective  
4                    measures, the Division shall so certify.

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

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

16                   (2)  the Commission may petition the Oklahoma County  
17                    district court, or the court of the county where  
18                    the business is located, for an order enjoining  
19                    the employer from engaging in further employment  
20                    until such time as the employer implements the  
21                    prevention plan or abatement measure described in  
22                    this subsection or makes payment of all civil  
23                    penalties.

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

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

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

18           D. ACCIDENT PREVENTION SERVICES.

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

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

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

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

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

21 5. If the insurance company does not maintain or provide the  
22 accident prevention services required by this subsection, or if the  
23 insurance company does not use the services in a reasonable manner  
24 to prevent injury to employees of its policyholders, the insurance

1 company may be subjected to the same civil penalties as are  
2 assessable and enforceable against employers as set forth in  
3 subparagraph c of paragraph 5 of subsection C of this section and  
4 shall be subject to suspension or revocation of license to do  
5 business in this state by the Insurance Commissioner.

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

8 E. IMMUNITY FROM CERTAIN LIABILITY.

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

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

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

23

24

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

4           A.   LIABILITY UNAFFECTED.

5           1.   a.   The making of a claim for compensation against any  
6                employer or carrier for the injury or death of an  
7                employee shall not affect the right of the employee,  
8                or the dependents of the employee, to make a claim or  
9                maintain an action in court against any third party  
10              for the injury, but the employer or the insurance  
11              carrier of the employer shall be entitled to  
12              reasonable notice and opportunity to join in the  
13              action.

14           b.   If the employer or insurance carrier of the employer,  
15                or both, join in the action, they shall be entitled to  
16                a first lien upon two-thirds (2/3) of the net proceeds  
17                recovered in the action that remain after the payment  
18                of the reasonable costs of collection, for the payment  
19                to them of the amount paid and to be paid by them as  
20                compensation to the injured employee or the dependents  
21                of the employee.

22           2.   The commencement of an action by an employee, or the  
23 dependents of the employee, against a third party for damages by  
24 reason of an injury to which this act is applicable, or the

1 adjustment of any claim, shall not affect the rights of the injured  
2 employee, or the dependents of the employee, to recover  
3 compensation, but any amount recovered by the injured employee, or  
4 the dependents of the employee, from a third party shall be applied  
5 as follows:

- 6 a. reasonable costs of collection shall be deducted,
- 7 b. then, in every case, one-third (1/3) of the remainder  
8 shall belong to the injured employee, or the  
9 dependents of the employee, as the case may be,
- 10 c. the remainder, or so much as is necessary to discharge  
11 the actual amount of the liability of the employer and  
12 the carrier, shall belong to the employer or carrier,  
13 and shall be distributed accordingly between those  
14 entities, and
- 15 d. any excess shall belong to the injured employee or the  
16 dependents of the employee.

17 B. SUBROGATION.

18 1. An employer or carrier liable for compensation under this  
19 act for the injury or death of an employee shall have the right to  
20 maintain an action in tort against any third party responsible for  
21 the injury or death. However, the employer or the carrier must  
22 notify the claimant in writing that the claimant has the right to  
23 hire a private attorney to pursue any benefits to which the claimant  
24

1 is entitled in addition to the subrogation interest against any  
2 third party responsible for the injury or death.

3 2. After reasonable notice and opportunity to be represented in  
4 the action have been given to the compensation beneficiary, the  
5 liability of the third party to the compensation beneficiary shall  
6 be determined in the action, as well as the liability of the third  
7 party to the employer and carrier.

8 3. a. After recovery shall be had against the third party,  
9 by legal action or otherwise, the compensation  
10 beneficiary shall be entitled to any amount recovered  
11 over and above the amount that the employer and  
12 carrier have paid or are liable for in compensation,  
13 after deducting reasonable costs of collection.

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

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

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

24 C. SETTLEMENT OF CLAIMS.

1           1. Settlement of claims under subsections A and B of this  
2 section must have the approval of the court or of the Commission,  
3 except that the distribution of that portion of the settlement which  
4 represents the compensation payable under this act must have the  
5 approval of the Commission.

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

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

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

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

22           SECTION 44.        NEW LAW        A new section of law to be codified  
23 in the Oklahoma Statutes as Section 342 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1       A. Any benefits payable to an injured worker under this act  
2 shall be reduced in an amount equal to, dollar-for-dollar, the  
3 amount of benefits the injured worker has previously received for  
4 the same medical services or period of disability, whether those  
5 benefits were paid under a group health care service plan, a group  
6 disability policy, a group loss of income policy, a group accident,  
7 health, or accident and health policy, a self-insured employee  
8 health or welfare benefit plan, or a group hospital or medical  
9 service contract.

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

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

19       2. a. In the event that the claimant is unable to produce  
20 releases required by this section, then the Commission  
21 shall determine the amount of such potential  
22 subrogation claims and shall direct the carrier or  
23 self-insured employer to hold in reserve only the  
24

1 specific sums determined by the Commission for a  
2 period of five (5) years.

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

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

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

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

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

19 B. For compensation payable to an injured employee for  
20 disability, other than permanent partial disability as specified in  
21 subsection D of this section, and compensation payable to surviving  
22 dependents of a deceased employee, the total disability rate shall  
23 not exceed sixty-six and two-thirds percent (66 and 2/3%) of the  
24

1 average weekly wage of the employee with a twenty-dollar-per-week  
2 minimum, subject to the following maximums:

3 1. For a disability or death which results from an injury  
4 occurring during a calendar year beginning on or after January 1,  
5 2010, the maximum weekly benefit payable shall be seventy-five  
6 percent (75%) of the state average weekly wage if, and only if, the  
7 Insurance Commissioner certifies to the Workers' Compensation  
8 Commission during December 2009, that the overall workers'  
9 compensation insurance rates for Oklahoma have decreased by at least  
10 ten percent (10%) subsequent to July 1, 2005; and

11 2. After January 1, 2010, the weekly benefit rate shall be  
12 rounded to the nearest whole dollar. In explanation, if the actual  
13 rate be a dollar amount plus forty-nine cents (49¢) or less, the  
14 rate for compensation purposes shall be the next lower whole-dollar  
15 amount, and, if the actual rate be a dollar amount plus fifty cents  
16 (50¢) or more, then the rate for compensation purposes shall be the  
17 next higher whole-dollar amount.

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

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

4           D. 1. The permanent partial disability rate for compensation  
5 payable to an employee for permanent partial disability which  
6 results from an injury occurring on or after July 1, 2010, shall not  
7 exceed sixty-six and two-thirds percent (66 and 2/3%) of the average  
8 weekly wage of the employee, with a twenty-dollar-per-week minimum,  
9 subject to a maximum of One Hundred Fifty-four Dollars (\$154.00).  
10 However, if the total disability rate of the employee for the injury  
11 would be Two Hundred Five Dollars and thirty-five cents (\$205.35)  
12 per week or greater, then the maximum permanent partial disability  
13 rate shall be seventy-five percent (75%) of the total disability  
14 rate of the employee.

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

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

1           3. The provisions of this subsection shall apply only to those  
2 injuries which occur on or after January 1, 2010.

3           E. Compensation payable to the dependents of a deceased  
4 employee shall be in addition to the funeral allowance and those  
5 benefits which were paid or to which the injured employee was  
6 entitled in the lifetime of the employee under Sections 52 through  
7 59 of this act and Sections 62 through 69 of this act.

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

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

14           B. 1. For injuries occurring on or after December 1, 2009, the  
15 employer or its insurance carrier shall pay weekly benefits for  
16 death or permanent total disability not to exceed three hundred  
17 twenty-five (325) times the maximum total disability rate  
18 established for the date of the injury under this act.

19           2. a. An employee or a dependent of an employee who receives  
20 a total of Seventy-five Thousand Dollars (\$75,000.00)  
21 in weekly benefits for injuries sustained on or before  
22 December 1, 2009, shall be eligible to continue to  
23 draw benefits at the rates prescribed in this act, but  
24 all benefits in excess of Seventy-five Thousand

1           Dollars (\$75,000.00) shall be payable from the Death  
2           and Permanent Total Disability Trust Fund.

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

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

11          4.    Each employer or the insurance carrier of the employer in  
12          each case of death of an employee where there are no dependents  
13          shall pay into the Trust Fund the sum of Five Hundred Dollars  
14          (\$500.00).

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

18          A.    1.    Notwithstanding any other definition of extra-hazardous  
19          employer as provided by Section 42 of this act, any employer who  
20          fails to utilize the consultative safety services available through  
21          the Department of Labor, its own insurance carrier, or a private  
22          safety consultant shall be identified as an extra-hazardous employer  
23          if it is established by a preponderance of the evidence that an  
24          injury or death is caused in substantial part by the failure of the

1 employer to comply with any Oklahoma statute or official regulation  
2 pertaining to the health or safety of employees or failure to follow  
3 safety consultant recommendations.

4 2. When so notified, the employer shall comply with the  
5 provisions provided by Section 42 of this act.

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

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

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

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

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

22 A. 1. Any employer who without reasonable cause refuses to  
23 return an employee who is injured in the course of employment to  
24 work, where suitable employment is available within the physical and

1 mental limitations of the employee, upon order of the Workers'  
2 Compensation Commission, and in addition to other benefits, shall be  
3 liable to pay to the employee the difference between benefits  
4 received and the average weekly wages lost during the period of the  
5 refusal, for a period not exceeding one (1) year.

6 2. In determining the availability of employment, the  
7 continuance in business of the employer shall be considered, and any  
8 written rules promulgated by the employer with respect to seniority  
9 or the provisions of any collective bargaining agreement with  
10 respect to seniority shall control.

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

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

22 3. The employee shall not be required to enter any program of  
23 vocational rehabilitation against the consent of the employee;  
24 however, no employee who waives rehabilitation or refuses to

1 participate in or cooperate for reasonable cause with either an  
2 offered program of rehabilitation or job placement assistance shall  
3 be entitled to permanent partial disability benefits in excess of  
4 the percentage of permanent physical impairment established by  
5 objective physical findings. If the employee waives rehabilitation  
6 or refuses to participate in or cooperate with an offered program or  
7 job placement assistance, then payments of benefits or awards shall  
8 be placed in a designated escrow account which shall be used for the  
9 purpose of future medical care.

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

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

22 D. Mandatory vocational rehabilitation evaluations shall  
23 include consideration of any preliminary medical prognosis or  
24 diagnosis. If it is unlikely that the claimant will be able to

1 return to the prior job or occupation previously held by the  
2 claimant, then the respondent shall present to the claimant no less  
3 than two proposed occupational recovery plans.

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

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

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

13 A. No compensation in any amount for temporary total, temporary  
14 partial, or permanent total disability shall be payable to an  
15 injured employee with respect to any week for which the injured  
16 employee receives unemployment insurance benefits under the Oklahoma  
17 Employment Security Law, or the unemployment insurance law of any  
18 other state.

19 B. Provided, however, if a claim for temporary total disability  
20 is controverted and later determined to be compensable, temporary  
21 total disability shall be payable to an injured employee with  
22 respect to any week for which the injured employee receives  
23 unemployment benefits but only to the extent that the temporary  
24

1 total disability otherwise payable exceeds the unemployment  
2 benefits.

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

6 A. For the fiscal year beginning July 1, 2010, the Workers'  
7 Compensation Commission shall allocate One Hundred Thousand Dollars  
8 (\$100,000.00) to a special project for the following purposes:

9 1. Identification of industries or jobs having a high incidence  
10 of injuries;

11 2. Determination of the causes of injuries of which there is a  
12 high incidence; and

13 3. The provision of educational or advisory services to  
14 employers and employees designed to reduce the incidence of such  
15 injuries.

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

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

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

24

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

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

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

21       D. In order to help control the cost of medical benefits, the  
22 Commission, on or before July 1, 2010, following a public hearing  
23 and with the assistance and cooperation of the Oklahoma Insurance  
24 Department, is authorized and directed to establish appropriate

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

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

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

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

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

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

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

1 treatment prior to the onset of the compensable  
2 injury, but only if the primary care physician agrees  
3 to refer the employee to a certified managed care  
4 entity for any specialized treatment, including  
5 physical therapy, and only if such primary care  
6 physician agrees to comply with all the rules, terms,  
7 and conditions regarding services performed by the  
8 managed care entity initially chosen by the employer.

9 b. A petition for change of physician shall be expedited  
10 by the commission.

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

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

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

1       The amounts payable or time periods allowable for authorized  
2 medical, hospital, and other services and treatment furnished under  
3 Sections 52 through 59 of this act, unless waived by the employer-  
4 respondent or approved by the Workers' Compensation Commission and  
5 warranted by the preponderance of the evidence on the basis of the  
6 record as a whole, are:

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

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

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

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

19       The employer shall not be liable for any of the payments  
20 provided for in Sections 52 through 59 of this act in the case of a  
21 contest of liability where the Workers' Compensation Commission  
22 shall decide that the injury does not come within the provisions of  
23 this act.

24

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

4 A. An injured employee claiming to be entitled to compensation  
5 shall submit to such physical examination and treatment by another  
6 qualified physician, designated or approved by the Workers'  
7 Compensation Commission, as the Commission may require from time to  
8 time if reasonable and necessary.

9 B. The places of examination and treatment shall be reasonably  
10 convenient for the employee.

11 C. Such physician as the employee, employer, or insurance  
12 carrier may select and pay for may participate in the examination if  
13 the employee, employer, or insurance carrier so requests.

14 D. In cases where the Commission directs examination or  
15 treatment, proceedings shall be suspended, and no compensation shall  
16 be payable for any period during which the employee refuses to  
17 submit to examination and treatment or otherwise obstructs the  
18 examination or treatment.

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

23

24

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

4 Except in cases of hernia, which are specifically covered by  
5 Section 66 of this act, where an injured person unreasonably refuses  
6 to submit to a surgical operation which has been advised by at least  
7 two qualified physicians and where the recommended operation does  
8 not involve unreasonable risk of life or additional serious physical  
9 impairment, the Workers' Compensation Commission, in fixing the  
10 amount of compensation, may take into consideration such refusal to  
11 submit to the advised operation.

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

15 A. All persons who render services or provide things mentioned  
16 in Sections 52 through 59 of this act shall submit the  
17 reasonableness of the charges to the Workers' Compensation  
18 Commission for its approval, and, when so approved, the charges  
19 shall be enforceable by the Commission in the same manner as is  
20 provided for the enforcement of compensation payments.

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

24

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

4           A.   1.   If the employee selects a physician, the Workers'  
5 Compensation Commission shall not authorize a change of physician  
6 unless the employee first establishes to the satisfaction of the  
7 Commission that there is a compelling reason or circumstance  
8 justifying a change.

9           2.   a.   If the employer selects a physician, the claimant may  
10               petition the Commission one time only for a change of  
11               physician, and if the Commission approves the change  
12               with or without a hearing, the Commission shall  
13               determine the second physician and shall not be bound  
14               by recommendations of claimant or respondent.

15           b.   However, if the change desired by the claimant is to a  
16               chiropractic physician, optometrist, or podiatrist,  
17               the claimant may make the change by giving advance  
18               written notification to the employer or carrier.

19           3.   Following establishment of an Oklahoma managed care system  
20 as provided in Section 52 of this act, paragraphs 1 and 2 of this  
21 subsection shall become null and void, and thereafter:

22           a.   (1) the employer shall have the right to select the  
23               initial primary care physician from among those  
24               associated with managed care entities certified

1 by the Commission as provided in Section 52 of  
2 this act,

3 (2) if the employer has contracted with a managed  
4 care organization certified by the Commission,  
5 the claimant employee shall be allowed to change  
6 physicians by petitioning the Commission one time  
7 only for a change of physician to a physician who  
8 must either be associated with the managed care  
9 entity chosen by the employer or be the regular  
10 treating physician of the employee who maintains  
11 the medical records of the employee and with whom  
12 the employee has a bona fide doctor-patient  
13 relationship demonstrated by a history of regular  
14 treatment prior to the onset of the compensable  
15 injury but only if the primary care physician  
16 agrees to refer the employee to the managed care  
17 entity chosen by the employer for any specialized  
18 treatment, including physical therapy, and only  
19 if the primary care physician agrees to comply  
20 with all the rules, terms, and conditions  
21 regarding services performed by the managed care  
22 entity chosen by the employer, and

23 (3) if the employer does not have a contract with a  
24 managed care organization certified by the

1 Commission, the claimant employee shall be  
2 allowed to change physicians by petitioning the  
3 Commission one time only for a change of  
4 physician, to a physician who must either be  
5 associated with any managed care entity certified  
6 by the Commission or be the regular treating  
7 physician of the employee who maintains the  
8 medical records of the employee and with whom the  
9 employee has a bona fide doctor-patient  
10 relationship demonstrated by a history of regular  
11 treatment prior to the onset of the compensable  
12 injury, but only if the primary care physician  
13 agrees to refer the employee to a physician  
14 associated with any managed care entity certified  
15 by the Commission for any specialized treatment,  
16 including physical therapy, and only if the  
17 primary care physician agrees to comply with all  
18 the rules, terms, and conditions regarding  
19 services performed by any managed care entity  
20 certified by the Commission.

- 21 b. A petition for change of physician shall be expedited  
22 by the Commission.  
23  
24

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

8 The Workers' Compensation Commission is authorized to establish  
9 rules and regulations, including schedules of maximum allowable fees  
10 for specified medical services rendered with respect to compensable  
11 injuries, for the purpose of controlling the cost of medical and  
12 hospital services and supplies provided pursuant to Sections 52  
13 through 59 of this act.

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

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

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

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

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

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

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

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

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

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

1 D. 1. No more often than annually, the carrier or self-insured  
2 employer or the Death and Permanent Total Disability Trust Fund may  
3 require an injured worker receiving permanent total disability  
4 benefits to, as of the date thereof, certify on forms provided by  
5 the Workers' Compensation Commission that the injured worker is  
6 permanently and totally disabled and not gainfully employed.

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

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

11 4. If the Commission finds that the claim of total disability  
12 was made in bad faith by the employee, or if the employee made  
13 misleading representations regarding disability benefits, the  
14 Commission may assess a fine not to exceed Five Hundred Dollars  
15 (\$500.00) against the employee. The assessed fine shall be deducted  
16 from any final award to the employee.

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

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

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

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

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

6 2. The impairment rating guide adopted by the Commission shall  
7 be subject to review by the Legislature before April 1 of every odd-  
8 numbered year beginning with the regular session of 2011.

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

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

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

21 A. An employee who sustains a permanent compensable injury  
22 scheduled in this section shall receive, in addition to compensation  
23 for temporary total and temporary partial benefits during the  
24 healing period or until the employee returns to work, whichever

1 occurs first, weekly benefits in the amount of the permanent partial  
2 disability rate attributable to the injury, for that period of time  
3 set out in the following schedule:

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

6 2. Arm amputated between the elbow and wrist, one hundred  
7 eighty-three (183) weeks;

8 3. Leg amputated at the knee, or between the knee and the hip,  
9 one hundred eighty-four (184) weeks;

10 4. Leg amputated between the knee and the ankle, one hundred  
11 thirty-one (131) weeks;

12 5. Hand amputated, one hundred eighty-three (183) weeks;

13 6. Thumb amputated, seventy-three (73) weeks;

14 7. First finger amputated, forty-three (43) weeks;

15 8. Second finger amputated, thirty-seven (37) weeks;

16 9. Third finger amputated, twenty-four (24) weeks;

17 10. Fourth finger amputated, nineteen (19) weeks;

18 11. Foot amputated, one hundred thirty-one (131) weeks;

19 12. Great toe amputated, thirty-two (32) weeks;

20 13. Toe other than great toe amputated, eleven (11) weeks;

21 14. Eye enucleated, in which there was useful vision, one  
22 hundred five (105) weeks;

23 15. Loss of hearing of one ear, forty-two (42) weeks;

24

1 16. Loss of hearing of both ears, one hundred fifty-eight (158)  
2 weeks;

3 17. Loss of one testicle, fifty-three (53) weeks; loss of both  
4 testicles, one hundred fifty-eight (158) weeks; and

5 18. Soft tissue injury, eight (8) weeks, with one possible  
6 extension, not to exceed sixteen (16) additional weeks. This  
7 paragraph overrules *Curling v. City Chevrolet*, 2007 OK CIV APP 63,  
8 164 P.3d 1141, *Gee v. All 4 Kids, Inc.*, 2006 OK CIV APP 155, 149  
9 P.3d 1106, *Sysco Food Services of Oklahoma LLC v. Cunningham*, 2007  
10 OK CIV APP 52, 162 P.3d 973, and *Urrutia v. Wendy's Old Fashioned*  
11 *Hamburgers*, 2007 OK CIV APP 104, 171 P.3d 915.

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

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

17 C. 1. Compensation for the permanent loss of eighty percent  
18 (80%) or more of the vision of an eye shall be the same as for the  
19 loss of an eye.

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

23 D. Compensation for amputation or loss of use of two or more  
24 digits or one or more phalanges of two or more digits of a hand or a

1 foot may be proportioned to the total loss of use of the hand or the  
2 foot occasioned thereby but shall not exceed the compensation for  
3 total loss of a hand or a foot.

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

6 F. Compensation for permanent partial loss or loss of use of a  
7 member shall be for the proportionate loss or loss of use of the  
8 member.

9 G. Any employee suffering a scheduled injury shall not be  
10 entitled to permanent partial disability benefits in excess of the  
11 percentage of permanent physical impairment set forth above except  
12 as otherwise provided in subsection B of Section 62 of this act.

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

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

18 2. The impairment rating guide adopted by the Commission shall  
19 be subject to review by the Legislature before April 1 of every odd-  
20 numbered year beginning with the regular session of 2011.

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

24

1           A. A permanent partial disability not scheduled in Section 64  
2 of this act shall be apportioned to the body as a whole, which shall  
3 have a value of two hundred sixty (260) weeks, and there shall be  
4 paid compensation to the injured employee for the proportionate loss  
5 of use of the body as a whole resulting from the injury.

6           B. 1. In considering claims for permanent partial disability  
7 benefits in excess of the percentage of permanent physical  
8 impairment of the employee, the Workers' Compensation Commission may  
9 take into account, in addition to the percentage of permanent  
10 physical impairment, factors such as the age of the employee,  
11 education, work experience, and other matters reasonably expected to  
12 affect the future earning capacity of the employee.

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

21           C. 1. The employer or the workers' compensation insurance  
22 carrier of the employer shall have the burden of proving the  
23 employment of the employee, or the receipt of a bona fide offer by  
24

1 the employee to be employed, at wages equal to or greater than the  
2 average weekly wage of the employee at the time of the accident.

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

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

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

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

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

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

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

8           2. The impairment rating guide adopted by the Commission shall  
9 be subject to review by the Legislature before April 1 of every odd-  
10 numbered year beginning with the regular session of 2011.

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

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

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

19                   2. That there was severe pain in the hernial region;

20                   3. That the pain caused the employee to cease work immediately;

21                   4. That notice of the occurrence was given to the employer  
22 within forty-eight (48) hours thereafter; and

23

24

1           5. That the physical distress following the occurrence of the  
2 hernia was such as to require the attendance of a licensed physician  
3 within seventy-two (72) hours after the occurrence.

4           B. 1. In every case of hernia, it shall be the duty of the  
5 employer to provide the necessary and proper medical, surgical, and  
6 hospital care and attention to effectuate a cure by radical  
7 operation of the hernia, to pay all reasonable expenses in  
8 connection with the care, and, in addition, to pay compensation not  
9 exceeding a period of twenty-six (26) weeks.

10          2. In case the employee shall refuse to permit the operation,  
11 it shall be the duty of the employer to provide all necessary first  
12 aid, medical and hospital care and service, to supply the proper and  
13 necessary truss or other mechanical appliance to enable the employee  
14 to resume work, to pay all reasonable expenses in connection with  
15 the care, and, in addition, to pay compensation not exceeding a  
16 period of thirteen (13) weeks.

17          C. In case death results within a period of one (1) year,  
18 either from the hernia or from the radical operation thereof,  
19 compensation shall be paid to the dependents of the employee as  
20 provided in other death cases under this act.

21          D. Recurrence of the hernia following radical operation thereof  
22 shall be considered a separate hernia, and the provisions and  
23 limitations regarding the original hernia shall apply.

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

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

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

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

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

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

23

24

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

4           B. 1. Commencing December 1, 2009, all cases of permanent  
5 disability or impairment in which there has been previous disability  
6 or impairment shall be compensated as provided in this section.

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

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

21           4. After the compensation liability of the employer for the  
22 last injury, considered alone, which shall be no greater than the  
23 actual anatomical impairment resulting from the last injury, has  
24 been determined by an administrative law judge or the Workers'

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

10 5. If the previous disability or impairment, whether from  
11 compensable injury or otherwise, and the last injury together result  
12 in permanent total disability, the employer at the time of the last  
13 injury shall be liable only for the actual anatomical impairment  
14 resulting from the last injury considered alone and of itself.  
15 However, if the compensation for which the employer at the time of  
16 the last injury is liable is less than the compensation provided in  
17 Sections 45 through 50 of this act for permanent total disability,  
18 then, in addition to the compensation for which the employer is  
19 liable and after the completion of payment of compensation by the  
20 employer, the employee shall be paid the remainder of the  
21 compensation that would be due for permanent total disability under  
22 Sections 45 through 50 of this act out of the fund. The remainder  
23 of the compensation paid to the employee shall be used for the  
24

1 purpose of future medical care or for any fees and costs associated  
2 with the vocational rehabilitation of the employee.

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

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

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

11 2. The State Treasurer, with the advice and consent of the  
12 Attorney General, may enter into settlements as contemplated by  
13 Sections 97 and 98 of this act.

14 3. All awards for permanent partial disability or for permanent  
15 total disability affecting the fund shall be subject to the  
16 provisions of this act which govern review and appeal.

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

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

24

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

4 If any injured employee refuses employment suitable to the  
5 capacity of the employee, offered to or procured for the employee,  
6 the employee shall not be entitled to any compensation during the  
7 continuance of the refusal, unless in the opinion of the Workers'  
8 Compensation Commission, the refusal is justifiable.

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

12 A. FUNERAL EXPENSES. If death results from an injury occurring  
13 on or after December 1, 2009, the employer shall pay the actual  
14 funeral expenses, not exceeding the sum of Six Thousand Dollars  
15 (\$6,000.00).

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

21 C. BENEFICIARIES - AMOUNTS. Subject to the limitations as set  
22 out in Sections 45 through 50 of this act, compensation for the  
23 death of an employee shall be paid to those persons who were wholly  
24 and actually dependent upon the deceased employee in the following

1 percentage of the average weekly wage of the employee and in the  
2 following order of preference:

3 1. a. (1) To the widow if there is no child, thirty-five  
4 percent (35%), and the compensation shall be paid  
5 until her death or remarriage.

6 (2) However, the widow shall establish, in fact, some  
7 dependency upon the deceased employee before she  
8 will be entitled to benefits as provided in this  
9 section, and

10 b. (1) To the widower if there is no child, thirty-five  
11 percent (35%), and the compensation shall be paid  
12 until his death or remarriage.

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

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

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

22 b. If more than one child, and there is no widow or  
23 widower, fifteen percent (15%) for each child, and in  
24

1           addition thereto, thirty-five percent (35%) to the  
2           children as a class, to be divided equally among them;

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

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

6           D. TERMINATIONS OF DEPENDENCE.

7           1. In the event the widow or widower remarries or cohabits with  
8           a member of the opposite gender in a relationship resembling a  
9           marriage before full and complete payment to the widow or widower of  
10          the benefits provided in subsection C of this section, there shall  
11          be paid a lump sum equal to compensation for fifty-two (52) weeks,  
12          subject to the limitation set out in Sections 45 through 50 of this  
13          act.

14          2. A physically or mentally incapacitated child, grandchild,  
15          brother, or sister shall be entitled to compensation as a dependent  
16          of the deceased employee without regard to age or marital status,  
17          but if physically or mentally capacitated to earn a livelihood,  
18          dependency shall terminate with the attainment of eighteen (18)  
19          years of age or upon marriage. However, benefits to an otherwise  
20          eligible child shall not terminate at the age of eighteen (18) years  
21          provided the child is a full-time student who has not attained the  
22          age of twenty-five (25) years.

23          E. APPORTIONMENT OF BENEFITS. Where, because of the limitation  
24          in subsection C of this section, a person or class of persons cannot

1 receive the percentage of compensation specified as payable to or on  
2 account of the person or class, there shall be available to the  
3 person or class that proportion of the percentage which, when added  
4 to the total percentage payable to all persons having priority or  
5 preference, will not exceed a total of sixty-five percent (65%),  
6 which proportion shall be paid:

7 1. To that person; or

8 2. To that class in equal shares unless the Workers'

9 Compensation Commission determines otherwise in accordance with the  
10 provisions of subsection F of this section.

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

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

24

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

3 I. PARTIAL DEPENDENCY.

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

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

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

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

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

24

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

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

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

- 10 1. The name, address, and business of the employer;
- 11 2. The name, address, and occupation of the employee;
- 12 3. The cause and nature of the injury or death;
- 13 4. The year, month, day, and hour when, and the particular  
14 locality where, the injury or death occurred; and
- 15 5. Such other information as the Commission may require.

16 B. Additional reports with respect to the injury and of the  
17 condition of the employee shall be sent by the employer to the  
18 Commission at the time and in the manner as the Commission may  
19 prescribe.

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

24

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

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

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

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

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

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

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

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

4 G. Hearings conducted under this section shall proceed as  
5 provided in Sections 80 through 88 of this act.

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

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

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

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

22 A. Where an employee suffers from an occupational disease as  
23 defined in this section and Sections 75 and 76 of this act, and is  
24 disabled or dies as a result of the disease and where the disease

1 was due to the nature of the occupation or process in which the  
2 employee was employed within the period previous to disablement as  
3 limited in subsection G of this section, then the employee, or, in  
4 case of death, the dependents of the employee, shall be entitled to  
5 compensation as if the disablement or death were caused by injury,  
6 except as otherwise provided in this section and Sections 75 and 76  
7 of this act.

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

14 C. Where an occupational disease is aggravated by any other  
15 disease or infirmity, not itself compensable, or where disability or  
16 death from any other cause, not itself compensable, is aggravated,  
17 prolonged, accelerated, or in any way contributed to by an  
18 occupational disease, the compensation payable shall be reduced and  
19 limited to the proportion only of the compensation that would be  
20 payable if the occupational disease were the sole cause of the  
21 disability or death as the occupational disease, as a causative  
22 factor, bears to all the causes of the disability or death.

23 D. No compensation for death from an occupational disease shall  
24 be payable to any person whose relationship to the deceased which,

1 under the provisions of this act, would give right to compensation,  
2 arose subsequent to the beginning of the first compensable  
3 disability except to a child or children of a marriage born after  
4 the death and existing at the beginning of the disability.

5 E. 1. a. "Occupational disease", as used in this act, unless  
6 the context otherwise requires, means any disease that  
7 results in disability or death and arises out of and  
8 in the course of the occupation or employment of the  
9 employee or naturally follows or unavoidably results  
10 from an injury as that term is defined in this act.

11 b. However, a causal connection between the occupation or  
12 employment and the occupational disease must be  
13 established by a preponderance of the evidence.

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

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

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

1           2. The amount of the compensation shall be based upon the  
2 average weekly wage of the employee when last injuriously exposed  
3 under the employment, and the notice of injury and claim for  
4 compensation, as required pursuant to this section and Sections 75  
5 and 76 of this act, shall be given and made to the employer.

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

8           a. the disease is due to the nature of an employment in  
9           which the hazards of the disease actually exist and  
10           are characteristic thereof and peculiar to the trade,  
11           occupation, process, or employment and is actually  
12           incurred in the employment of the employee. This  
13           includes any disease due to or attributable to  
14           exposure to or contact with any radioactive material  
15           by an employee in the course of employment,

16           b. disablement or death results within three (3) years in  
17           case of silicosis or asbestosis, or one (1) year in  
18           case of any other occupational disease, except a  
19           diseased condition caused by exposure to X rays,  
20           radioactive substances, or ionizing radiation, after  
21           the last injurious exposure to the disease in the  
22           employment, or

23           c. in case of death, death follows continuous disability  
24           from the disease, commencing within the period above

1 limited, for which compensation has been paid or  
2 awarded or timely claim made as provided in this  
3 section and Sections 75 and 76 of this act and results  
4 within seven (7) years after the last exposure.

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

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

11 A. As used in this section and Sections 74 and 76 of this act,  
12 unless the context otherwise requires:

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

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

17 B. In the absence of conclusive evidence in favor of the claim,  
18 disability or death from silicosis or asbestosis shall be presumed  
19 not to be due to the nature of any occupation within the provision  
20 of this section and Sections 74 and 76 of this act unless during the  
21 ten (10) years immediately preceding the date of disablement the  
22 employee has been exposed to the inhalation of silica dust or  
23 asbestos dust over a period of not less than five (5) years, two (2)  
24 years of which shall have been in this state, under a contract of

1 employment existing in this state. However, if the employee has  
2 been employed by the same employer during the whole of the five-year  
3 period, the right to compensation against the employer shall not be  
4 affected by the fact that the employee had been employed during any  
5 part of the period outside of this state.

6 C. Except as provided in this section and Sections 74 and 76 of  
7 this act, compensation for disability from uncomplicated silicosis  
8 or asbestosis shall be payable in accordance with the provisions of  
9 Sections 62 through 69 of this act. However, no compensation shall  
10 be payable for disability from silicosis or asbestosis of less than  
11 thirty-three and one-third percent (33 and 1/3%) of the total  
12 disability.

13 D. 1. In case of disability or death from silicosis or  
14 asbestosis complicated with tuberculosis of the lungs, compensation  
15 shall be payable as for uncomplicated silicosis or asbestosis,  
16 provided that the silicosis or asbestosis was an essential factor in  
17 the causing of disability or death.

18 2. In case of disability or death from silicosis or asbestosis  
19 complicated with any other disease, or from any other disease  
20 complicated with silicosis or asbestosis, the compensation shall be  
21 reduced as provided in subsection C of Section 74 of this act.

22 E. 1. a. (1) Where an employee, though not actually disabled,  
23 is found by the Workers' Compensation Commission  
24 to be affected by silicosis or asbestosis to such

1 a degree as to make it unduly hazardous for the  
2 employee to continue in an employment involving  
3 exposure to the hazards of the disease, the  
4 Commission may order that the employee be removed  
5 from employment. In such a case, or in case the  
6 employee has already been discharged from the  
7 employment and is unemployed, the employee shall  
8 be entitled to compensation until the employee  
9 can obtain steady employment in some other  
10 suitable occupation in which there are no hazards  
11 of the disease.

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

17 b. In case the employee obtains other suitable employment  
18 at reduced wages, the payments of compensation during  
19 such part of the twenty-six-week period as the  
20 employee is so employed shall be at the rate  
21 prescribed in Section 63 of this act.

22 2. a. When in any case the forced change of employment  
23 shall, in the opinion of the Commission, require that  
24 the employee be given special training in order to fit

1 the employee for another occupation, the employer  
2 liable for compensation shall pay for the training and  
3 incidental traveling expenses.

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

6 c. No payment, however, shall be made unless the employee  
7 accepts the special training directed by the  
8 Commission, nor shall payment be made for a longer  
9 period than the employee submits to the training.

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

18 4. However, neither a claim for nor receipt of compensation or  
19 benefits under this subsection shall bar the employee from any right  
20 to compensation for actual disability from silicosis or asbestosis  
21 if the disability results not later and within the time limited in  
22 subsection G of Section 74 of this act.

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

4           A.   1.   Except as otherwise provided in this section and  
5 Sections 74 and 75 of this act, procedure with respect to notice of  
6 disability or death and as to the filing of claims and determination  
7 of claims shall be the same as in cases of accidental injury or  
8 death.

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

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

16           B.   An award or denial of award of compensation for an  
17 occupational disease may be reviewed and compensation increased,  
18 reduced, or terminated where previously awarded, or awarded where  
19 previously denied, only upon proof of fraud or undue influence or of  
20 change of condition, and then only upon application by a party in  
21 interest made not later than one (1) year after the denial of award  
22 or, where compensation has been awarded, after the award or the date  
23 when the last payment was made under the award, except in cases of  
24

1 silicosis or asbestosis, where the time limit shall be two (2)  
2 years.

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

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

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

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

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

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

1           b.    employee had no knowledge that the condition or  
2                    disease arose out of and in the course of the  
3                    employment, or

4           c.    the Commission excuses the failure on the grounds that  
5                    for some satisfactory reason the notice could not be  
6                    given.

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

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

12           A.    TIME FOR FILING.

13           1.    A claim for compensation for disability on account of an  
14 injury, other than an occupational disease and occupational  
15 infection, shall be barred unless filed with the Workers'  
16 Compensation Commission within one (1) year from the date of the  
17 compensable injury. If during the two-year period following the  
18 filing of the claim the claimant receives no weekly benefit  
19 compensation and receives no medical treatment resulting from the  
20 alleged injury, the claim shall be barred. For purposes of this  
21 section, the date of the compensable injury shall be defined as the  
22 date an injury is caused by an accident as set forth in paragraph 4  
23 of Section 4 of this act.

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

7                    b.    However, a claim for compensation for disability on  
8                    account of silicosis or asbestosis must be filed with  
9                    the Commission within one (1) year after the time of  
10                    disablement, and the disablement must occur within  
11                    three (3) years from the date of the last injurious  
12                    exposure to the hazard of silicosis or asbestosis.

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

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

23        4.    If within six (6) months after the filing of a claim for  
24                    compensation no bona fide request for a hearing has been made with

1 respect to the claim, the claim may, upon motion and after hearing,  
2 be dismissed with prejudice to the refileing of the claim within  
3 limitation periods specified in subparagraphs 1 through 3 of this  
4 subsection.

5 B. TIME FOR FILING ADDITIONAL COMPENSATION.

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

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

19 C. A claim for additional compensation must specifically state  
20 that it is a claim for additional compensation. Documents which do  
21 not specifically request additional benefits shall not be considered  
22 a claim for additional compensation.

23 D. If within six (6) months after the filing of a claim for  
24 additional compensation no bona fide request for a hearing has been

1 made with respect to the claim, the claim may, upon motion and after  
2 hearing, if necessary, be dismissed with prejudice to the refiling  
3 of the claim within the limitation period specified in subsection B  
4 of this section.

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

9 F. PERSONS UNDER DISABILITY.

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

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

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

24

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

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

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

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

11           The Workers' Compensation Commission is authorized and directed  
12 to promulgate appropriate rules to establish and implement, for  
13 claims with respect to injuries occurring on or after December 1,  
14 2009, a preliminary conference procedure designed to accomplish the  
15 following objectives:

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

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

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

3 4. a. (1) To authorize the legal advisor to approve  
4 compromise settlements entered into at or as a  
5 result of the preliminary conference and those  
6 joint petition settlements entered into pursuant  
7 to Section 98 of this act.

8 (2) Provided, however, the same legal advisors shall  
9 not both advise the claimant and approve the  
10 joint petition.

11 b. The purpose and intent of this section is to affirm  
12 the duty of the Commission to provide legal  
13 assistance, thereby reducing litigation and workers'  
14 compensation costs.

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

18 A. NOTICE. Within ten (10) days after a claim for compensation  
19 has been filed, the Workers' Compensation Commission shall notify  
20 the employer and any other interested person of the filing of the  
21 claim.

22 B. INVESTIGATION - HEARING.

23 1. The Commission shall make or cause to be made such  
24 investigation as it considers necessary in respect to the claim, and

1 upon application of any interested party, or on its own motion,  
2 shall order a hearing.

3 2. An application for a hearing must set forth clearly the  
4 specific issues of fact or law in controversy and the contentions of  
5 the party applying for the hearing.

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

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

14 b. The hearing shall be held at the Career Tech center  
15 nearest to the location of the accident or the  
16 residence of the claimant, unless otherwise agreed to  
17 between the parties, or otherwise directed by the  
18 Commission. If the accident occurred outside the  
19 State of Oklahoma, and is one for which compensation  
20 is payable under this section and Sections 77 through  
21 93 of this act, the hearing may be held in the county  
22 of the residence or place of business of the employer,  
23 or any other county in the State of Oklahoma which  
24

1 will, in the discretion of the Commission, be most  
2 convenient for the hearing.

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

7 6. a. If an application for review is filed in the office of  
8 the Commission within thirty (30) days from the date  
9 of the receipt of the award, the full Commission shall  
10 review the evidence or, if deemed advisable, hear the  
11 parties, their representatives, and witnesses, and  
12 shall make awards, together with its rulings of law,  
13 and file same in like manner as specified in the  
14 foregoing.

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

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

24 C. EVIDENCE AND CONSTRUCTION.

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

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

8 b. Any determination of the existence or extent of  
9 physical impairment shall be supported by objective  
10 and measurable physical or mental findings.

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

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

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

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

1 E. AWARD AFTER DEATH.

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

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

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

10 A. CONDUCT OF HEARING OR INQUIRY.

11 1. In making an investigation or inquiry or conducting a  
12 hearing, the Workers' Compensation Commission shall not be bound by  
13 technical or statutory rules of evidence or by technical or formal  
14 rules of procedure, except as provided by this act, but may make  
15 such investigation or inquiry, or conduct the hearing, in a manner  
16 as will best ascertain the rights of the parties.

17 2. Declarations of a deceased employee concerning the injury in  
18 respect of which the investigation or inquiry is being made, or the  
19 hearing conducted, may be received in evidence and may, if  
20 corroborated by other evidence, be sufficient to establish the  
21 injury.

22 3. When deciding any issue, administrative law judges and the  
23 Commission shall determine, on the basis of the record as a whole,  
24

1 whether the party having the burden of proof on the issue has  
2 established it by a preponderance of evidence.

3 B. HEARINGS TO BE PUBLIC - RECORDS.

4 1. a. Hearings before the Commission shall be open to the  
5 public and shall be stenographically reported or  
6 recorded in any other accurate and practicable manner.

7 The Commission is authorized to contract for the  
8 reporting of the hearings.

9 b. The Commission shall, by rule, provide for the  
10 preparation of a record of all hearings and other  
11 proceedings before it.

12 2. However, the Commission shall not be required to  
13 stenographically report or prepare a record of joint petition  
14 hearings. Instead, the administrative law judge or legal advisor  
15 shall tape the hearing at no cost to the parties.

16 C. INTRODUCTION OF EVIDENCE.

17 1. a. All oral evidence or documentary evidence shall be  
18 presented to the designated representative of the  
19 Commission at the initial hearing on a controverted  
20 claim, which evidence shall be stenographically  
21 reported or recorded in any other accurate and  
22 practicable manner.

23 b. Each party shall present all evidence at the initial  
24 hearing.

1 c. (1) Further hearings for the purpose of introducing  
2 additional evidence will be granted only at the  
3 discretion of the hearing officer or Commission.

4 (2) A request for a hearing for the introduction of  
5 additional evidence shall show the substance of  
6 the evidence desired to be presented.

7 2. a. Any party proposing to introduce medical reports or  
8 testimony of physicians at the hearing of a  
9 controverted claim shall, as a condition precedent to  
10 the right to do so, furnish to the opposing party and  
11 to the Commission copies of the written reports of the  
12 physicians of their findings and opinions at least ten  
13 (10) days prior to the date of the hearing. However,  
14 if no written reports are available to a party, then  
15 the party shall, in lieu of furnishing the report,  
16 notify in writing the opposing party and the  
17 Commission of the name and address of the physicians  
18 proposed to be used as witnesses at least ten (10)  
19 days prior to the hearing and the substance of their  
20 anticipated testimony.

21 b. If the opposing party desires to cross-examine the  
22 physician, the opposing party should notify the party  
23 who submits a medical report as soon as practicable,  
24 in order that the party submitting a medical report

1                   may make every effort to have the physician present  
2                   for the hearing.

3           3. A party failing to observe the requirements of this  
4 subsection may not be allowed to introduce medical reports or  
5 testimony of physicians at a hearing, except in the discretion of  
6 the hearing officer or the Commission.

7           4. The time periods may be waived by the consent of the  
8 parties.

9           D. Expert testimony shall not be allowed unless it satisfies  
10 the requirements of Rule 702 of the Federal Rules of Evidence with  
11 annotations and amendments, that is, *Daubert v. Merrell-Dow*  
12 *Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and *Kumho Tire Co. v.*  
13 *Carmichael*, 526 U.S. 137 (1999).

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

17           A. The Workers' Compensation Commission shall have the power to  
18 preserve and enforce order during any proceeding held before it, to  
19 issue subpoenas for, administer oaths to, and compel the attendance  
20 and testimony of witnesses, and require the production of books,  
21 papers, documents, and other evidence.

22           B. If any person or party in proceedings before the Commission  
23 disobeys or resists any lawful order or process, or misbehaves  
24 during a hearing, or so near the place of the hearing so as to

1 obstruct the hearing or neglects to produce, after having been  
2 ordered to do so, any book, paper, or document, or refuses to appear  
3 after having been subpoenaed, or upon appearing refuses to take oath  
4 as a witness, or after having taken the oath refuses to be examined  
5 according to law, or refuses to comply with any final order of an  
6 administrative law judge or the Commission, or willfully refuses to  
7 pay an uncontroverted medical or related expense within thirty (30)  
8 days after the respondent has received the statement, then the  
9 person or party, at the discretion of the administrative law judge  
10 or the Commission, may be found to be in contempt of the Commission  
11 and may be subject to a fine not to exceed Ten Thousand Dollars  
12 (\$10,000.00).

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

16 In any proceeding for the enforcement of a claim for  
17 compensation, the following prima facie presumptions shall exist:

- 18 1. The Workers' Compensation Commission has jurisdiction;
- 19 2. Sufficient notice was given; and
- 20 3. The injury was not occasioned by the willful intention of  
21 the injured employee to bring about the injury of the employee or  
22 another.

23  
24

1 SECTION 84. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 382 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 The Workers' Compensation Commission may cause depositions of  
5 witnesses to be taken in such manner as it may direct.

6 SECTION 85. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 383 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 Each witness who appears in obedience to a subpoena shall be  
10 entitled to the same fees as witnesses in a civil action in the  
11 district court.

12 SECTION 86. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 384 of Title 85, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. Where the Workers' Compensation Commission is a party to or  
16 is otherwise interested in a court proceeding under this act, it  
17 shall request representation by the Office of the Attorney General  
18 to appear in its behalf.

19 B. If requested by the Commission, it shall be the duty of the  
20 Attorney General or the prosecuting attorneys of the different  
21 districts to represent the Commission without extra compensation.

22 SECTION 87. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 385 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1           A.    AWARD OR ORDER OF ADMINISTRATIVE LAW JUDGE OR SINGLE  
2 COMMISSIONER - REVIEW.

3           1.    A compensation order or award of an administrative law judge  
4 or a single commissioner shall become final unless a party to the  
5 dispute shall, within thirty (30) days from the receipt of the order  
6 or award, petition in writing for a review by the full Commission of  
7 the order or award.

8           2.    Any other party to the dispute may cross appeal by filing a  
9 written petition for cross appeal within fifteen (15) days after the  
10 notice of appeal is filed in the office of the Workers' Compensation  
11 Commission, except that in no event shall a cross appellant have  
12 less than thirty (30) days from the receipt of the order or award  
13 within which to file a notice of cross appeal.

14           B.    AWARD OR ORDER OF COMMISSION - APPEAL.

15           1.    A compensation order or award of the Commission shall become  
16 final unless a party to the dispute shall, within thirty (30) days  
17 from receipt of the order or award, file notice of appeal to the  
18 Court of Appeals, which is designated as the forum for judicial  
19 review of those orders and awards.

20           a.    The appeal to the court may be taken by filing in the  
21 office of the Commission, within thirty (30) days from  
22 the date of the receipt of the order or award of the  
23 Commission, a notice of appeal, whereupon the  
24 Commission under its certificate shall send to the

1 court all pertinent documents and papers, together  
2 with a transcript of evidence and the findings and  
3 orders, which shall become the record of the cause.

4 b. Any other party to the dispute may cross appeal by  
5 filing in the office of the Commission a notice of  
6 cross appeal to the court within fifteen (15) days  
7 after the notice of appeal is filed, except that in no  
8 event shall a cross appellant have less than thirty  
9 (30) days from receipt of the order or award of the  
10 Commission within which to file a notice of cross  
11 appeal.

12 c. The Commission may assess and collect an appeal  
13 processing fee not to exceed Fifteen Dollars (\$15.00)  
14 from the appellant and, if cross appealed, the cross  
15 appellant.

16 2. Appeals from the Commission to the court shall be allowed as  
17 in other civil actions and shall take precedence over all other  
18 civil cases appealed to the court.

19 3. a. Upon appeal to the court, no additional evidence shall  
20 be heard.

21 b. In the absence of fraud, the findings of fact made by  
22 the Commission within its power shall be conclusive  
23 and binding upon the court and shall be given the same  
24 force and effect as in cases decided by the Supreme

1 Court, except subject to review as in paragraph 4 of  
2 this subsection.

3 4. The court shall review only questions of law and may modify,  
4 reverse, remand for rehearing, or set aside the order or award, upon  
5 any of the following grounds, and no other, that the:

- 6 a. Commission acted without or in excess of its powers,
- 7 b. order or award was procured by fraud,
- 8 c. facts found by the Commission do not support the order  
9 or award, or
- 10 d. order or award was not supported by substantial  
11 evidence of record.

12 C. APPEAL COSTS.

13 1. In all appeals, the cost shall be assessed as provided by  
14 law in civil cases.

15 2. The Commission may require a bond from either party, if it  
16 deems necessary, in cases appealed to the court.

17 SECTION 88. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 386 of Title 85, unless there is  
19 created a duplication in numbering, reads as follows:

20 If any employer fails to comply with a final compensation order  
21 or award, any beneficiary of the order or award, or the Workers'  
22 Compensation Commission, may file a certified copy of the order or  
23 award in the office of the district clerk of any county in this  
24 state where any property of the employer may be found. At that

1 time, the court clerk shall enter the order or award in the judgment  
2 record of the county, and the order or award so recorded shall be a  
3 judgment and lien as are judgments of the district court, and  
4 enforceable as such.

5 SECTION 89. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 387 of Title 85, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. 1. Except where a joint petition settlement has been  
9 approved, the Workers' Compensation Commission may review any  
10 compensation order, award, or decision.

11 2. Review of any compensation order, award, or decision may be  
12 done at any time within six (6) months of termination of the  
13 compensation period fixed in the original compensation order or  
14 award, upon the motion of the Commission or upon the application of  
15 any party in interest, on the ground of a change in physical  
16 condition or upon proof of erroneous wage rate.

17 3. Upon the review, the Commission may make an order or award  
18 terminating, continuing, decreasing, or increasing for the future  
19 the compensation previously awarded, subject to the maximum limits  
20 provided for in this act.

21 B. The review and subsequent order or award shall be made in  
22 accordance with the procedure prescribed in Section 80 of this act.

23 C. No review shall affect any compensation paid pursuant to a  
24 prior order or award.

1 D. The Commission may, at any time, correct any clerical error  
2 in any compensation order or award.

3 E. Aging and the effects of aging on a compensable injury are  
4 not to be considered in determining whether there has been a change  
5 in physical condition. Nor shall aging or the effect of aging on a  
6 compensable injury be considered in determining permanent disability  
7 pursuant to this section or any other section in this act. The  
8 purpose and intent of this section is to annul any and all case law  
9 inconsistent with this section.

10 SECTION 90. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 388 of Title 85, unless there is  
12 created a duplication in numbering, reads as follows:

13 If the court having jurisdiction of proceedings in respect of  
14 any claim or compensation order determines that the proceedings in  
15 respect to the claim or order have been instituted or continued  
16 without reasonable grounds, the cost of the proceedings shall be  
17 assessed against the party who has instituted or continued the  
18 proceedings.

19 SECTION 91. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 389 of Title 85, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. 1. a. Fees for legal services rendered in respect of a claim  
23 shall not be valid unless approved by the Workers'  
24 Compensation Commission.

1           b.    Attorney fees shall be twenty percent (20%) of  
2                    compensation for indemnity benefits payable to the  
3                    injured employee or dependents of a deceased employee  
4                    or twenty percent (20%) of a bona fide offer.  In the  
5                    event the bona fide offer is not accepted and the  
6                    claim is heard at an administrative hearing, the  
7                    attorney fee shall be the percentage of the amount in  
8                    excess of the bona fide offer that represents the  
9                    value added by the services and efforts of the  
10                   attorney.  Attorney fees shall not be awarded on  
11                   medical benefits or services except as provided in  
12                   paragraph 4 of this subsection.

13         2.    a.    Whenever the Commission finds that a claim against the  
14                   State Treasurer, as custodian of the Second Injury  
15                   Trust Fund or as custodian of the Death and Permanent  
16                   Total Disability Trust Fund, has been controverted, in  
17                   whole or in part, the Commission shall direct that  
18                   fees for legal services be paid from the fund, in  
19                   addition to compensation awarded, and the fees shall  
20                   be allowed only on the amount of compensation  
21                   controverted and awarded from the fund.

22           b.    (1)  In all other cases, including, but not limited  
23                    to, cases where the adequacy of medical treatment  
24                    is controverted or there has been a controverted

1 change of physician, where the Commission finds  
2 that a claim has been controverted, in whole or  
3 in part, the Commission shall direct that fees  
4 for legal services be paid to the attorney for  
5 the claimant as follows: one-half (1/2) by the  
6 employer or carrier in addition to compensation  
7 awarded; and one-half (1/2) by the injured  
8 employee or dependents of a deceased employee out  
9 of compensation payable to them.

10 (2) The fees shall be allowed only on the amount of  
11 compensation for indemnity benefits controverted  
12 and awarded.

13 (3) However, the Commission shall not find that a  
14 claim has been controverted if the claimant or  
15 the representative of the claimant has withheld  
16 from the respondent during the period of time  
17 allotted for the respondent to determine its  
18 position any medical information in the  
19 possession of the claimant which substantiates  
20 the claim.

21 c. (1) Whenever the Commission finds that a claim has  
22 not been controverted but further finds that bona  
23 fide legal services have been rendered in respect  
24 to the claim, then the Commission shall direct

1 the payment of the fees by the injured employee  
2 or dependents of a deceased employee out of the  
3 compensation awarded as provided in subparagraph  
4 a of paragraph 1 of this subsection.

5 (2) In determining the amount of fees when a claim is  
6 not controverted, the Commission shall use its  
7 discretion in awarding an attorney fee not to  
8 exceed twenty percent (20%) as provided in  
9 subparagraph a of paragraph 1 of this subsection  
10 and in so doing shall take into consideration the  
11 nature, length, and complexity of the services  
12 performed and the benefits resulting to the  
13 compensation beneficiaries.

14 3. In any case where attorney fees are allowed by the  
15 Commission, the limitations expressed in paragraph 1 of this  
16 subsection shall apply.

17 4. Medical providers may voluntarily contract with the attorney  
18 for the claimant to recover disputed bills, and the attorney may  
19 charge a reasonable fee to the medical provider as a cost of  
20 collection.

21 B. 1. If the claimant prevails on appeal, the attorney for the  
22 claimant shall be entitled to an additional fee at the full  
23 Commission and appellate court levels in addition to the fees  
24 provided in paragraph 1 of subsection A of this section, the

1 additional fee to be paid equally by the employer or carrier and by  
2 the injured employee or dependents of a deceased employee, as  
3 provided in this subsection and set by the Commission or appellate  
4 court.

5 2. The maximum fees allowable pursuant to this subsection shall  
6 be the sum of Five Hundred Dollars (\$500.00) on appeals to the full  
7 Commission from a decision of the administrative law judge and the  
8 sum of One Thousand Dollars (\$1,000.00) on appeals to the Court of  
9 Appeals or Supreme Court from a decision of the Commission.

10 3. In determining the amount of fees, the Commission and the  
11 Court shall take into consideration the nature, length, and  
12 complexity of the services performed and the benefits resulting to  
13 the compensation beneficiary.

14 C. 1. The fee for legal services rendered by the attorney of  
15 the claimant in connection with a change of physician requested by  
16 the injured employee, controverted by the employer or carrier and  
17 awarded by the Commission, shall be Two Hundred Dollars (\$200.00).

18 2. No additional fee shall be payable with respect to  
19 uncontroverted charges incurred in connection with treatment by the  
20 new physician.

21 D. 1. No fees for legal services rendered by the attorney of  
22 the claimant with respect to the preliminary conference procedure  
23 shall be awarded by the Commission.

24

1           2. However, the attorney of the claimant or other  
2 representative may charge a reasonable fee to the claimant for  
3 representation in connection with the conference.

4           3. Unless compensability of a claim is controverted by the  
5 employer or carrier, fees for legal services by the attorney of the  
6 claimant with respect to disability for loss of wage-earning  
7 capacity shall be payable only for amounts awarded at a contested  
8 hearing which exceed the amount, if any, which the employer or  
9 carrier agreed in writing to accept at the preliminary conference.

10          E. Attorney fees contained in this section shall be effective  
11 with respect to benefits payable in connection with disability or  
12 death due to injuries occurring on or after December 1, 2009.

13          SECTION 92.        NEW LAW        A new section of law to be codified  
14 in the Oklahoma Statutes as Section 390 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16          A. The Workers' Compensation Commission is authorized to  
17 approve lump-sum attorney fees for legal services rendered in  
18 respect of a claim before the Commission.

19          B. The lump-sum attorney fees are allowable notwithstanding  
20 that the award of compensation to the injured employee is to be paid  
21 on an installment basis.

22          C. Lump-sum attorney fees, if approved by the Commission, shall  
23 be discounted at the rate provided in Section 97 of this act, as  
24 that provision may be amended from time to time.

1           SECTION 93.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 391 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. 1. a.    Every claim, request for benefits, request for  
5                    additional benefits, controversion of benefits,  
6                    request for a hearing, pleading, motion, and other  
7                    paper of a party represented by an attorney shall be  
8                    signed by at least one attorney of record in the  
9                    individual name of the attorney of record, whose  
10                   address shall be stated.

11           b.    A party who is not represented by an attorney shall  
12                   sign the claim, request for benefits, request for  
13                   additional benefits, controversion of benefits,  
14                   request for a hearing, pleading, motion, or other  
15                   paper, and state the address of the party.

16           2.    The signature of an attorney or party constitutes a  
17 certificate by the attorney or party that:

18           a.    the attorney or party has read the claim, request for  
19                   benefits, request for additional benefits,  
20                   controversion of benefits, request for a hearing,  
21                   pleading, motion, or other paper,

22           b.    to the best of the knowledge, information, and belief  
23                   of the attorney or party formed after reasonable  
24                   inquiry, it is well grounded in fact and is warranted

1 by existing law or a good faith argument for the  
2 extension, modification, or reversal of existing law,  
3 and

4 c. it is not interposed for any improper purpose, such as  
5 to harass or to cause unnecessary delay or needless  
6 increase in the cost of litigation.

7 3. If a claim, request for benefits, request for additional  
8 benefits, controversion of benefits, request for a hearing,  
9 pleading, motion, or other paper is not signed, it shall be stricken  
10 unless it is signed promptly after the omission is called to the  
11 attention of the pleader or movant.

12 4. If a claim, request for benefits, request for additional  
13 benefits, controversion of benefits, request for a hearing,  
14 pleading, motion, or other paper is signed in violation of this  
15 rule, the Workers' Compensation Commission, including administrative  
16 law judges, upon motion or upon their own initiative, shall impose  
17 upon the person who signed it, a represented party, or both, an  
18 appropriate sanction, which may include an order to pay to the other  
19 party or parties the amount of reasonable expenses incurred because  
20 of the filing of a claim, request for benefits, request for  
21 additional benefits, controversion of benefits, request for a  
22 hearing, pleading, motion, or other paper, including a reasonable  
23 attorney fee.

1 B. Appropriate sanctions, including the amount of reasonable  
2 expenses and attorney fees, may also be imposed against a party or  
3 its attorney who, without good cause shown, fails to appear for a  
4 hearing, deposition, or any other matter scheduled by the Commission  
5 or administrative law judge, or frivolously joins another party.

6 SECTION 94. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 392 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. Compensation shall be paid by check, direct deposit, or by  
10 state warrant.

11 B. Payment shall be made payable to the order of the person  
12 entitled to the compensation and paid directly to the person  
13 entitled to the compensation.

14 C. If the compensation beneficiary is mentally incompetent or a  
15 minor of tender years or immature judgment, the Workers'  
16 Compensation Commission, in the exercise of its discretion, may  
17 direct that payment shall be made to a legally appointed guardian of  
18 the estate of the incompetent or minor.

19 SECTION 95. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 393 of Title 85, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. The first installment of compensation shall become due on  
23 the fifteenth day after the employer has notice of the injury or  
24 death, as provided in Section 77 of this act, on which date all

1 compensation then accrued shall be paid. Thereafter, compensation  
2 shall be paid every ten (10) days except where the Workers'  
3 Compensation Commission directs that installment payments be made at  
4 other periods.

5 B. If any installment of compensation payable without an award  
6 is not paid within ten (10) days after it becomes due, as provided  
7 in subsection A of this section, there shall be added to the unpaid  
8 installment an amount equal to eighteen percent (18%) thereof, which  
9 shall be paid at the same time as, but in addition to, the  
10 installment unless notice of controversion is filed or an extension  
11 is granted the employer under Section 96 of this act or unless such  
12 nonpayment is excused by the Commission after a showing by the  
13 employer that, owing to conditions over which he had no control, the  
14 installment could not be paid within the period prescribed.

15 C. If any installment payable under the terms of an award is  
16 not paid within ten (10) days after it becomes due, there shall be  
17 added to such unpaid installment an amount equal to twenty percent  
18 (20%) thereof, which shall be paid at the same time as, but in  
19 addition to, the installment unless review of the compensation order  
20 making the award is had as provided in Sections 87 and 88 of this  
21 act.

22 D. Medical bills are payable within ten (10) days after receipt  
23 by the respondent unless disputed as to compensability or amount.  
24

1 E. In the event that the Commission finds the failure to pay  
2 any benefit is willful and intentional, the penalty shall be up to  
3 thirty-six percent (36%), payable to the claimant.

4 SECTION 96. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 394 of Title 85, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. 1. Each employer desiring to controvert the right to  
8 compensation shall file with the Workers' Compensation Commission on  
9 or before the fifteenth day following notice of the alleged injury  
10 or death a statement on a form prescribed by the Commission that the  
11 right to compensation is controverted and the grounds for the  
12 controversion, the names of the claimant, employer, and carrier, if  
13 any, and the date and place of the alleged injury or death.

14 2. Failure to file the statement of controversion shall  
15 preclude the urging of any defense to the claim subsequently filed,  
16 except that the filing of a statement of controversion shall not  
17 preclude the urging of additional defenses to those contained in the  
18 statement of controversion.

19 B. 1. If an employer is unable to obtain sufficient medical  
20 information as to the alleged injury or death within ten (10) days  
21 following receipt of notice, although the employer has acted in good  
22 faith and with all due diligence, the employer may apply in writing  
23 for an extension of time for making payment of the first installment  
24 or controverting the claim.

1        2. This written application is to be postmarked within the ten-  
2 day period.

3        3. The Commission may, in its discretion, grant the extension  
4 and fix the additional time to be allowed.

5        4. Filing of application for an extension shall not be deemed  
6 to be a controversion of the claim.

7        C. The provision in subsection B of this section shall not  
8 apply in cases where the physician is an employee of, on retainer  
9 with, or has a written contract to provide medical services for the  
10 employer.

11        SECTION 97.        NEW LAW        A new section of law to be codified  
12 in the Oklahoma Statutes as Section 395 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14        A. 1. Whenever the Workers' Compensation Commission determines  
15 that it is for the best interest of the parties entitled to  
16 compensation, and after due notice to all parties in interest of a  
17 hearing, the liability of the employer for compensation may be  
18 discharged by the payment of a lump sum equal to the present value  
19 of all future payments of compensation computed at a ten percent  
20 (10%) discount, compounded annually.

21        2. Lump-sum settlements shall not be allowed if the employer  
22 presents evidence which proves by a preponderance of the evidence  
23 that ordering the compensation discharged in such a manner would  
24

1 result in a substantial adverse effect on the continuing economic  
2 viability of the employer.

3 B. 1. The probability of the death of the injured employee or  
4 other persons entitled to compensation before the expiration of the  
5 period during which they are entitled to compensation shall, in the  
6 absence of special circumstances making such a course improper, be  
7 determined in accordance with the following table.

8 2. It is intended that this table shall be used in conjunction  
9 with the discount rate prescribed in paragraph 1 of subsection A of  
10 this section for the purpose of calculating the present value of  
11 lump-sum settlements to injured employees.

12 Age Years	Average Remaining Lifetime Years
14 1	74.97
15 2	75.37
16 3	74.47
17 4	73.54
18 5	72.59
19 6	71.63
20 7	70.67
21 8	69.70
22 9	68.73
23 10	67.75
24 11	66.77

1	12	65.80
2	13	64.82
3	14	63.84
4	15	62.87
5	16	61.90
6	17	60.94
7	18	59.97
8	19	59.02
9	20	58.06
10	21	57.10
11	22	56.15
12	23	55.19
13	24	54.24
14	25	53.29
15	26	52.33
16	27	51.38
17	28	50.42
18	29	49.47
19	30	48.52
20	31	47.57
21	32	46.62
22	33	45.68
23	34	44.73
24	35	43.79

1	36	42.86
2	37	41.92
3	38	40.66
4	39	40.07
5	40	39.14
6	41	38.23
7	42	37.31
8	43	36.41
9	44	35.50
10	45	34.60
11	46	33.71
12	47	32.83
13	48	31.95
14	49	31.08
15	50	30.21
16	51	29.35
17	52	28.49
18	53	27.65
19	54	26.80
20	55	25.97
21	56	25.14
22	57	24.31
23	58	23.49
24	59	22.68

1	60	21.88
2	61	21.09
3	62	20.30
4	63	19.53
5	64	18.76
6	65	18.00
7	66	17.25
8	67	16.51
9	68	15.78
10	69	15.06
11	70	14.35
12	71	13.67
13	72	13.01
14	73	12.38
15	74	11.77
16	75	11.18
17	76	10.61
18	77	10.04
19	78	9.48
20	79	8.93
21	80	8.40
22	81	7.90
23	82	7.42
24	83	6.98

1	84	6.57
2	85	6.17
3	86	5.80
4	87	5.43
5	88	5.09
6	89	4.77
7	90	4.47
8	91	4.18
9	92	3.92
10	93	3.69
11	94	3.50
12	95	3.33
13	96	3.18
14	97	3.06
15	98	2.95
16	99	2.85
17	100	2.77

18 C. The probability of the happening of any other contingency  
19 affecting the amount or duration of compensation shall be  
20 disregarded, except the possibility of the remarriage of the widow  
21 or widower, which shall be determined in accordance with the Danish  
22 Annuity and Dutch Remarriage Table.

23  
24

1 SECTION 98. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 396 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. Upon petition filed by the employer or carrier and the  
5 injured employee requesting that a final settlement be had between  
6 the parties, the Workers' Compensation Commission shall hear the  
7 petition and take testimony and make investigations as may be  
8 necessary to determine whether a final settlement should be had.

9 B. 1. If the Commission decides it is for the best interests  
10 of the claimant that a final award be made, it may order an award  
11 that shall be final as to the rights of all parties to the petition.

12 2. Thereafter, the Commission shall not have jurisdiction over  
13 any claim for the same injury or any results arising from it.

14 C. If an employee has returned to work or agreed to return to  
15 work, the Commission shall not approve a joint petition which has  
16 allotted monies for vocational rehabilitation or any indemnity  
17 benefits in excess of that payable as an anatomical impairment as  
18 established by objective and measurable findings.

19 D. If the Commission denies the petition, the denial shall be  
20 without prejudice to either party.

21 E. No appeal shall lie from an order or award denying a joint  
22 petition.

23

24

1           SECTION 99.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 397 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. In any case where an employer changes insurance carriers or  
5 where the employer having been self-insured, becomes insured or,  
6 having been insured, is approved to be self-insured, and the only  
7 dispute in a claim against that employer is the proper source of  
8 payment of benefits, the Workers' Compensation Commission shall  
9 direct that the appropriate compensation benefits be paid on an  
10 equal basis by the carriers or self-insured employer.

11           B. Upon eventual resolution of the issue, the prevailing  
12 respondent shall be entitled to reimbursement from the other  
13 respondent of all monies paid together with interest at the legal  
14 rate from the date of payment.

15           SECTION 100.           NEW LAW           A new section of law to be codified  
16 in the Oklahoma Statutes as Section 398 of Title 85, unless there is  
17 created a duplication in numbering, reads as follows:

18           A. If the employer has made advance payments for compensation,  
19 the employer shall be entitled to be reimbursed out of any unpaid  
20 installment or installments of compensation due.

21           B. If the injured employee receives full wages during  
22 disability, the employee shall not be entitled to compensation  
23 during the period.

24

1 SECTION 101. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 399 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 The Workers' Compensation Commission may require any employer to  
5 make a deposit or bond with the Commission to secure the prompt and  
6 convenient payment of compensation, and payments shall be made upon  
7 order of the Commission.

8 SECTION 102. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 400 of Title 85, unless there is  
10 created a duplication in numbering, reads as follows:

11 Compensation shall bear interest at the legal rate from the day  
12 an award is made by either an administrative law judge or the full  
13 Workers' Compensation Commission on all accrued and unpaid  
14 compensation.

15 SECTION 103. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 401 of Title 85, unless there is  
17 created a duplication in numbering, reads as follows:

18 A. Upon making the first payment and upon suspension of payment  
19 of compensation, the employer shall notify the Workers' Compensation  
20 Commission of that fact on a form prescribed by the Commission.

21 B. 1. Within thirty (30) days after the final payment of  
22 compensation has been made, the employer shall send to the  
23 Commission a notice, in accordance with a form prescribed by the  
24 Commission. This form shall state that the final payment has been

1 made, the total amount of compensation paid, the name of the  
2 employee and of any other person to whom compensation has been paid,  
3 the date of the injury or death, and the person to whom compensation  
4 has been paid.

5 2. If the employer fails to notify the Commission within that  
6 time, the Commission may assess against the employer a civil penalty  
7 in an amount not exceeding One Hundred Dollars (\$100.00), but no  
8 penalty shall be assessed without notice to the employer, giving the  
9 employer an opportunity to be heard.

10 SECTION 104. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 402 of Title 85, unless there is  
12 created a duplication in numbering, reads as follows:

13 Upon its own initiative at any time where compensation payments  
14 are being made without an award, the Workers' Compensation  
15 Commission may, and in any case where the right to compensation has  
16 been controverted or where payments of compensation have been  
17 suspended, or where an employer seeks to suspend payments made under  
18 an award, or on application of an interested party, the Commission  
19 shall make an investigation, cause a medical examination to be made,  
20 hold hearings, and take further action as the Commission deems  
21 proper for the protection of the rights of all parties.

22 SECTION 105. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 403 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1           A. 1. When any person who receives workers' compensation  
2 benefits is incarcerated in an institution under the control of the  
3 Department of Corrections, the spouse of the inmate or, if no  
4 spouse, the minor dependent children of the inmate, may petition the  
5 Workers' Compensation Commission to award to the spouse or minor  
6 dependent children the workers' compensation weekly disability  
7 benefits of the inmate for the period of incarceration of the  
8 claimant.

9           2. If the inmate has no surviving spouse or surviving minor  
10 dependent children, the Department of Corrections may petition the  
11 Commission to award to the Department the amount of the workers'  
12 compensation weekly disability benefits for the period of  
13 incarceration of the claimant necessary to reimburse the Department  
14 for the cost of incarcerating the inmate.

15           B. The Commission shall promulgate rules necessary for the  
16 implementation of this section.

17           SECTION 106.           NEW LAW           A new section of law to be codified  
18 in the Oklahoma Statutes as Section 404 of Title 85, unless there is  
19 created a duplication in numbering, reads as follows:

20           A. 1. Upon approval by the Insurance Commissioner, and  
21 following the adoption of the rules that the Insurance Commissioner  
22 deems necessary and advisable, each insurer issuing a policy under  
23 this act shall offer, as a part of the policy or as an optional  
24

1 endorsement to the policy, deductibles optional to the policyholder  
2 for benefits payable under this act.

3 2. Deductible amounts offered shall be fully disclosed to the  
4 prospective policyholder in writing in the amount of One Hundred  
5 Dollars (\$100.00), Two Hundred Dollars (\$200.00), Three Hundred  
6 Dollars (\$300.00), Four Hundred Dollars (\$400.00), and Five Hundred  
7 Dollars (\$500.00), or increments of Five Hundred Dollars (\$500.00),  
8 up to a maximum of Two Thousand Five Hundred Dollars (\$2,500.00) per  
9 compensable claim, or in such other amounts as may be set by the  
10 Insurance Commissioner.

11 3. The policyholder exercising the deductible option shall  
12 choose only one deductible amount.

13 B. Optional deductibles shall be offered in each policy  
14 insuring liability for workers' compensation that is issued,  
15 delivered, issued for delivery, or renewed under this act on or  
16 after approval by the Insurance Commissioner, unless an insured  
17 employer and insurer agree to renegotiate a workers' compensation  
18 policy in effect on that date so as to include a provision allowing  
19 for a deductible.

20 C. 1. If the policyholder exercises the option and chooses a  
21 deductible, the insured employer shall be liable for the amount of  
22 the deductible for benefits paid for each compensable claim of work  
23 injury suffered by an employee.

24

1           2. The insurer shall pay all or part of the deductible amount,  
2 whichever is applicable to a compensable claim, to the person or  
3 medical provider entitled to the benefits conferred by this act and  
4 then seek reimbursement from the insured employer for the applicable  
5 deductible amount.

6           3. The payment or nonpayment of deductible amounts by the  
7 insured employer to the insurer shall be treated under the policy  
8 insuring the liability for workers' compensation in the same manner  
9 as payment or nonpayment of premiums.

10          D. If the Insurance Commissioner determines it to be feasible,  
11 and under the rules that the Insurance Commissioner may adopt,  
12 premium reduction for deductibles may be determined before the  
13 application of any experience modification, premium surcharge, or  
14 premium discounts, and, to the extent that an experience rating or  
15 safety record of an employer is based on benefits paid, money paid  
16 by the insured employer under a deductible as provided in this  
17 section may not be included as benefits paid so as to harm the  
18 experience rating of the employer.

19          E. This section shall not apply to employers who are approved  
20 to self-insure against liability for workers' compensation or group  
21 self-insurance funds for workers' compensation.

22          SECTION 107.           NEW LAW           A new section of law to be codified  
23 in the Oklahoma Statutes as Section 405 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1 A. 1. a. The Workers' Compensation Commission is hereby  
2 authorized to recognize two separate entities to  
3 function as guaranty funds for Oklahoma workers'  
4 compensation self-insurers in the private sector.

5 b. One guaranty fund will be established for individual  
6 self-insurers and homogeneous self-insurer groups, as  
7 defined in paragraph 1 of subsection B of Section 37  
8 of this act.

9 c. A separate guaranty fund will be established for  
10 common self-insurer groups, as defined in paragraph 2  
11 of subsection B of Section 37 of this act.

12 2. The two funds shall be created, funded, and administered  
13 independently from each other.

14 3. The assets of the two funds shall remain separate for all  
15 purposes and shall not be combined, and the assets of one fund shall  
16 not be utilized to satisfy the obligations of the other fund.

17 B. Public sector self-insurers are specifically exempted from  
18 the provisions of this section and Sections 108 through 117 of this  
19 act.

20 C. As used in this section and Sections 108 through 117 of this  
21 act, "public sector self-insurer" means a group of municipalities, a  
22 city, a county, or the state entity which directly exercises control  
23 over an employee and which pays the salary of the employee.

24

1 SECTION 108. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 406 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 The Workers' Compensation Commission shall promulgate rules to  
5 implement Sections 107 through 117 of this act.

6 SECTION 109. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 407 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 There shall be no liability on the part of, and no cause of  
10 action of any nature shall lie, whether at law or in equity, against  
11 any Oklahoma workers' compensation self-insurer or the Workers'  
12 Compensation Commission or any of its representatives on account of  
13 any action or inaction in the administration of the workers'  
14 compensation self-insurer guaranty funds or the performance of  
15 duties in connection with any action or inaction.

16 SECTION 110. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 408 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. The entities acting as the guaranty fund shall independently  
20 determine periodically the amount of money each Oklahoma workers'  
21 compensation self-insurer should contribute to each fund in order to  
22 provide an adequate pool of money to pay workers' compensation  
23 benefits owed by an Oklahoma self-insurer when such self-insurer  
24 fails to meet its workers' compensation benefits obligations.

1 B. The Workers' Compensation Commission shall assess all  
2 workers' compensation self-insurers in an amount determined by each  
3 entity, and the Commission shall transmit the monies collected to  
4 each entity to be used solely to make workers' compensation benefit  
5 payments from each fund and to defray the expenses of each fund.

6 C. At any time that a workers' compensation self-insurer  
7 guaranty fund becomes inadequate to make payments to its claimants,  
8 the balance of that fund shall be prorated equally among the  
9 claimants, and the Oklahoma workers' compensation self-insurers who  
10 are members of that fund shall be assessed an amount necessary to  
11 pay the outstanding claims and expenses and to replenish that fund.

12 D. The inadequacy of one fund to make payments to claimants  
13 shall have no effect on the operation of the remaining fund, nor  
14 shall the assets of the remaining fund be utilized in any manner to  
15 satisfy the claims of claimants to the fund suffering from the  
16 inadequacy.

17 SECTION 111. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 409 of Title 85, unless there is  
19 created a duplication in numbering, reads as follows:

20 The Workers' Compensation Commission shall report to each entity  
21 when the Commission has reasonable cause to believe that the payment  
22 of potential claims by an Oklahoma workers' compensation self-  
23 insurer is or may be jeopardized by the existing or potential  
24 financial condition of the self-insurer. The entity which has the

1 affected self-insurer as a member shall, based upon such information  
2 as is reasonably available, report to the Commission upon all  
3 matters germane to the solvency, liquidation, rehabilitation, or  
4 conservation of any workers' compensation self-insurer, and such  
5 reports shall not be deemed public documents under the Freedom of  
6 Information Act or any other law.

7 SECTION 112. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 410 of Title 85, unless there is  
9 created a duplication in numbering, reads as follows:

10 A. Monies collected by the Workers' Compensation Commission and  
11 disbursed to each entity shall be vested in the entity and shall not  
12 be deemed state property and shall not be subject to appropriation  
13 by the Legislature.

14 B. Each entity shall annually submit to an audit by an  
15 independent certified public accountant, and a copy of the audit  
16 report shall be transmitted to the Commission.

17 SECTION 113. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 411 of Title 85, unless there is  
19 created a duplication in numbering, reads as follows:

20 Each entity shall direct the investment of monies in each  
21 workers' compensation self-insurer guaranty fund, and all returns on  
22 the investments shall be retained in each fund. The monies in each  
23 fund shall be used solely to compensate persons entitled to receive  
24 workers' compensation benefits from an Oklahoma self-insurer which

1 is unable to meet its workers' compensation benefits obligations and  
2 to defray the expenses of each fund.

3 SECTION 114. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 412 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. Each entity shall have full rights of subrogation against  
7 any source of payment or reimbursement for payments made by the  
8 corporation on behalf of an Oklahoma workers' compensation self-  
9 insurer.

10 B. Each entity shall have a right of recovery through the  
11 maintenance of an action against any third party, other than a  
12 coemployee, who is in any way responsible or liable for injury or  
13 death to a covered worker.

14 SECTION 115. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 413 of Title 85, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. Each entity is also authorized to take all necessary action,  
18 including bringing an action at law or in equity, to seek any  
19 available relief as against any workers' compensation self-insurer,  
20 whether the self-insurer has paid all assessments levied by the  
21 Workers' Compensation Commission on behalf of the corporation.

22 B. If an entity is required to bring an action at law or in  
23 equity to enforce any obligations, rights, or duties as regards a  
24

1 workers' compensation self-insurer, the court may award reasonable  
2 attorney fees and costs to that entity.

3 SECTION 116. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 414 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 All private sector participants in the Oklahoma workers'  
7 compensation self-insurers' program may be members of one of the  
8 entities acting as guaranty funds, and the Workers' Compensation  
9 Commission may revoke any authority of the self-insurer to act as a  
10 workers' compensation self-insurer if the self-insurer fails to  
11 maintain membership in the applicable entity or fails to pay the  
12 assessments levied by the Commission under Sections 107 through 117  
13 of this act.

14 SECTION 117. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 415 of Title 85, unless there is  
16 created a duplication in numbering, reads as follows:

17 Any person or entity whose workers' compensation self-insurer  
18 status is terminated shall thereafter be subject to no further  
19 assessments by the Workers' Compensation Commission, but shall  
20 remain liable for all assessments due prior to the date of  
21 termination.

22 SECTION 118. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 416 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1       The Fifty-second Legislature realizes that the Oklahoma workers'  
2 compensation statutes must be revised and amended from time to time.  
3 Unfortunately, many of the changes made by this act were necessary  
4 because the Workers' Compensation Court and other Oklahoma courts  
5 have continually broadened the scope and eroded the purpose of the  
6 workers' compensation statutes of this state. The Fifty-second  
7 Legislature intends to restate that the major and controlling  
8 purpose of workers' compensation is to pay timely temporary and  
9 permanent disability benefits to all legitimately injured workers  
10 that suffer an injury or disease arising out of and in the course of  
11 employment, to pay reasonable and necessary medical expenses  
12 resulting from the injury or disease, and then to return the worker  
13 to the work force. When, and if, the workers' compensation statutes  
14 of this state need to be changed, the Legislature acknowledges its  
15 responsibility to do so. It is the specific intent of the Fifty-  
16 second Legislature to repeal, annul, and hold for naught all prior  
17 opinions or decisions of the Workers' Compensation Court, or other  
18 courts of this state contrary to or in conflict with any provision  
19 in this act. In the future, if such things as the statute of  
20 limitations, the standard of review by the Workers' Compensation  
21 Commission or courts, the extent to which any physical condition,  
22 injury, or disease should be excluded from or added to coverage by  
23 the law, or the scope of the workers' compensation statutes need to  
24 be liberalized, broadened, or narrowed, those things shall be

1 addressed by the Legislature and should not be done by  
2 administrative law judges, the Workers' Compensation Commission, or  
3 the courts.

4 SECTION 119. AMENDATORY 74 O.S. 2001, Section 18m-1, is  
5 amended to read as follows:

6 Section 18m-1. A. There is hereby created within the ~~Office of~~  
7 ~~the Attorney General~~ Insurance Department a Workers' Compensation  
8 Fraud Unit.

9 B. The Workers' Compensation Fraud Unit, upon inquiry or  
10 complaint, shall determine the extent, if any, to which any  
11 violation has occurred of any statute or administrative rule of this  
12 state pertaining to workers' compensation fraud and may initiate any  
13 necessary investigation, civil action, criminal action, referral to  
14 the ~~Insurance Commissioner or Insurance Department~~ Attorney General  
15 or Office of the Attorney General, referral to the ~~Administrator of~~  
16 ~~the Workers' Compensation Court~~ Commission, referral to a district  
17 attorney or referral to any appropriate official of this or any  
18 other state or of the federal government.

19 C. In the absence of fraud, bad faith, reckless disregard for  
20 the truth, or actual malice, no person, insurer, or agent of an  
21 insurer shall be liable for damages in a civil action or subject to  
22 criminal prosecution for communication, publication, or any other  
23 action taken to supply information about suspected workers'  
24 compensation fraud to the Workers' Compensation Fraud Unit or any

1 other agency involved in the investigation or prosecution of  
2 suspected workers' compensation fraud.

3 ~~D. The Attorney General and the Office of the Attorney General,~~  
4 ~~the Insurance Commissioner and the Insurance Department, the~~  
5 Attorney General and the Office of the Attorney General, the  
6 ~~Administrator of the Workers' Compensation Court Commission,~~ every  
7 district attorney and every law enforcement agency shall cooperate  
8 and coordinate efforts for the investigation and prosecution of  
9 suspected workers' compensation fraud.

10 E. The Workers' Compensation Fraud Unit is hereby transferred  
11 from the Office of the Attorney General to the Insurance Department  
12 effective January 1, 2010.

13 F. All assets, funds, liabilities, allotments, purchase orders,  
14 outstanding financial obligations, encumbrances, records, aircraft,  
15 vehicles, equipment, and other property of the Workers' Compensation  
16 Fraud Unit is hereby transferred to the Insurance Department.

17 G. Personnel employed by the Office of the Attorney General who  
18 are assigned to or designated as employees within the Workers'  
19 Compensation Fraud Unit on January 1, 2010, shall be transferred to  
20 the Insurance Department.

21 H. The classified and unclassified employees who are  
22 transferred pursuant to this section shall be subject to the  
23 following provisions:  
24

1        1. Classified employees shall remain subject to the provisions  
2 of the Merit System of Personnel Administration, as provided in the  
3 Oklahoma Personnel Act;

4        2. Unclassified employees shall remain in the unclassified  
5 service and shall serve at the pleasure of the Insurance  
6 Commissioner;

7        3. All employees who are transferred to the Insurance  
8 Department shall retain leave, sick and annual time earned and any  
9 retirement and longevity benefits which have accrued during their  
10 employment with the state. The salaries of employees who are  
11 transferred shall not be reduced as a direct and immediate result of  
12 the transfer;

13        4. If the Insurance Department should implement a reduction in  
14 force, all employees transferred from the Office of the Attorney  
15 General shall be credited for the time they were employed by the  
16 Office of the Attorney General; and

17        5. The transfer of personnel shall be coordinated with the  
18 Office of Personnel Management.

19        SECTION 120.        AMENDATORY        74 O.S. 2001, Section 18m-2, is  
20 amended to read as follows:

21        Section 18m-2. A. If the ~~Attorney General~~ Insurance  
22 Commissioner or a designee has reason to believe as a result of  
23 inquiry or complaint that a person has engaged in or is engaging in  
24 an act or practice that violates any administrative rule or statute

1 pertaining to workers' compensation fraud, the ~~Attorney General~~  
2 Insurance Commissioner or a designee shall have all of the powers of  
3 a district attorney.

4 B. Records, documents, reports and evidence obtained or created  
5 by the ~~Office of the Attorney General~~ Insurance Department as a  
6 result of workers' compensation fraud shall be confidential and  
7 shall not be subject to the Oklahoma Open Records Act or to outside  
8 review or release by any individual except when authorized by the  
9 ~~Attorney General~~ Insurance Commissioner or when required by an  
10 administrative or judicial proceeding.

11 SECTION 121. AMENDATORY 74 O.S. 2001, Section 19.2, is  
12 amended to read as follows:

13 Section 19.2 There is hereby created in the State Treasury a  
14 revolving fund for the ~~Office of the Attorney General~~ Insurance  
15 Department, to be designated the "~~Attorney General's~~ Insurance  
16 Commissioner's Workers' Compensation Fraud Unit Revolving Fund".  
17 The fund shall be a continuing fund, not subject to fiscal year  
18 limitations, and shall consist of any monies designated to the fund  
19 by law. All monies accruing to the credit of said fund are hereby  
20 appropriated and may be budgeted and expended by the ~~Attorney~~  
21 ~~General~~ Insurance Commissioner for the purposes of investigation,  
22 civil action, criminal action or referral to the district attorney  
23 in cases involving suspected workers' compensation fraud.

24

1 SECTION 122. RECODIFICATION 74 O.S. 2001, Section 18m-1,  
2 as amended by Section 119 of this act, shall be recodified as  
3 Section 364 of Title 36 of the Oklahoma Statutes, unless there is  
4 created a duplication in numbering.

5 SECTION 123. RECODIFICATION 74 O.S. 2001, Section 18m-2,  
6 as amended by Section 120 of this act, shall be recodified as  
7 Section 365 of Title 36 of the Oklahoma Statutes, unless there is  
8 created a duplication in numbering.

9 SECTION 124. RECODIFICATION 74 O.S. 2001, Section 19.2,  
10 as amended by Section 121 of this act, shall be recodified as  
11 Section 366 of Title 36 of the Oklahoma Statutes, unless there is  
12 created a duplication in numbering.

13 SECTION 125. REPEALER 85 O.S. 2001, Sections 1, 1.1, as  
14 amended by Section 7, Chapter 1, 1st Extraordinary Session, O.S.L.  
15 2005, 1.2, 1.2A, 1.3, as amended by Section 8, Chapter 1, 1st  
16 Extraordinary Session, O.S.L. 2005, 2b, 2e, 2.1, 2.2, 2.3, 2.4, 2.5,  
17 2.6, 2.7, 3, as last amended by Section 9, Chapter 1, 1st  
18 Extraordinary Session, O.S.L. 2005, 3.1, 3.4, 3.5, as amended by  
19 Section 10, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 3.6,  
20 3.7, 3.8, 3.9 and 3.10, as amended by Sections 11 and 12, Chapter 1,  
21 1st Extraordinary Session, O.S.L. 2005, 3.11, 4, 5, as amended by  
22 Section 13, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 6,  
23 6.1, 7, 9, 11, as amended by Section 77, Chapter 264, O.S.L. 2006,  
24 12, as amended by Section 14, Chapter 1, 1st Extraordinary Session,

1 O.S.L. 2005, 13, 14, as last amended by Section 15, Chapter 1, 1st  
2 Extraordinary Session, O.S.L. 2005, 14.1, 14.2 and 14.3, as amended  
3 by Sections 16 and 17, Chapter 1, 1st Extraordinary Session, O.S.L.  
4 2005, 15, 16, as amended by Section 18, Chapter 1, 1st Extraordinary  
5 Session, O.S.L. 2005, 17, as last amended by Section 19, Chapter 1,  
6 1st Extraordinary Session, O.S.L. 2005, 21, 22, as amended by  
7 Section 20, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 22.1,  
8 24.1, as amended by Section 21, Chapter 1, 1st Extraordinary  
9 Session, O.S.L. 2005, 24.2, 24.3, 25, 26, as amended by Section 22,  
10 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 27.1, 28, 30, as  
11 amended by Section 23, Chapter 1, 1st Extraordinary Session, O.S.L.  
12 2005, 41, 41.1, 42, 43 and 44, as amended by Sections 24 and 25,  
13 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 45, 46, 47, 47.1,  
14 48, as amended by Section 26, Chapter 1, 1st Extraordinary Session,  
15 O.S.L. 2005, 48.1, 49, 61, as amended by Section 78, Chapter 264,  
16 O.S.L. 2006, 61.1, 61.2, 63, 63.1, 63.2, 63.3, 63.4, 64, as last  
17 amended by Section 79, Chapter 264, O.S.L. 2006, 65, as amended by  
18 Section 80, Chapter 264, O.S.L. 2006, 65.2, 65.3, 66.1, 66.2, 67.1,  
19 69.5, 80, 81, 84, 85, 92, 93, 93.2, 95, 101, 103, 104, 106, 107,  
20 109, 110, as amended by Section 1, Chapter 338, O.S.L. 2002, 112,  
21 122, 171 and 172, as amended by Sections 27 and 28, Chapter 1, 1st  
22 Extraordinary Session, O.S.L. 2005, 173, as last amended by Section  
23 29, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 173.1, 173.2,  
24 173.3, 174, 175, as last amended by Section 30, Chapter 1, 1st

1 Extraordinary Session, O.S.L. 2005, 176, 177, 178, 179, 180, 201,  
2 201.1, as last amended by Section 31, Chapter 1, 1st Extraordinary  
3 Session, O.S.L. 2005, 201.2, 203 and 211 (85 O.S. Supp. 2008,  
4 Sections 1.1, 1.3, 3, 3.5, 3.9, 3.10, 5, 11, 12, 14, 14.2, 14.3, 16,  
5 17, 22, 24.1, 26, 30, 43, 44, 48, 61, 64, 65, 110, 171, 172, 173,  
6 175 and 201.1), are hereby repealed.

7 SECTION 126. Sections 1 through 118 and Section 125 of this act  
8 shall become effective December 1, 2009.

9 SECTION 127. Sections 119 through 124 of this act shall become  
10 effective January 1, 2010.

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