

1 ENGROSSED SENATE  
2 BILL NO. 878

By: Sykes and Anderson of the  
Senate

3 and

4 Sullivan of the House

5  
6  
7 [ Workers' Compensation - creating the Workers'  
8 Compensation Act - effective date ]  
9

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

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 301 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14 This act shall be known and may be cited as the "Workers'  
15 Compensation Act".

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 302 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. The liability prescribed in this title shall be exclusive  
20 and in place of all other liability of the employer and any of his  
21 or her employees, at common law or otherwise, for such injury, loss  
22 of services, or death, to the employee, or the spouse, personal  
23 representative, parents, or dependents of the employee, or any other  
24 person, except in the case of an intentional tort, or where the

1 employer has failed to secure the payment of compensation for the  
2 injured employee.

3 B. An intentional tort shall exist only when the employee is  
4 injured as a result of willful, deliberate, specific intent of the  
5 employer to cause such injury. Allegations or proof that the  
6 employer had knowledge that such injury was substantially certain to  
7 result from the employer's conduct shall not constitute an  
8 intentional tort. The issue of whether an act is an intentional  
9 tort shall be a question of law for the court.

10 C. If an employer has failed to secure the payment of  
11 compensation for his injured employee, as provided for in this  
12 title, an injured employee, or his legal representatives if death  
13 results from the injury, may maintain an action in the district  
14 court for damages on account of such injury, and in such action the  
15 defendant may not plead or prove as a defense that the injury was  
16 caused by the negligence of a fellow servant, or that the employee  
17 assumed the risk of his employment, or that the injury was due to  
18 the contributory negligence of the employee.

19 D. The immunity created by the provisions of this section shall  
20 not extend to action against another employer, or its employees, on  
21 the same job as the injured or deceased worker where such other  
22 employer does not stand in the position of an intermediate or  
23 principal employer to the immediate employer of the injured or  
24 deceased worker.

1 E. The immunity created by the provisions of this section shall  
2 not extend to action against another employer, or its employees, on  
3 the same job as the injured or deceased worker even though such  
4 other employer may be considered as standing in the position of a  
5 special master of a loaned servant where such special master neither  
6 is the immediate employer of the injured or deceased worker nor  
7 stands in the position of an intermediate or principal employer to  
8 the immediate employer of the injured or deceased worker.

9 F. This provision shall not be construed to abrogate the loaned  
10 servant doctrine in any respect other than that described in  
11 subsection E of this section. Nothing herein shall be construed to  
12 relieve the employer from any other penalty provided for in this  
13 title for failure to secure the payment of benefits under the  
14 Workers' Compensation Act.

15 G. For the purpose of extending the immunity of this section,  
16 any architect, professional engineer, or land surveyor shall be  
17 deemed an intermediate or principal employer for services performed  
18 at or on the site of a construction project, but this immunity shall  
19 not extend to the negligent preparation of design plans and  
20 specifications.

21 H. If, as provided in this section, the employer has failed to  
22 secure the payment of compensation as provided in this title or in  
23 the case of an intentional tort, the injured employee or his legal  
24

1 representative may maintain an action either in the Workers'  
2 Compensation Court or in the district court, but not both.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 303 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. There is hereby created the Workers' Compensation Court  
7 which shall consist of eight (8) judges. Each judge of the Court  
8 shall be appointed to a designated numbered position on the Court.  
9 The positions shall be numbered one through eight, five of which  
10 shall be permanently assigned to the Oklahoma City Workers'  
11 Compensation Court and three of which shall be permanently assigned  
12 to the Tulsa Workers' Compensation Court. The initial terms of the  
13 judges by position number shall expire on the following dates:

14 Position 1 shall expire 2-1-14.

15 Position 2 shall expire 2-1-14.

16 Position 3 shall expire 2-1-14.

17 Position 4 shall expire 2-1-12.

18 Position 5 shall expire 2-1-12.

19 Position 6 shall expire 2-1-16.

20 Position 7 shall expire 2-1-16.

21 Position 8 shall expire 2-1-12.

22 Position 9 shall expire 2-1-12.

23 Position 10 shall expire 2-1-14. The next two positions to  
24 become vacant on or after November 1, 2010, shall not be refilled.

1       Thereafter, each position shall be filled by a judge appointed  
2 to serve an eight-year term. After a judge serves an eight-year  
3 term, such judge shall be eligible to reapply for an additional term  
4 after the lapse of a period of not less than three (3) years.

5       Provided, the judges serving unexpired terms on the effective  
6 date of this act shall be eligible upon expiration of such terms for  
7 appointment to one term of eight (8) years pursuant to this section.  
8 A judge serving an unexpired term on the effective date of this act  
9 who serves until such term expires shall be deemed to have served a  
10 full six-year term. If the judge is not reappointed, such judge  
11 shall receive full salary, benefits, vesting rights and judicial  
12 service for retirement purposes during active judicial service for a  
13 period of not less than five (5) months. When a vacancy on the  
14 Court occurs or is certain to occur or for initial appointments to  
15 the Court, the Judicial Nominating Commission shall choose and  
16 submit to the Governor and the Chief Justice of the Supreme Court  
17 the names of three persons for each appointment, each of whom has  
18 previously notified the Commission in writing that he or she will  
19 serve as a judge if appointed. The Governor shall appoint one of  
20 the nominees to fill the vacancy with the advice and consent of the  
21 Senate. If the Senate fails to confirm within ninety (90) days, the  
22 Governor may select from the two remaining nominees or request three  
23 additional nominees from the Judicial Nominating Commission. If the  
24 Governor fails to do so within sixty (60) days, the Chief Justice of

1 the Supreme Court shall appoint one of the nominees with the advice  
2 and consent of the Senate, the appointment to be certified to the  
3 Secretary of State.

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

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

17 D. The Governor shall appoint from among the judges of the  
18 Workers' Compensation Court a presiding judge of that Court who  
19 shall serve for a two-year term commencing with the initial  
20 appointment beginning January 1, 1987. Any judge so appointed shall  
21 not serve more than two times in succession. The presiding judge  
22 shall preside at all hearings held by the Court, preside at such  
23 meetings of the judges of the Court as may be necessary and perform  
24 such other supervisory duties as the needs of the Court may require.

1 The presiding judge may designate one of the other judges to act as  
2 presiding judge in his or her place whenever necessary during the  
3 disqualification, disability, or absence of the presiding judge.  
4 During the disqualification, disability, or absence of the presiding  
5 judge, the acting presiding judge shall exercise all of the powers  
6 of the presiding judge.

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

18 F. The Court is hereby designated and confirmed as a court of  
19 record, with respect to any matter within the limits of its  
20 jurisdiction, and within such limits the judges thereof shall  
21 possess the powers and prerogatives of the judges of the other  
22 courts of record of this state, including the power to punish for  
23 contempt those persons who disobey a subpoena, or refuse to be sworn  
24 or to answer as a witness, when lawfully ordered to do so.

1 G. The principal office of the Court shall be situated in the  
2 City of Oklahoma City in quarters assigned by the Department of  
3 Central Services. The Court may hold hearings in any city of this  
4 state. The Tulsa Workers' Compensation Court shall not be closed  
5 without the approval of the Legislature.

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

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

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

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

19 A. The Governor shall appoint from among the judges of the  
20 Workers' Compensation Court a presiding judge of the Court who shall  
21 serve for a two-year term commencing with the initial appointment  
22 beginning January 1, 2013. The presiding judge serving on the  
23 effective date of this act shall serve the remainder of the term.  
24 If a presiding judge resigns the office during the term, the

1 Governor shall appoint a new presiding judge to serve the remainder  
2 of the term.

3 B. The presiding judge shall preside at all meetings of the  
4 judges of the Court as may be necessary; perform such other  
5 supervisory duties as the needs of the Court may require; preside at  
6 all hearings before the Court en banc and at all conferences at  
7 which appeals and other matters are considered; make all procedural  
8 rulings for the court except those to be made in the course of  
9 hearings before a single judge; assign or direct the assignment of  
10 cases to the several judges for hearing at places the presiding  
11 judge shall designate; direct and supervise the work of all  
12 employees of the Court; handle, oversee and be responsible for all  
13 administrative affairs of the Court, including but not limited to  
14 those of personnel, budgetary and financial management; and bear  
15 such other responsibilities and duties as may be necessary to  
16 operate the Court in an efficient manner. For the period during  
17 which the presiding judge is disqualified, disabled or absent, the  
18 presiding judge may designate another judge to act as presiding  
19 judge.

20 SECTION 5. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 305 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. The chief administrative officer of the Workers'  
24 Compensation Court shall be the Administrator of the Workers'

1 Compensation Court, who shall be subject to the general supervision  
2 of the presiding judge of the Court, subject to the general  
3 administrative authority of the Chief Justice of the Supreme Court.

4 B. The person serving as Administrator on the effective date of  
5 this act shall complete the term. Thereafter, the Administrator  
6 shall be appointed by the Governor with the advice and consent of  
7 the Senate. The Administrator shall serve a six-year term. During  
8 the term, the Administrator may be removed from office only for  
9 cause, as provided by law for the removal of officers not subject to  
10 impeachment, pursuant to the provisions of Title 22 of the Oklahoma  
11 Statutes.

12 C. The salary of the Administrator shall be ninety percent  
13 (90%) of the authorized salary of a judge of the Court.

14 SECTION 6. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 306 of Title 85, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. In addition to other duties, the Administrator of the  
18 Workers' Compensation Court, subject to approval of the presiding  
19 judge, shall organize, direct and develop the administrative work of  
20 the Workers' Compensation Court, including docketing, clerical,  
21 technical and financial work, establish hours of operation, and  
22 perform such other duties relating to matters within the purview of  
23 the Court. The Administrator shall employ other employees of the  
24

1 Court, within budgetary limitation, necessary to carry out the work  
2 and orders of the Court in an efficient and expedient manner.

3 B. The Administrator shall have the following powers and  
4 duties:

5 1. To hear and approve settlements pursuant to direction by the  
6 judges of the Court;

7 2. To review and approve own-risk applications and group self-  
8 insurance associations applications;

9 3. To monitor own-risk, self-insurer and group self-insurance  
10 programs in accordance with the rules of the Court;

11 4. To contract with an appropriate state governmental entity,  
12 insurance carrier or approved service organization to process,  
13 investigate and pay valid claims against an own-risk self-insurer or  
14 group self-insurance association which fails, due to insolvency or  
15 otherwise to pay its workers' compensation obligations, charges for  
16 which shall be paid from the proceeds of security posted with the  
17 Administrator as provided in Section 52 of this act;

18 5. To establish a toll free telephone number in order to  
19 provide information and answer questions about the Court;

20 6. To hear and determine claims concerning disputed medical  
21 bills;

22 7. To promulgate necessary rules subject to the approval of the  
23 presiding judge; and  
24

1 8. Such other duties and responsibilities authorized by law or  
2 as the judges of the Court may prescribe.

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

6 A. No employee of the Administrator of the Workers'  
7 Compensation Court shall be competent to testify on any matter  
8 before a court concerning any information the employee has received  
9 through the performance of the employee's duties under the  
10 provisions of the Workers' Compensation Act.

11 B. The Administrator and employees of the Administrator shall  
12 not solicit employment for any attorney or physician nor shall they  
13 recommend or refer any claimant or employer to an attorney or  
14 physician. If the Administrator or any employee of the  
15 Administrator makes such a solicitation, recommendation or  
16 reference, that person, upon conviction, shall be guilty of a  
17 misdemeanor punishable, for each offense, by a fine of not more than  
18 One Thousand Dollars (\$1,000.00) or by imprisonment not to exceed  
19 one (1) year, or by both such fine and imprisonment. The  
20 Administrator shall immediately terminate the employment of any  
21 employee who is guilty of such solicitation, recommendation or  
22 reference. An Administrator or judge of the Workers' Compensation  
23 Court guilty of such solicitation, recommendation or reference shall  
24 be subject to removal from office.

1 C. No judge of the Court shall engage in any ex parte  
2 communication with any party to an action pending before the Court  
3 or with any witness or medical provider regarding the merits of a  
4 specific matter pending before the judge for resolution. Any  
5 violation of this provision shall subject the judge to  
6 disqualification from the action or matter upon presentation of an  
7 application for disqualification.

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

11 As used in the Workers' Compensation Act:

12 1. "Actually dependent" means a surviving spouse, a child, or  
13 any other person who receives one-half (1/2) or more of his support  
14 from the employee;

15 2. "Administrator" means the Administrator of the Workers'  
16 Compensation Court;

17 3. "Amount in dispute" means the dollar value of any permanent  
18 disability award granted to the employee by the Court for a  
19 disability claim which is greater than the dollar amount offered by  
20 the employer to the employee for such disability claim if the  
21 employer admits compensability within twenty (20) days of the filing  
22 of the Employee's First Notice of Accidental Injury and Claim for  
23 Compensation, has not disputed medical treatment, and has made a  
24

1 written settlement offer within fifteen (15) days of the employee  
2 reaching maximum medical improvement;

3 4. "Brother" or "sister" means a sibling of the employee under  
4 eighteen (18) years of age, eighteen (18) years of age or over and  
5 physically or mentally incapable of self-support, eighteen (18)  
6 years of age or over and actually dependent and brothers and sisters  
7 by adoption;

8 5. "Case management" means the ongoing coordination, by a case  
9 manager, of health care services provided to an injured or disabled  
10 worker, including, but not limited to systematically monitoring the  
11 treatment rendered and the medical progress of the injured or  
12 disabled worker; ensuring that any treatment plan follows all  
13 appropriate treatment protocols, utilization controls and practice  
14 parameters; assessing whether alternative health care services are  
15 appropriate and delivered in a cost-effective manner based upon  
16 acceptable medical standards; and ensuring that the injured or  
17 disabled worker is following the prescribed health care plan;

18 6. "Case manager" means a person who is a registered nurse with  
19 a current, active unencumbered license from the Oklahoma Board of  
20 Nursing, or possesses one or more of the following certifications  
21 which indicate the individual has a minimum number of years of case  
22 management experience, has passed a national competency test and  
23 regularly obtains continuing education hours to maintain  
24 certification:

- a. Certified Disability Management Specialist (CDMS),
- b. Certified Case Manager (CCM),
- c. Certified Rehabilitation Registered Nurse (CRRN),
- d. Case Manager - Certified (CMC),
- e. Certified Occupational Health Nurse (COHN), or
- f. Certified Occupational Health Nurse Specialist (COHN-S);

7. "Certified workplace medical plan" means an organization of health care providers or any other entity, certified by the State Commissioner of Health, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by CompSource Oklahoma, to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or prepaid plans;

8. "Child" means a natural or adopted son or daughter of the employee under eighteen (18) years of age; or a natural or adopted son or daughter of an employee eighteen (18) years of age or over who is physically or mentally incapable of self-support; or any

1 natural or adopted son or daughter of an employee eighteen (18)  
2 years of age or over who is actually dependent; or any natural or  
3 adopted son or daughter of an employee between eighteen (18) and  
4 twenty-three (23) years of age who is enrolled as a full-time  
5 student in any accredited educational institution. The term "child"  
6 includes a posthumous child, a child legally adopted or one for whom  
7 adoption proceedings are pending at the time of death, an actually  
8 dependent stepchild or an actually dependent acknowledged child born  
9 out of wedlock;

10 9. "Claimant" means a person who claims benefits for an injury  
11 pursuant to the provisions of the Workers' Compensation Act;

12 10. a. "Compensable injury" means any injury or occupational  
13 illness, causing internal or external harm to the  
14 body, which arises out of and in the course of  
15 employment if such employment was the major cause of  
16 the specific injury or illness. An injury, other than  
17 cumulative trauma, is compensable only if it is caused  
18 by a specific incident and is identifiable by time,  
19 place and occurrence unless it is otherwise defined as  
20 compensable in this title. A compensable injury must  
21 be established by objective medical evidence. The  
22 employee has the burden of proof to establish by a  
23 preponderance of the evidence that such unexpected or  
24 unforeseen injury was in fact caused by the

1 employment. There is no presumption from the mere  
2 occurrence of such unexpected or unforeseen injury  
3 that the injury was in fact caused by the employment.

4 b. "Compensable injury" means a cardiovascular, coronary,  
5 pulmonary, respiratory, or cerebrovascular accident or  
6 myocardial infarction causing injury, illness, or  
7 death, only if, in relation to other factors  
8 contributing to the physical harm, a work-related  
9 activity is the major cause of the physical harm.  
10 Such injury shall not be deemed to be a compensable  
11 injury unless it is shown that the exertion of the  
12 work necessary to precipitate the disability or death  
13 was extraordinary and unusual in comparison to the  
14 usual work of the employee, or alternately, that some  
15 unusual incident occurred which is found to have been  
16 the major cause of the physical harm.

17 c. "Compensable injury" shall not include the ordinary,  
18 gradual deterioration or progressive degeneration  
19 caused by the aging process, unless the employment is  
20 a major cause of the deterioration or degeneration and  
21 is supported by objective medical evidence; nor shall  
22 it include injury incurred while engaging in,  
23 performing or as the result of engaging in or  
24 performing any recreational or social activities;

1 d. "Compensable injury" includes personal property which  
2 is used to make up the physical structure of the body,  
3 such as artificial dentures, artificial limbs, glass  
4 eyes, eye glasses and other prostheses which are  
5 placed in or on the body to replace the physical  
6 structure which became damaged as a result of the  
7 injury.

8 e. "Compensable injury" shall not include an injury  
9 resulting directly or indirectly from idiopathic  
10 causes; any contagious or infectious disease unless it  
11 arises out of and occurs during the course of  
12 employment; or death due to natural causes occurring  
13 while the worker is at work.

14 f. "Compensable injury" shall not include mental injury  
15 that is unaccompanied by physical injury, except in  
16 the case of rape or other crime of violence which  
17 arises out of and in the course of employment;

18 11. "Compensation" means the money allowance payable to an  
19 employee as provided for in the Workers' Compensation Act;

20 12. "Consequential injury" means injury or harm to a part of  
21 the body that is a direct result of the injury or medical treatment  
22 to the part of the body originally injured in the claim. The Court  
23 shall not make a finding of a consequential injury unless medical  
24 treatment for such part of the body is required;

1           13. "Continuing medical maintenance" means medical treatment  
2 that is reasonable and necessary to maintain claimant's condition  
3 resulting from the compensable injury or illness after reaching  
4 maximum medical improvement. Continuing medical maintenance shall  
5 not include diagnostic tests, surgery, injections, counseling,  
6 physical therapy, or pain management devices or equipment, unless  
7 specifically authorized by the Workers' Compensation Court in  
8 advance of such treatment;

9           14. "Court" means the Workers' Compensation Court;

10           15. "Cumulative trauma" means a compensable injury which is  
11 repetitive in nature and engaged in over a period of time, the major  
12 cause of which results from employment activities, and proved by  
13 objective medical evidence;

14           16. "Drive-away operations" include every person engaged in the  
15 business of transporting and delivering new or used vehicles by  
16 driving, either singly or by towbar, saddle mount or full mount  
17 method, or any combination thereof, with or without towing a  
18 privately owned vehicle;

19           17. "Employee" means any person engaged in the employment of an  
20 Employer covered by the terms of the Workers' Compensation Act  
21 except for such persons as may be excluded elsewhere in this title.  
22 Provided, any person excluded as an employee may, if otherwise  
23 qualified, be eligible for benefits under the Workers' Compensation  
24 Act if specifically covered by any policy of insurance. "Employee"

1 shall also include a member of the Oklahoma National Guard while in  
2 the performance of duties only while in response to state orders and  
3 any authorized voluntary or uncompensated worker, rendering services  
4 as a firefighter, peace officer or emergency management worker.

5 "Employee" shall also include a participant in a sheltered workshop  
6 program which is certified by the United States Department of Labor;

7 18. "Employer", except when otherwise expressly stated, means a  
8 person, partnership, association, limited liability company,  
9 corporation, and the legal representatives of a deceased employer,  
10 or the receiver or trustee of a person, partnership, association,  
11 corporation, or limited liability company, departments,  
12 instrumentalities and institutions of this state and divisions  
13 thereof, counties and divisions thereof, public trusts, boards of  
14 education and incorporated cities or towns and divisions thereof,  
15 employing a person included within the term "employee" as herein  
16 defined. Employer may also mean the employer's workers'  
17 compensation insurance carrier, if applicable;

18 19. "Employment" includes work or labor in a trade, business,  
19 occupation or activity carried on by an employer or any authorized  
20 voluntary or uncompensated worker rendering services as a  
21 firefighter, peace officer or emergency management worker;

22 20. "Evidence-based" means expert-based, literature-supported  
23 and outcomes validated by well-designed randomized trials when such  
24

1 information is available and which uses the best available evidence  
2 to support medical decision making;

3 21. "Gainful employment" means the capacity to perform  
4 employment for wages for a period of time that is not part-time,  
5 occasional or sporadic;

6 22. "Grandchild" means a child of a child;

7 23. "Incapacity" means inadequate strength or ability to  
8 perform a work-related task;

9 24. "Independent medical examiner" means a licensed physician  
10 authorized to serve as a medical examiner pursuant to this title;

11 25. "Insurance carrier" shall include CompSource Oklahoma,  
12 stock corporations, reciprocal or interinsurance associations, or  
13 mutual associations with which employers have insured, and employers  
14 permitted to pay compensation under provisions of this title;

15 26. "Light duty" describes the status of an employee when a  
16 physician has declared the employee available for work with specific  
17 temporary physical restrictions;

18 27. "Major cause" means more than fifty percent (50%) of the  
19 resulting injury, disease or illness. A finding of major cause  
20 shall be established by a preponderance of the evidence. A finding  
21 that the workplace was not a major cause of the injury, disease or  
22 illness shall not adversely affect the exclusive remedy provisions  
23 of this title and shall not create a separate cause of action  
24 outside of this title;

1       28. "Maximum medical improvement" means that no further  
2 material improvement would reasonably be expected from medical  
3 treatment or the passage of time;

4       29. "Medical treatment" means diagnostic, surgical or other  
5 attendance or treatment, nurse and hospital service, medicine,  
6 crutches, and apparatus as may be reasonable and necessary for the  
7 injured employee;

8       30. "Nationally recognized" includes, but is not limited to,  
9 syntheses of clinical issues that may take the form of published  
10 reports in the scientific literature, national consensus documents,  
11 formalized documents addressing standards of practice, practice  
12 parameters from professional societies or commissions, and  
13 technology assessments produced by independent evidence-based  
14 practice centers;

15       31. "Objective medical evidence" means evidence which meets the  
16 criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court  
17 case law applicable thereto. Objective findings are those findings  
18 which cannot come under the voluntary control of the patient. When  
19 determining physical or anatomical impairment, neither a physician,  
20 any other medical provider, a judge of the Workers' Compensation  
21 Court, nor the courts may consider complaints of pain. For the  
22 purpose of making physical or anatomical impairment ratings to the  
23 spine, physicians shall use criteria established by the AMA guides  
24 or modifications thereto as approved by the Legislature. Objective

1 evidence necessary to prove physical or anatomical impairment in  
2 occupational hearing loss cases may be established by medically  
3 recognized and accepted clinical diagnostic methodologies,  
4 including, but not limited to, audiological tests that measure air  
5 and bone conduction thresholds and speech discrimination ability.  
6 Medical opinions addressing compensability and permanent impairment  
7 must be stated within a reasonable degree of medical certainty;

8 32. "Occupational disease" means only that disease or illness  
9 which is due to causes and conditions characteristic of or peculiar  
10 to the particular trade, occupation, process or employment in which  
11 the employee is exposed to such disease. An occupational disease  
12 arises out of the employment only if the employment was the major  
13 cause of the resulting occupational disease and such is supported by  
14 objective medical evidence, as defined in this section;

15 33. "Peer review" means the process of subjecting submitted  
16 manuscripts, guidelines, or other clinical or scholarly work to the  
17 scrutiny of others who are experts in the same field;

18 34. "Permanent partial impairment" means any anatomical  
19 abnormality or loss of use after maximum medical improvement has  
20 been achieved which can be evaluated by a physician. Any examining  
21 physician shall only evaluate impairment in accordance with the  
22 method prescribed in Section 33 of this act. All evaluations of  
23 permanent impairment must be supported by objective medical  
24 evidence;

1       35. "Permanent total disability" means incapacity, because of  
2 accidental injury or occupational disease, to be gainfully employed  
3 in any employment based upon the employee's permanent physical or  
4 mental restrictions. Loss of both hands, or both feet, or both  
5 legs, or both eyes, or any two thereof, shall constitute permanent  
6 total disability;

7       36. "Prosthetic device" means an artificial device used to  
8 replace a part or joint of the body that is lost or injured in an  
9 accident or illness covered by this act;

10       37. "Scheduled member" or "member" means hands, fingers, arms,  
11 legs, feet, toes, and eyes. In addition, for purposes of the  
12 Multiple Injury Trust only, "scheduled member" means hearing  
13 impairment;

14       38. "Scientifically based" involves the application of  
15 rigorous, systematic, and objective procedures to obtain reliable  
16 and valid knowledge relevant to medical testing, diagnoses and  
17 treatment; is adequate to justify the general conclusions drawn; and  
18 has been accepted by a peer-review journal or approved by a panel of  
19 independent experts through a comparably rigorous, objective, and  
20 scientific review;

21       39. "State-developed" includes formalized treatment guidelines  
22 developed and adopted by state governments, or by the Workers'  
23 Compensation Court upon recommendation of the Physician Advisory  
24 Committee;

1       40. "State's average weekly wage" means the average weekly wage  
2 in this state determined by the Oklahoma Employment Security  
3 Commission annually, which shall be used to establish maximum  
4 benefits under the Workers' Compensation Act for injuries occurring  
5 during a one-year period, which period shall begin on the first day  
6 of November after publication by the Oklahoma Employment Security  
7 Commission. For the purpose of computing benefits payable under the  
8 Workers' Compensation Act, the state's average weekly wage shall be  
9 rounded to the nearest dollar;

10       41. "Subcontractor" means a person, firm, corporation or other  
11 legal entity hired by the general or prime contractor to perform a  
12 specific task for the completion of a work-related activity;

13       42. "Surgery" does not include an injection, or the forcing of  
14 fluids beneath the skin, for treatment or diagnosis;

15       43. "Surviving spouse" means the employee's spouse by reason of  
16 a legal marriage recognized by any state or nation or by common law,  
17 under the requirements of a common law marriage in this state;

18       44. "Temporary partial disability" describes the status of an  
19 injured worker who is under active medical care that is expected to  
20 improve his condition and who is unable to perform some of the  
21 normal activities of his work or is limited to a portion of his  
22 normal hours of employment;

23       45. "Treating physician" means the licensed physician selected  
24 to provide active medical treatment for an injured worker; and

1       46. "Wages" means money compensation received for employment at  
2 the time of the injury, including the reasonable value of board,  
3 rent, housing, lodging, bonuses, sales commissions, or similar  
4 advantage received from the employer.

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

8       The time within which an act is to be done, as provided for this  
9 title, shall be computed by excluding the first day and including  
10 the last day. If the last day is a legal holiday as defined by  
11 Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be  
12 excluded.

13       SECTION 10.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 310 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16       Every employer subject to the provisions of the Workers'  
17 Compensation Act shall pay or provide benefits according to the  
18 provisions of this act for the injury or death of an employee  
19 arising out of and in the course of his or her employment, without  
20 regard to fault for such injury, if the employee's contract of  
21 employment was made or if the injury occurred within this state. If  
22 an employee makes claim for an injury in another jurisdiction and a  
23 final adjudication is entered in the case, the employee is precluded  
24 from his or her right of action under the Workers' Compensation Act

1 of this state. If the employee brings an action in this state prior  
2 to a final adjudication in another jurisdiction, any receipt of  
3 benefits in the other jurisdiction shall not bar the action in this  
4 state; provided, however, in no event shall the Workers'  
5 Compensation Court grant benefits that duplicate those paid by the  
6 employer or insurance carrier in the other jurisdiction.

7 SECTION 11. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 311 of Title 85, unless there is  
9 created a duplication in numbering, reads as follows:

10 The Workers' Compensation Act shall not apply to the following  
11 employees:

12 1. Any person for whom an employer is liable under any Act of  
13 Congress for providing compensation to employees for injuries,  
14 disease or death arising out of and in the course of employment  
15 including, but not limited to, the Federal Employees' Compensation  
16 Act, the Federal Employers' Liability Act, the Longshoremen's and  
17 Harbor Workers' Act and the Jones Act, to the extent his employees  
18 are subject to such acts;

19 2. Any person who is employed in agriculture or horticulture by  
20 an employer who had a gross annual payroll in the preceding calendar  
21 year of less than One Hundred Thousand Dollars (\$100,000.00) wages  
22 for agricultural or horticultural workers;

23 3. Any person who is a licensed real estate sales associate or  
24 broker, paid on a commission basis;

1       4. Any person who is providing services in a medical care or  
2 social services program, or who is a participant in a work or  
3 training program, administered by the Department of Human Services,  
4 unless the Department is required by federal law or regulations to  
5 provide workers' compensation for such person. This paragraph shall  
6 not be construed to include nursing homes;

7       5. Any person employed by an employer with five or less total  
8 employees, all of whom are related by blood or marriage to the  
9 employer, if the employer is a natural person or a general or  
10 limited partnership, or an incorporator of a corporation if the  
11 corporation is the employer;

12       6. Any person employed by an employer which is a youth sports  
13 league which qualifies for exemption from federal income taxation  
14 pursuant to federal law;

15       7. Sole proprietors, members of a partnership, individuals who  
16 are party to a franchise agreement as set out by the Federal Trade  
17 Commission franchise disclosure rule, 16 CFR 436.1 through 436.11,  
18 members of a limited liability company who own at least ten percent  
19 (10%) of the capital of the limited liability company or any  
20 stockholder-employees of a corporation who own ten percent (10%) or  
21 more stock in the corporation, unless they elect to be covered by a  
22 policy of insurance covering benefits under the Workers'  
23 Compensation Act;

24

1 8. Any person providing or performing voluntary service who  
2 receives no wages for the services other than meals, drug or alcohol  
3 rehabilitative therapy, transportation, lodging or reimbursement for  
4 incidental expenses;

5 9. A person, commonly referred to as an owner-operator, who  
6 owns or leases a truck-tractor or truck for hire, if the owner-  
7 operator actually operates the truck-tractor or truck and if the  
8 person contracting with the owner-operator is not the lessor of the  
9 truck-tractor or truck. Provided, however, an owner-operator shall  
10 not be precluded from workers' compensation coverage under the  
11 Workers' Compensation Act if the owner-operator elects to  
12 participate as a sole proprietor; and

13 10. A person referred to as a drive-away owner-operator who  
14 privately owns and utilizes a tow vehicle in drive-away operations  
15 and operates independently for hire, if the drive-away owner-  
16 operator actually utilizes the tow vehicle and if the person  
17 contracting with the drive-away owner-operator is not the lessor of  
18 the tow vehicle. Provided, however, a drive-away owner-operator  
19 shall not be precluded from workers' compensation coverage under the  
20 Workers' Compensation Act if the drive-away owner-operator elects to  
21 participate as a sole proprietor.

22 SECTION 12. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 312 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1 The following shall not constitute a compensable injury under  
2 the Workers' Compensation Act:

3 1. An injury occasioned by the willful intention of the injured  
4 employee to bring about injury to himself or herself, or another;

5 2. An injury resulting directly from the willful failure of the  
6 injured employee to use a guard or protection against accident  
7 furnished for use pursuant to any statute or by order of the  
8 Commissioner of Labor;

9 3. An injury which occurs when an employee's use of illegal  
10 drugs or chemicals or alcohol is the major cause of the injury or  
11 accident. The employee shall prove by a preponderance of the  
12 evidence that the use of drugs, chemicals or alcohol was not the  
13 major cause of the injury or accident. For the purposes of this  
14 subsection, post-accident alcohol or drug testing results shall be  
15 admissible as evidence;

16 4. Except for innocent victims, an injury caused by a prank,  
17 horseplay, or similar willful or intentional behavior;

18 5. An injury which was inflicted upon the employee at a time  
19 when employment services were not being performed or before the  
20 employee was hired or after the employment relationship was  
21 terminated; and

22 6. An injury which occurs outside the course of employment.  
23 Employment shall be deemed to commence when an employee arrives at  
24 the employee's place of employment to report for work and shall

1 terminate when the employee leaves the employee's place of  
2 employment, excluding areas not under the control of the employer or  
3 areas where essential job functions are not performed; provided,  
4 however, when the employee is instructed by the employer to perform  
5 a work-related task away from the employee's place of employment,  
6 the employee shall be deemed to be in the course of employment when  
7 the employee is engaged in the performance of job duties directly  
8 related to the task as instructed by the employer, including travel  
9 time that is solely related and necessary to the employee's  
10 performance of the task. Travel by a policeman, fireman, or a  
11 member of a first aid or rescue squad, in responding to and  
12 returning from an emergency, shall be deemed to be in the course of  
13 employment.

14 SECTION 13. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 313 of Title 85, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. All public entities of this state, their agencies and  
18 instrumentalities, authorities, and public trusts of which they are  
19 beneficiaries shall provide workers' compensation benefits to their  
20 employees and elected officials engaged in either governmental or  
21 proprietary functions in accordance with this section. Compensation  
22 or indemnification for compensation shall be paid out of the funds  
23 of the public entities.

24

1 B. Except as otherwise provided, the state and all its  
2 institutions of higher education, departments, instrumentalities,  
3 institutions, and public trusts of which it or they are  
4 beneficiaries shall insure against liability for workers'  
5 compensation with CompSource Oklahoma and shall not insure with any  
6 other insurance carrier unless CompSource Oklahoma refuses to accept  
7 the risk when the application for insurance is made or such action  
8 is specifically authorized by law.

9 C. The state, all state institutions of higher education except  
10 comprehensive universities, and all state departments,  
11 instrumentalities, institutions, and public trusts of which the  
12 state is a beneficiary, may self-insure under rules promulgated by  
13 CompSource Oklahoma. Self-insurance administration may only be  
14 obtained through CompSource Oklahoma.

15 D. All counties, cities and towns, comprehensive universities,  
16 and boards of education, their instrumentalities and public trusts  
17 of which they are beneficiaries, shall insure against their  
18 liability for workers' compensation with CompSource Oklahoma or,  
19 through any combination of the following, may:

20 1. Self-insure and make any appropriation of funds to cover  
21 their risk;

22 2. Secure reinsurance or excess insurance over and above a  
23 self-insurance retention in any manner authorized by Title 51 of the  
24 Oklahoma Statutes;

1           3. Secure compensation for their employees in the manner  
2 provided in the Governmental Tort Claims Act; or

3           4. Insure with other insurance carriers licensed in this state.

4           E. In addition to any other provision of this section, city,  
5 county, city-county, and public trust hospitals may insure with  
6 other insurance carriers licensed in this state if it can be  
7 demonstrated to the governing body of the hospital prior to the  
8 inception date of a workers' compensation policy each year that the  
9 policy will result in a lower cost than one with CompSource  
10 Oklahoma.

11           F. For purposes of the Workers' Compensation Act, all contracts  
12 of employment for state, county, municipal, and state funded  
13 educational entities and public trusts will be considered to have  
14 been entered into in this state regardless of where the work is  
15 performed.

16           G. When a person who is employed by the state, a municipality,  
17 a county, or by any political subdivisions thereof, and who, while  
18 off-duty from the employment, is employed by a private employer, the  
19 private employer alone shall be liable for compensation under the  
20 Workers' Compensation Act for any injury or death of the person  
21 arising out of and in the course of employment which occurs during  
22 the hours of actual employment by the private employer. The  
23 provisions of this subsection shall not relieve the state, a  
24 municipality or a county, or any political subdivision thereof, from

1 providing disability benefits to which a person may be entitled  
2 pursuant to a pension or retirement plan. The provisions of this  
3 subsection shall not preclude an employee or group of employees so  
4 employed from providing separate compensation coverage for off-duty  
5 employment by a private employer.

6 SECTION 14. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 314 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 Liability of any person or entity for benefits under the  
10 Workers' Compensation Act, when other than the immediate employer of  
11 the injured employee, shall be as follows:

12 1. An employer shall be liable for benefits under the Workers'  
13 Compensation Act to the employees of any subcontractor, if the  
14 subcontractor is not covered by a policy of workers' compensation  
15 insurance. In that event, such employer, whose subcontractor is not  
16 covered by a policy of workers' compensation, shall become the  
17 principal employer for purposes of this section;

18 2. An injured employee may seek benefits from his or her  
19 immediate employer and the principal employer, and such claims may  
20 be presented against all such persons in one proceeding. Provided,  
21 however, if benefits are awarded against the principal employer  
22 under the provisions hereof, such award shall not preclude the  
23 principal employer from recovering the same, and all expense in  
24 connection with said proceeding, from any subcontractor, and such

1 recovery may be had by supplemental proceedings in the cause before  
2 the Workers' Compensation Court or by an independent action in any  
3 court of competent jurisdiction to enforce liability of contracts;

4 3. Where work is performed by an independent contractor on a  
5 single family residential dwelling or its premises occupied by the  
6 owner, or for a farmer whose cash payroll for wages, excluding  
7 supplies, materials and equipment, for the preceding calendar year  
8 did not exceed One Hundred Thousand Dollars (\$100,000.00), such  
9 owner or farmer shall not be liable for compensation under the  
10 Workers' Compensation Act for injuries to the independent contractor  
11 or his or her employees.

12 SECTION 15. 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 Benefits for a single event injury shall be determined by the  
16 law in effect at the time of injury. Benefits for a cumulative  
17 trauma injury or occupational disease or illness shall be determined  
18 by the law in effect at the time the employee knew or reasonably  
19 should have known that the injury, occupational disease or illness  
20 was related to work activity. Benefits for death shall be  
21 determined by the law in effect at the time of death.

22 SECTION 16. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 316 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1       Where benefits are payable for an occupational disease, the  
2 employer in whose employment the employee was last injuriously  
3 exposed to the hazards of such disease and the insurance carrier, if  
4 any, on the risk when such employee was last so exposed under such  
5 employer, shall alone be liable therefor, without right to  
6 contribution from any prior employer or insurance carrier; provided,  
7 however, that in the case of silicosis, asbestosis or asbestosis  
8 related disease, the only employer and insurance carrier liable  
9 shall be the last employer in whose employment the employee was last  
10 exposed to harmful quantities of silicon dioxide dust on each of at  
11 least sixty (60) days or more, and the insurance carrier, if any, on  
12 the risk when the employee was last so exposed under such employer.

13       SECTION 17.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 317 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16       Where benefits are payable for an injury resulting from  
17 cumulative trauma, the last employer in whose employment the  
18 employee was last injuriously exposed to the trauma for a period of  
19 at least ninety (90) days of such injurious exposure, and the  
20 insurance carrier, if any, on the risk when the employee was last so  
21 exposed under such employer, shall alone be liable therefor, without  
22 right to contribution from any prior employer or insurance carrier.  
23 If there is no employer in whose employment the employee was  
24 injuriously exposed to the trauma for a period of at least ninety

1 (90) days, then the last employer in whose employment the employee  
2 was last injuriously exposed to the trauma and the insurance  
3 carrier, if any, on the risk when such employee was last so exposed  
4 under such employer, shall be liable therefor, with right to  
5 contribution from any prior employer or insurance carrier.

6 SECTION 18. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 318 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. The right to claim compensation under the Workers'  
10 Compensation Act shall be forever barred unless, within one (1) year  
11 after the date of accidental injury or death, a claim for  
12 compensation is filed with the Workers' Compensation Court.  
13 Provided however, a claim may be filed within one (1) year of the  
14 date of the last medical treatment which was paid by the employer or  
15 the insurance carrier or the date of the payment of any compensation  
16 or remuneration paid in lieu of compensation.

17 B. With respect to disease or injury caused by cumulative  
18 trauma causally connected with employment, a claim must be filed  
19 within one (1) year of the date on which the employee was last  
20 employed by the employer.

21 C. In the case of asbestosis or asbestosis related disease,  
22 silicosis or exposure to nuclear radiation causally connected with  
23 employment, a claim must be filed within two (2) years of the date  
24 of last hazardous exposure or within two (2) years from the date

1 | said condition first becomes manifest by a symptom or condition from  
2 | which one learned in medicine could, with reasonable accuracy,  
3 | diagnose such specific condition, whichever last occurs.

4 |       D. The filing of any form or report by the employer or  
5 | insurance carrier pursuant to subsection A, B or C of this section  
6 | shall not toll any limitations provided for therein.

7 |       E. When a claim for compensation has been filed with the  
8 | Administrator of the Workers' Compensation Court as herein provided,  
9 | unless the claimant shall in good faith request a hearing for  
10 | benefits within two (2) years from the date of filing thereof or  
11 | within two (2) years from the date of last payment of medical  
12 | treatment or compensation or wages in lieu thereof, same shall be  
13 | barred and shall be dismissed by the Court for want of prosecution,  
14 | which action shall operate as a final adjudication of the right to  
15 | claim benefits thereunder.

16 |       F. The jurisdiction of the Court to reopen any cause upon an  
17 | application based upon a change in condition for the worse shall  
18 | extend for two (2) years from the date of the last order in which  
19 | monetary benefits or active medical treatment was provided, and  
20 | unless filed within said period of time, shall be forever barred.  
21 | An order denying an application to reopen a claim shall not extend  
22 | the period of the time set out herein for reopening the case. A  
23 | failure to comply with a medical treatment plan ordered by the Court  
24 |

1 shall bar reopening of a claim. This subsection shall be considered  
2 to be substantive in nature.

3 G. No limitation of time provided in this act shall run as  
4 against any person who is mentally incompetent or a minor so long as  
5 he or she has no guardian properly appointed by the district court.

6 SECTION 19. 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 Any claimant may, upon the payment of the Workers' Compensation  
10 Court's filing fee, dismiss any claim brought by the claimant at any  
11 time before final submission of the case to the Court for decision.  
12 Such dismissal shall be without prejudice unless the words "with  
13 prejudice" are included in the order. If any claim that is filed  
14 within the statutory time permitted by Section 19 of this act is  
15 dismissed without prejudice, a new claim may be filed within one (1)  
16 year after the entry of the order dismissing the first claim even if  
17 the statutory time for filing has expired.

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

21 A. The Administrator of the Workers' Compensation Court shall  
22 establish a workers' compensation counselor or ombudsman program to  
23 assist injured workers, employers and persons claiming death  
24 benefits in obtaining benefits under the Workers' Compensation Act.

1 B. Workers' compensation counselors or ombudsman shall provide  
2 information to injured workers; investigate complaints; communicate  
3 with employers, insurance carriers, self-insurers, and health care  
4 providers; provide informational seminars and workshops on workers'  
5 compensation for medical providers, insurance adjustors, and  
6 employee and employer groups; and develop informational materials  
7 for employees, employers and medical providers.

8 C. The Administrator shall mail a notice to the injured worker  
9 within ten (10) days of the filing of an Employer's First Notice of  
10 Injury. The notice shall advise the injured worker of the  
11 availability of the services of the Workers' Compensation Court's  
12 counselor or ombudsman program and of the availability of mediation  
13 to assist the injured worker. The Administrator shall provide  
14 contact information for the Court's counselor or ombudsman program  
15 and all such additional information as the Administrator may  
16 determine necessary.

17 D. The Administrator shall develop a program by April 2, 2012,  
18 that provides for annual training for own-risk employers and claims  
19 representatives handling workers' compensation claims in Oklahoma.  
20 The training shall include information about the Counselor and  
21 Ombudsman Program, Mediation, and other services provided by the  
22 Workers' Compensation Court.

23  
24

1 SECTION 21. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 321 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. Mediation shall be available to any party to a claim arising  
5 pursuant to the provisions of the Workers' Compensation Act, subject  
6 to limitations pertaining to certified workplace medical plans and  
7 except for claims against the Multiple Injury Trust Fund.

8 B. Unless ordered by the Workers' Compensation Court, mediation  
9 shall be voluntary, and shall not be conducted without the consent  
10 of both parties. Mediation is not a prerequisite to the  
11 commencement of a claim for benefits under the Workers' Compensation  
12 Act. A request for mediation or consent to mediate does not invoke  
13 the jurisdiction of the Court.

14 C. The Court may order mediation in any case in which the Court  
15 believes that mediation may be beneficial to a prompt and efficient  
16 resolution of the claim.

17 D. A request for mediation may be made by either party and  
18 shall be made in writing to the Administrator of the Workers'  
19 Compensation Court who shall set the case for prehearing before the  
20 assigned judge within fifteen (15) days. At the prehearing, the  
21 judge shall appoint a mediator and issue an order reflecting such  
22 appointment. The mediator shall contact the parties and schedule a  
23 mediation session within thirty (30) days of such order, unless  
24 otherwise agreed to by the parties.

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

7 F. The Court shall be responsible for certifying those persons  
8 who are eligible and qualified to serve as mediators. An individual  
9 may be certified as a mediator if the applicant meets the  
10 qualifications as required by the Court. A certified mediator may  
11 be an attorney or nonattorney who has worked in the area of Oklahoma  
12 workers' compensation benefits for at least five (5) years.

13 G. Each certified mediator shall remain on the list for five  
14 (5) years, unless removed. Mediators shall be required to complete  
15 at least six (6) hours of continuing education per two-year period  
16 in the areas of mediation and workers' compensation. Proof of  
17 compliance with this requirement shall be submitted to the  
18 Administrator. This continuing education requirement shall be in  
19 addition to any other such general requirement which may be required  
20 by the Oklahoma State Bar Association. Cost of continuing education  
21 is to be borne by the applicant.

22 H. Mediators shall be compensated at the rate or fee as  
23 determined by the mediator; provided, however, the rate or fee shall  
24 not exceed a maximum rate to be established by the Administrator by

1 rule. The cost of mediation shall be paid by the respondent or its  
2 insurance carrier. A mediator must schedule mediations for a  
3 minimum two (2) hour block of time, and may not schedule more than  
4 one mediation to take place at a time.

5 I. At the time of a mediation, the claimant shall be in  
6 attendance unless all parties agree, and all parties shall be  
7 represented during the entire mediation session by a person with  
8 full settlement authority to settle any issue of the claim. If a  
9 party does not have full settlement authority, the mediator shall  
10 report to the assigned judge of the Court who may for good cause  
11 shown assess costs, attorney fees, and sanctions.

12 J. To encourage early resolution of claims, an injured employee  
13 may participate in mediation without counsel. Upon compromise  
14 settlement of the claim, the parties may submit the settlement  
15 agreement to the Administrator for final approval.

16 SECTION 22. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 322 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. Every employer shall keep a record of injuries received by  
20 his or her employees in the course of their employment, which result  
21 in the loss of time beyond the shift or which require medical  
22 attention away from the work site.

23 B. Within ten (10) days of receipt of notice of an injury, a  
24 report thereof shall be made in writing by the employer to the

1 Workers' Compensation Court and to the employer's workers'  
2 compensation insurance carrier, if any, on a form prescribed by the  
3 Administrator of the Workers' Compensation Court. Such reports  
4 shall provide such information as may be required by the  
5 Administrator. The report, known as the Employer's First Notice of  
6 Injury, shall vest the Court with jurisdiction to determine all  
7 issues covered by provisions of this act. The Employer's First  
8 Notice of Injury shall be kept confidential and shall not be open to  
9 public inspection; provided, such reports shall be made available  
10 immediately upon request by the injured employee named in the  
11 report, the injured employee's legal representative, the employer,  
12 the employer's legal representative or any prosecutorial authority,  
13 and at such time an Employee's First Notice of Injury shall be  
14 filed. Filing of an Employer's First Notice of Injury is not an  
15 admission of liability or that the employee has provided proper  
16 notice of injury as provided in this act.

17 C. Each employer shall post a notice advising employees that  
18 they are covered by the Workers' Compensation Act and that workers'  
19 compensation counselor or ombudsman services are available at the  
20 Court. The form of the notice shall be prescribed by the rules of  
21 the Court. No other notice to the employee shall be required other  
22 than the poster required by this section; provided that nothing in  
23 this subsection shall be construed to toll the statute of  
24 limitations provided for in Section 18 of this act.

1 D. Any employer who refuses or neglects to make a report as  
2 required by this section shall be liable for an administrative  
3 violation and subject to a fine by the Administrator of not more  
4 than One Thousand Dollars (\$1,000.00).

5 SECTION 23. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 323 of Title 85, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. Unless an employee gives oral or written notice to the  
9 employer within thirty (30) days of the date an injury occurs, or  
10 the employee receives medical attention from a licensed physician  
11 during the thirty-day period from the date a single event injury  
12 occurred, the rebuttable presumption shall be that the injury was  
13 not work-related. Such presumption must be overcome by a  
14 preponderance of the evidence.

15 B. Unless an employee gives oral or written notice to the  
16 employer within ninety (90) days of the employee's separation of  
17 employment, there shall be a rebuttable presumption that an  
18 occupational disease or cumulative trauma injury did not arise out  
19 of and in the course of employment. Such presumption must be  
20 overcome by a preponderance of the evidence.

21 C. The Administrator of the Workers' Compensation Court shall  
22 provide printed notice forms, "Employee's First Notice of Accidental  
23 Injury and Claim for Compensation", to be used by the injured  
24 employee. In addition to other information required by the

1 Administrator, such notice shall include the name and social  
2 security number of the employee; the name and address of the  
3 employer; the date, place, and type of injury; a declaration whether  
4 the employee has filed a claim for Social Security Disability  
5 Insurance benefits; and a declaration whether the employee is  
6 receiving Medicare benefits, is eligible for Medicare benefits or  
7 will become eligible for Medicare benefits within thirty (30) months  
8 of the filing of such notice. Notice of injury filed by the  
9 employee with the Administrator shall be verified subject to the  
10 laws of perjury of this state.

11 SECTION 24. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 324 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14 A. Any claim for any benefit under the Workers' Compensation  
15 Act shall be commenced with the filing of an Employee's First Notice  
16 of Accidental Injury and Claim for Compensation by the Employee with  
17 the Administrator. The claim shall contain a statement that all  
18 matters stated therein are true and accurate and shall be signed by  
19 the claimant and the claimant's agent, if any. Any person who signs  
20 this statement or causes another to sign this statement knowing the  
21 statement to be false shall be guilty of perjury.

22 B. All answers and defenses to claims or other documents filed  
23 on behalf of a respondent or the respondent's insurer in a workers'  
24 compensation case shall contain a statement that all matters stated

1 therein are true and accurate and shall be signed by the respondent,  
2 the insurer, or their respective agents, if any. Any person who  
3 signs such a statement or causes another to sign such a statement,  
4 knowing the statement to be false, shall be guilty of perjury.

5 C. Any party shall have the right to request a prehearing  
6 conference or trial before the Workers' Compensation Court on any  
7 issue. The Administrator of the Workers' Compensation Court shall,  
8 within seven (7) days of the receipt of such notification, set the  
9 matter for prehearing conference or trial at the earliest available  
10 time to be heard by the Court.

11 SECTION 25. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 325 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14 The Administrator of the Workers' Compensation Court shall  
15 assign claims to judges based upon a fair and rotating basis to be  
16 heard either in Oklahoma City or Tulsa. The Administrator shall  
17 proportionately divide the counties of the state to determine proper  
18 venue for claims. Upon agreement of the parties and with the  
19 permission of the judge, hearings or prehearings may be held in  
20 other judicial districts or by videoconferencing.

21 SECTION 26. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 326 of Title 85, unless there is  
23 created a duplication in numbering, reads as follows:

24

1       A. Within seven (7) days of actual knowledge of an injury, the  
2 employer shall provide the employee reasonable and necessary medical  
3 care with a physician of the employer's choice. The providing of  
4 medical care shall not be construed as an admission of  
5 compensability of an injury or illness. The physician selected by  
6 the employer shall become the treating physician.

7       B. If the employer fails or neglects to provide medical  
8 treatment within seven (7) days after actual knowledge is received  
9 of an injury, the injured employee may select a physician to provide  
10 medical treatment at the expense of the employer; provided, however,  
11 that the injured employee, or another in the employee's behalf, may  
12 obtain emergency treatment at the expense of the employer where such  
13 emergency treatment is not provided by the employer.

14       C. If a self-insured employer, group self-insurance association  
15 plan, an employer's workers' compensation insurance carrier or an  
16 insured has previously contracted with a certified workplace medical  
17 plan, the employer shall select for the injured employee a treating  
18 physician from the physicians listed within the network of the  
19 certified workplace medical plan. The claimant may apply for a  
20 change of physician by utilizing the dispute resolution process set  
21 out in the certified workplace medical plan on file with the State  
22 Department of Health. If the dispute resolution process has been  
23 exhausted, the Workers' Compensation Court may appoint an

24

1 independent medical examiner to determine the nature of medical  
2 treatment needed by the injured worker.

3 D. The term "physician" as used in this section shall mean any  
4 person licensed in this state as a medical doctor, chiropractor,  
5 podiatrist, dentist, osteopathic physician or optometrist. The  
6 Court may accept testimony from a psychologist if the testimony is  
7 requested by the Court.

8 E. Where the employee is not covered by a certified workplace  
9 medical plan, the employer shall select the treating physician as  
10 provided in subsection A of this section. The Court on application  
11 of either party may order one change of treating physician for any  
12 affected body part. In the event the employee makes application for  
13 such a change, a showing that the employee is under active medical  
14 treatment for the body part requested is a prerequisite for an order  
15 granting a change of physician. If the Court grants a change of  
16 physician, the Court shall select a treating physician who is  
17 qualified to treat the body part affected and who can see the  
18 employee within a reasonable time.

19 F. Diagnostic tests shall not be repeated sooner than six (6)  
20 months from the date of the test unless agreed to by the parties or  
21 ordered by the Court.

22 G. The scope and duration of medical treatment shall be  
23 governed by the latest edition of the "Official Disability  
24 Guidelines", as published by the Work Loss Data Institute.

1 H. Unless recommended by the treating doctor at the time  
2 claimant reaches maximum medical improvement or by an independent  
3 medical examiner, continuing medical maintenance shall not be  
4 awarded by the Court. At the request of any party, the judge shall  
5 appoint an independent medical examiner to determine the nature and  
6 extent of continuing medical maintenance. The issue of continuing  
7 medical maintenance may be reviewed by the Court at any time. The  
8 employer or insurance carrier shall not be responsible for  
9 continuing medical maintenance or pain management treatment that is  
10 outside the parameters established by the Physicians Advisory  
11 Committee. The employer or insurance carrier shall not be  
12 responsible for continuing medical maintenance or pain management  
13 treatment not previously ordered by the Court or approved in advance  
14 by the employer or insurance carrier.

15 I. An employee claiming or entitled to benefits under the  
16 Workers' Compensation Act, shall, if ordered by the Court or  
17 requested by the employer or insurance carrier, submit himself for  
18 medical examination. If an employee refuses to submit himself to  
19 examination, his right to prosecute any proceeding under the  
20 Workers' Compensation Act shall be suspended, and no compensation  
21 shall be payable for the period of such refusal.

22 J. For compensable injuries resulting in the use of a medical  
23 device, ongoing service for the medical device would be provided in  
24 situations including, but not limited to, medical device battery

1 replacement, ongoing medication refills related to the medical  
2 device, medical device repair or medical device replacement.

3 K. The employer shall reimburse employee for the actual mileage  
4 in excess of twenty (20) miles round-trip to and from the employee's  
5 home to the location of a medical service provider for all  
6 reasonable and necessary treatment, for an evaluation of an  
7 independent medical examiner and for any evaluation made at the  
8 request of the employer or insurance carrier. The rate of  
9 reimbursement for such travel expense shall be the official  
10 reimbursement rate as established by the Internal Revenue Service.  
11 In no event shall the reimbursement of travel for medical treatment  
12 or evaluation exceed six hundred (600) miles each way.

13 SECTION 27. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 327 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16 A. For the express purpose of reducing the cost of medical care  
17 for injured workers in the workers' compensation system, the  
18 Administrator of the Workers' Compensation Court is hereby directed  
19 to develop a new "Oklahoma Workers' Compensation Medical Fee  
20 Schedule" by March 1, 2012. Thereafter, the Administrator shall  
21 conduct a review of the Fee Schedule every two (2) years. The Fee  
22 Schedule shall establish the maximum rates that medical providers  
23 shall charge for medical care provided to injured workers,  
24 including, but not limited to, charges by physicians, dentists,

1 counselors, hospitals, ambulatory and outpatient facilities,  
2 clinical laboratory services, diagnostic testing services, and  
3 ambulance services, and charges for durable medical equipment,  
4 prosthetics, orthotics, and supplies.

5 B. Charges for medical care and the duration of the care shall  
6 be prescribed and limited by the Fee Schedule as adopted by the  
7 Administrator, after notice and public hearing. The Administrator  
8 shall develop the Fee Schedule in a manner in which quality of  
9 medical care is assured and maintained for injured workers.

10 C. The reimbursement rate in the Fee Schedule for any charge  
11 for medical care for an injured employee shall not exceed an amount  
12 equal to one hundred twenty percent (120%) of the reimbursement rate  
13 prescribed by the fee schedules published by the Centers for  
14 Medicare and Medicaid Services (CMS) of the U.S. Department of  
15 Health & Human Services. For services not valued by CMS, the  
16 Administrator shall establish values based on the usual, customary  
17 and reasonable medical payments to health care providers in the same  
18 trade area for comparable treatment of a person with similar  
19 injuries.

20 D. The right to recover charges for every type of medical care  
21 for injuries arising out of and in the course of covered employment  
22 as herein defined, shall lie solely with the Workers' Compensation  
23 Court. When a medical care provider has brought a claim in the  
24

1 Court to obtain payment for services, a party who prevails in full  
2 on the claim shall be entitled to a reasonable attorney fee.

3 E. Nothing in this section shall prevent an employer, insurance  
4 carrier, self-insurance association, or certified workplace medical  
5 plan from contracting with a provider of medical care for a  
6 reimbursement rate that is greater than or less than limits  
7 established by the Fee Schedule.

8 F. A treating physician may not charge more than Four Hundred  
9 Dollars (\$400.00) per hour for preparation for or testimony at a  
10 deposition or court appearance in connection with a claim covered by  
11 the Workers' Compensation Act.

12 G. The Administrator's review of medical and treatment charges  
13 pursuant to this section shall be conducted pursuant to the Fee  
14 Schedule in existence at the time the medical care or treatment was  
15 provided. The order of the approving medical and treatment charges  
16 pursuant to this section shall be enforceable by the Court in the  
17 same manner as provided in the Workers' Compensation Act for the  
18 enforcement of other compensation payments. Any party feeling  
19 aggrieved by the order, decision or award of the Administrator  
20 shall, within ten (10) days, have the right to request a hearing on  
21 such medical and treatment charges by a judge of the Court. The  
22 judge of the Court may affirm the decision of the Administrator, or  
23 reverse or modify the decision only if it is found to be contrary to  
24 the Fee Schedule existing at the time the medical care or treatment

1 was provided. The order of the judge shall be subject to the same  
2 appellate procedure set forth for all other orders of the Court.

3 H. Charges for prescription drugs shall be limited to ninety  
4 percent (90%) of the average wholesale price of the prescription,  
5 plus a dispensing fee of Five Dollars (\$5.00) per prescription.  
6 "Average wholesale price" means the amount determined from the  
7 latest publication designated by the Administrator. Physicians  
8 shall prescribe and pharmacies shall dispense generic equivalent  
9 drugs when available.

10 I. When medical care includes prescription drugs, the employer  
11 or insurance carrier shall be required to pay the lesser  
12 reimbursement amount under the schedule of fees adopted by the  
13 Administrator between prescription drugs obtained by mail order or  
14 from a pharmacy, when mail order is available. The employer or  
15 insurance carrier shall be required to pay the lesser reimbursement  
16 amount under the schedule of fees adopted by the Administrator for  
17 prescription drugs that have multiple NDC Numbers for the same  
18 prescription drug.

19 J. An invoice for the actual cost to a physician or hospital of  
20 an implantable device shall be adjusted by the physician or hospital  
21 to reflect all applicable discounts, rebates, considerations and  
22 product replacement programs and must be provided to the payer by  
23 the physician or hospital as a condition of payment for the  
24 implantable device.

1 K. An employer or insurance carrier that fails to make payment  
2 for medical care as required by this act within sixty (60) days of  
3 the receipt of a complete and accurate invoice shall be liable for  
4 an additional assessment of two percent (2%) per month for the  
5 remainder of the time that said invoice remains unpaid. The  
6 additional assessment shall apply only to the amount of  
7 reimbursement for each item of medical treatment allowed by the Fee  
8 Schedule.

9 SECTION 28. 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. If a self-insured employer, group self-insurance association  
13 plan, an employer's workers' compensation insurance carrier or an  
14 insured, which shall include any member of an approved group self-  
15 insured association, policyholder or public entity, has contracted  
16 with a workplace medical plan that is certified by the State  
17 Commissioner of Health as provided in this title, the employer shall  
18 select for the injured employee a treating physician from the  
19 physicians listed within the network of the certified workplace  
20 medical plan. The claimant may apply to the certified workplace  
21 medical plan for a one-time change of physician to another  
22 appropriate physician within the network of the certified workplace  
23 medical plan by utilizing the dispute resolution process set out in  
24 the certified workplace medical plan on file with the State

1 Department of Health. Notwithstanding any other provision of law,  
2 those employees who are subject to such certified workplace medical  
3 plan shall receive medical treatment in the manner prescribed by the  
4 plan.

5 B. The provisions of this section shall not preclude an  
6 employee, who has exhausted the dispute resolution process of the  
7 certified workplace medical plan, from petitioning the Workers'  
8 Compensation Court for a change of treating physician within the  
9 certified workplace medical plan or, if a physician who is qualified  
10 to treat the employee's injuries is not available within the plan,  
11 for a change of physician outside the plan, if the physician agrees  
12 to comply with all the rules, terms and conditions of the certified  
13 workplace medical plan; or an employee from seeking emergency  
14 medical treatment.

15 C. Any person or entity may make written application to the  
16 State Commissioner of Health to have a workplace medical plan  
17 certified that provides management of quality treatment to injured  
18 employees for injuries and diseases compensable under the Workers'  
19 Compensation Act. Each application for certification shall be  
20 accompanied by a fee of One Thousand Five Hundred Dollars  
21 (\$1,500.00). A workplace medical plan may be certified to provide  
22 services to a limited geographic area. A certificate is valid for a  
23 five-year period, unless revoked or suspended. Application for  
24 certification shall be made in the form and manner and shall set

1 | forth information regarding the proposed program for providing  
2 | services as the Commissioner may prescribe. The information shall  
3 | include, but not be limited to:

4 |       1. A list of the names of all medical providers who will  
5 | provide services under the plan, together with appropriate evidence  
6 | of compliance with any licensing or certification requirements for  
7 | those providers to practice in this state; and

8 |       2. A description of the places and manner of providing services  
9 | under the plan.

10 |       D. 1. The Commissioner shall not certify a plan unless the  
11 | Commissioner finds that the plan:

12 |           a. proposes to provide quality services for all medical  
13 | services which:

14 |               (1) may be required by the Workers' Compensation Act  
15 |               in a manner that is timely, effective and  
16 |               convenient for the employee, and

17 |               (2) utilizes medical treatment guidelines and  
18 |               protocols substantially similar to those  
19 |               established for use by medical service providers,  
20 |               which have been recommended by the Physician  
21 |               Advisory Committee and adopted by the  
22 |               Administrator pursuant to this title. If the  
23 |               Administrator has not adopted medical treatment  
24 |               guidelines and protocols, the Commissioner may

1 certify a plan that utilizes medical guidelines  
2 and protocols established by the plan if, at the  
3 discretion of the Commissioner, the guidelines  
4 and protocols are reasonable and will carry out  
5 the intent of the Workers' Compensation Act.

6 Certified plans must utilize medical treatment  
7 guidelines and protocols substantially similar to  
8 those adopted by the Administrator pursuant to  
9 this title, as such guidelines and protocols  
10 become adopted,

- 11 b. is reasonably geographically convenient to residents  
12 of the area for which it seeks certification,
- 13 c. provides appropriate financial incentives to reduce  
14 service costs and utilization without sacrificing the  
15 quality of service,
- 16 d. provides adequate methods of peer review, utilization  
17 review and dispute resolution to prevent  
18 inappropriate, excessive or medically unnecessary  
19 treatment, and excludes participation in the plan by  
20 those providers who violate these treatment standards,
- 21 e. requires the dispute resolution procedure of the plan  
22 to include a requirement that disputes on an issue,  
23 including a subsequent change of physician as  
24 described in the provisions of this section, related

1 to medical care under the plan be attempted to be  
2 resolved within ten (10) days of the time the dispute  
3 arises and if not resolved within ten (10) days, the  
4 employee may pursue remedies in the Court,

5 f. provides aggressive case management for injured  
6 employees and a program for early return to work,

7 g. provides workplace health and safety consultative  
8 services,

9 h. provides a timely and accurate method of reporting to  
10 the Commissioner necessary information regarding  
11 medical service costs and utilization to enable the  
12 Commissioner to determine the effectiveness of the  
13 plan,

14 i. authorizes necessary emergency medical treatment for  
15 an injury provided by a provider of medical, surgical,  
16 and hospital services who is not a part of the plan,

17 j. does not discriminate against or exclude from  
18 participation in the plan any category of providers of  
19 medical, surgical, or hospital services and includes  
20 an adequate number of each category of providers of  
21 medical, surgical, and hospital services to give  
22 participants access to all categories of providers and  
23 does not discriminate against ethnic minority  
24 providers of medical services, and

1 k. complies with any other requirement the Commissioner  
2 determines is necessary to provide quality medical  
3 services and health care to injured employees.

4 2. The Commissioner may accept findings, licenses or  
5 certifications of other state agencies as satisfactory evidence of  
6 compliance with a particular requirement of this section.

7 E. If any insurer, except CompSource Oklahoma, fails to  
8 contract with or provide access to a certified workplace medical  
9 plan, an insured, after sixty (60) days' written notice to its  
10 insurance carrier, shall be authorized to contract independently  
11 with a plan of his or her choice for a period of one (1) year, to  
12 provide medical care under the Workers' Compensation Act. The  
13 insured shall be authorized to contract, after sixty (60) days'  
14 written notice to its insurance carrier, for additional one-year  
15 periods if his or her insurer has not contracted with or provided  
16 access to a certified workplace medical plan.

17 F. If CompSource Oklahoma fails to contract with at least three  
18 certified workplace medical plans, each covering at least fifty  
19 counties, then the insured, after sixty (60) days' written notice to  
20 CompSource Oklahoma, shall be authorized to contract independently  
21 with a plan of the insured's choice for a period of one (1) year to  
22 provide medical care under the Workers' Compensation Act. The  
23 insured shall be authorized to contract, after sixty (60) days'  
24 written notice to CompSource Oklahoma, for additional one-year

1 periods if CompSource Oklahoma has not contracted with or fails to  
2 continue contracts with at least three certified workplace medical  
3 plans covering at least fifty counties.

4 G. The Commissioner shall refuse to certify or shall revoke or  
5 suspend the certification of a plan if the Commissioner finds that  
6 the program for providing medical or health care services fails to  
7 meet the requirements of this section, or service under the plan is  
8 not being provided in accordance with the terms of a plan.

9 H. The State Commissioner of Health shall implement a site  
10 visit protocol for employees of the State Department of Health to  
11 perform an inspection of a certified workplace medical plan to  
12 ensure that medical services to a claimant and the medical  
13 management of the claimant's needs are adequately met in a timely  
14 manner and that the certified workplace medical plan is complying  
15 with all other applicable provisions of this act and the rules of  
16 the State Department of Health. Such protocol shall include, but  
17 not be limited to:

18 1. A site visit shall be made to each certified workplace  
19 medical plan not less often than once every year, but not later than  
20 thirty (30) days following the anniversary date of issuance of the  
21 initial or latest renewal certificate;

22 2. A site visit shall conclude with a determination that a  
23 certified workplace medical plan is or is not operating in  
24

1 accordance with its latest application to the State Department of  
2 Health;

3 3. Compliant operations shall include, but not be limited to:

4 a. timely and effective medical services available with  
5 reasonable geographic convenience,

6 b. appropriate treatment guidelines and protocols, and

7 c. effective programs for utilization review, case  
8 management, grievances, and dispute resolution;

9 4. Performance of a site visit shall include:

10 a. inspection of organizational documentation,

11 b. inspection of systems documentation and processes,

12 c. random or systematic sampling of closed and open case  
13 management cases (files),

14 d. random or systematic sampling, or a one hundred  
15 percent (100%) inspection of all dispute resolution,  
16 grievance, and Department of Health request for  
17 assistance files,

18 e. workplace medical plan employee and management  
19 interviews, as appropriate;

20 5. An initial site visit may occur with an interval of less  
21 than twelve (12) months to a recently certified plan, or a site  
22 visit may occur more often than once in every twelve (12) months if  
23 the State Commissioner of Health has reason to suspect that a plan  
24 is not operating in accordance with its certification;

1       6. If a deficient practice is identified during a site visit,  
2 the State Department of Health shall require a certified workplace  
3 medical plan to submit a timely and acceptable written plan of  
4 correction, and then may perform a follow-up visit or visits to  
5 ensure that the deficient practice has been eliminated;

6       7. A deficient practice that is not remedied by a certified  
7 workplace medical plan on a timely basis shall require the State  
8 Commissioner of Health to revoke or to suspend the certification of  
9 a plan;

10       8. The fees payable to the State Department of Health shall be:

- 11           a. One Thousand Five Hundred Dollars (\$1,500.00) for an  
12                initial, annual site visit,
- 13           b. One Thousand Dollars (\$1,000.00) if a follow-up visit  
14                is performed,
- 15           c. separate from the once in five (5) years certification  
16                application fee, and
- 17           d. charged only if less than two site visits occur in a  
18                twelve-month period; and

19       9. In addition to the site visit fee, employees of the State  
20 Department of Health may charge to the certified workplace medical  
21 plan reasonable travel and travel-related expenses for the site  
22 visit such as overnight lodging and meals. A certified workplace  
23 medical plan shall reimburse travel expenses to the State Department  
24

1 of Health at rates equal to the amounts then currently allowed under  
2 the State Travel Reimbursement Act.

3 I. The State Board of Health shall adopt such rules as may be  
4 necessary to implement the provisions of this title and this  
5 section. Such rules shall authorize any person to petition the  
6 State Commissioner of Health for decertification of a certified  
7 workplace medical plan for material violation of any rules  
8 promulgated pursuant to this section.

9 SECTION 29. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 329 of Title 85, unless there is  
11 created a duplication in numbering, reads as follows:

12 A. The Workers' Compensation Court shall create, maintain and  
13 review a list of licensed physicians who shall serve as independent  
14 medical examiners from a list of licensed physicians who have  
15 completed such course study as the Administrator of the Workers'  
16 Compensation Court may require. The Court shall, to the best of its  
17 ability, include the most experienced and competent physicians in  
18 the specific fields of expertise utilized most often in the  
19 treatment of injured employees. The Court may remove an independent  
20 medical examiner from the list for cause.

21 B. The Court at any time, regardless of the date of injury, may  
22 appoint an independent medical examiner to assist in determining any  
23 issue before the Court.

24

1 C. An independent medical examiner in a case involving  
2 permanent disability shall not be a treating physician of the  
3 employee and shall not have treated the employee with respect to the  
4 injury for which the claim is being made or the benefits are being  
5 paid.

6 D. The Court shall select an independent medical examiner from  
7 the list of independent medical examiners within fifteen (15) days  
8 when the employer or the employee petitions the Court for the  
9 selection of an independent medical examiner. The independent  
10 medical examiner shall be certified by a recognized American medical  
11 specialty board in the area or areas appropriate to the condition  
12 under review.

13 E. The Court shall, to the best of its ability, maintain a  
14 geographic balance of independent medical examiners.

15 F. Counsel for employee and employer are responsible for the  
16 transmittal of the employee's medical records to the independent  
17 medical examiner within ten (10) days of appointment.

18 G. After a physical examination and review of medical records  
19 and other appropriate information, including depositions and  
20 surveillance video, the independent medical examiner shall submit a  
21 verified written report to the Court and to the parties. In the  
22 event the independent medical examiner determines that more medical  
23 treatment is necessary, the employer shall designate a treating  
24 physician to provide the indicated treatment.

1 H. Any independent medical examiner selected pursuant to the  
2 provisions of this section shall be reimbursed for the medical  
3 examination, reports and fees in a reasonable and customary amount  
4 set by the Court, and these costs shall be borne by the employer.

5 I. The Court, in consultation with the Advisory Council on  
6 Workers' Compensation, shall create a review process to oversee on a  
7 continuing basis the quality of performance and the timeliness of  
8 the submission of medical findings by independent medical examiners.

9 J. If the Court does not follow the opinion of the independent  
10 medical examiner on any issue, the Court shall set out its reasons  
11 for deviating from the opinion of the independent medical examiner.  
12 The opinion of the independent medical examiner shall be followed  
13 unless there is clear and convincing evidence to the contrary.

14 K. Upon receipt of an independent medical examiner's report,  
15 any party shall have the right to object to the introduction of the  
16 report into evidence. The objection must be made by giving written  
17 notification to all parties and to the Court within ten (10) days  
18 after receipt of the report. The employer shall be responsible for  
19 the reasonable charges of the physician for such testimony,  
20 preparation time, and the expense of the deposition.

21 SECTION 30. 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:

24

1 For cases not covered by a certified workplace medical plan, and  
2 where the employer, insurance company, or own-risk employer do not  
3 provide case management, case management may be granted by the  
4 Workers' Compensation Court on the request of any party, or when the  
5 Court determines that case management is appropriate. The Court  
6 shall appoint a case manager from a list of qualified case managers  
7 developed, maintained and periodically reviewed by the Court. The  
8 reasonable and customary charges of a medical case manager appointed  
9 by the Court shall be borne by the employer or insurance carrier.  
10 The Court may order one change of case manager upon application of  
11 any party.

12 SECTION 31. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 331 of Title 85, unless there is  
14 created a duplication in numbering, reads as follows:

15 Except as otherwise provided in this act, the average weekly  
16 wages of the injured employee at the time of the injury shall be  
17 taken as the basis upon which to compute compensation and shall be  
18 determined as follows:

19 1. If the injured employee shall have worked for the same  
20 employer for the year immediately preceding the injury, his average  
21 weekly wage shall be one fifty-second (1/52) of his total wages for  
22 the fifty-two (52) weeks preceding the injury; provided, however,  
23 that if the employee shall have received a pay raise or promotion  
24 during the year, the average weekly wage shall be one fifty-second

1 (1/52) of 260 times the average daily wage at the increased rate of  
2 pay;

3 2. If the injured employee shall not have worked for the  
4 employer for one year prior to the injury, his average weekly wage  
5 shall be his total wages divided by the number of weeks employed;  
6 provided, however, that if the employee shall have received a pay  
7 raise or promotion during the time employed, the average weekly wage  
8 shall be one fifty-second (1/52) of 260 times the average daily wage  
9 at the increased rate of pay;

10 3. If either of the foregoing methods of arriving at the annual  
11 average earnings of an injured employee cannot reasonably and fairly  
12 be applied, the Workers' Compensation Court may consider average  
13 wages in the same or similar employment in the same area of the  
14 state where the injury occurred;

15 4. The benefit level for members of the National Guard and any  
16 authorized voluntary or uncompensated worker rendering services as a  
17 firefighter, peace officer or civil defense worker shall be  
18 determined by using the wages of the employee in his regular  
19 occupation.

20 SECTION 32. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 332 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. In cases of temporary total disability, the injured employee  
24 shall be paid sixty-six and two-thirds percent (66 2/3%) of his or

1 her average weekly wages, but not in excess of the state's average  
2 weekly wages as determined by the Oklahoma Employment Security  
3 Commission, during continuance thereof; provided, there shall be no  
4 payment for the first seven (7) days of the initial period of  
5 temporary total disability unless the Workers' Compensation Court  
6 declares the employee to be temporarily totally disabled for more  
7 than twenty one (21) days. In that event, compensation shall be due  
8 from the first day of the period of temporary total disability.  
9 Total payments of compensation for temporary total disability shall  
10 not exceed one hundred fifty-six (156) weeks, except if the Court  
11 makes a finding of a consequential injury. In that event, the Court  
12 may order an additional period of temporary total disability not to  
13 exceed fifty-two (52) weeks. Any party may request overpayment or  
14 underpayment of temporary total disability compensation.

15 B. When the injured employee is released from active medical  
16 treatment by the treating physician for all body parts injured, or  
17 in the event that the employee, without a valid excuse, misses three  
18 consecutive medical treatment appointments, the employer shall be  
19 entitled to terminate temporary total disability by notifying the  
20 employee, or if represented, his counsel. If there is no objection  
21 within ten (10) days, temporary total disability compensation shall  
22 be terminated. If, however, an objection to the termination is  
23 filed by the employee within ten (10) days, the Court shall set the  
24 matter within twenty (20) days for a determination if temporary

1 total compensation shall continue or be terminated. The Court may  
2 appoint an independent medical examiner to determine if further  
3 medical treatment is reasonable and necessary. The independent  
4 medical examiner shall not provide treatment to the injured worker,  
5 unless agreed upon by the parties. The employer shall bear the cost  
6 of the independent medical examination.

7 C. There shall be a rebuttable presumption in favor of the  
8 treating physician's opinions on the issue of temporary disability  
9 and need for medical treatment.

10 D. The state and all its institutions of higher education,  
11 departments, instrumentalities, institutions and public trusts of  
12 which they are beneficiaries shall first provide temporary total  
13 disability benefits to employees injured on the job under their  
14 policy of workers' compensation insurance. At the option of the  
15 employee, temporary total disability benefits shall then be  
16 supplemented by any sick or annual leave available to the injured  
17 employee to the extent that the injured employee shall receive full  
18 wages during the employee's temporary absence from work; provided,  
19 the provisions of this section shall not preclude an employee from  
20 receiving any benefits to which the employee is entitled under the  
21 State Employees Disability Program Act, Section 1331 et seq. of  
22 Title 74 of the Oklahoma Statutes.

23 E. If the employer has notice of the injury and the injury is  
24 not disputed and weekly temporary total disability benefit payments

1 are not commenced within ten (10) days or if any subsequent  
2 installment of temporary total disability benefits is not made  
3 within ten (10) days after it becomes due, the insurer of the  
4 employer shall pay to the employee a penalty of fifteen percent  
5 (15%) of the unpaid or delayed weekly benefits.

6 F. The physician who renders treatment to the employee shall  
7 notify the employee and employer or the employer's insurer in  
8 writing within seven (7) days after the employee has reached maximum  
9 medical improvement and is released from active medical care.

10 G. If the employee is capable of returning to modified light  
11 duty work, the physician shall within seven (7) days notify the  
12 employee and the employer or the employer's insurer thereof in  
13 writing. In the event that the treating physician releases a  
14 claimant for light-duty work and provides written restrictions from  
15 normal work duties, and the employer makes a good-faith offer in  
16 writing to provide a light-duty position at the same rate of pay  
17 that the claimant was receiving at the time of the injury, and the  
18 claimant refuses to accept the light-duty assignment, the claimant  
19 is not entitled to temporary total disability; provided, before  
20 compensation may be denied, the employee shall be served with a  
21 notice setting forth the consequences of the refusal of employment  
22 and that temporary benefits will be discontinued fifteen (15) days  
23 after the date of the notice. The employee, upon receipt of the  
24 notice, may seek a hearing before the Court. The Court shall grant

1 an expedited hearing within five (5) days of any application by the  
2 employee. At the hearing, the Court may enter an order allowing the  
3 discontinuation of the benefits, denying the discontinuance of the  
4 benefits or temporarily denying the discontinuance of the benefits  
5 pending further hearing. An order denying or temporarily denying  
6 the discontinuation of temporary benefits shall be based on a  
7 finding by the Court that probable cause exists to believe the work  
8 does not meet the conditions of the treating physician's  
9 restrictions or that the restrictions are unreasonable.

10 H. Any person receiving temporary disability benefits from an  
11 employer or the employer's insurance carrier shall within seven (7)  
12 days report in writing to the employer or insurance carrier any  
13 change in a material fact or the amount of income he or she is  
14 receiving or any change in his employment status, occurring during  
15 the period of receipt of the benefits.

16 I. Any employee convicted of a misdemeanor or felony and  
17 sentenced to a term of incarceration of at least ninety (90) days in  
18 this state or in any other jurisdiction shall have all benefits for  
19 temporary total disability awarded by the Court forfeited by order  
20 of the Court on motion of the employer or the employer's insurer  
21 after confirmation of the employee's incarceration. The provisions  
22 of this subsection shall not apply to any benefits awarded to an  
23 inmate for compensable injuries sustained by the inmate while in the  
24 employ of a private for-profit employer or while employed in private

1 prison industries, involving a for-profit employer, which deal in  
2 interstate commerce or which sell products or services to the  
3 federal government.

4 J. In case of temporary partial disability, an injured employee  
5 shall receive seventy percent (70%) of the difference between the  
6 employee's average weekly wages and the employee's wage-earning  
7 capacity thereafter in the same employment or otherwise, if less  
8 than before the injury, during continuance of the partial  
9 disability. Total payments of temporary partial disability may not  
10 exceed one hundred fifty-six (156) weeks. In no event shall the  
11 total payment of wages and temporary partial disability exceed  
12 eighty (80) percent of the average weekly wage of the injured  
13 employee at the time of the accident.

14 K. In case of a nonsurgical soft tissue injury, in which the  
15 employer has provided medical care within seven (7) days after  
16 receipt of oral or written notice of the injury, temporary total  
17 compensation shall not exceed eight (8) weeks, regardless of the  
18 number of parts of the body to which there is a nonsurgical soft  
19 tissue injury. A claimant who has been recommended by a treating  
20 physician for one or more injections may petition the Court for one  
21 extension of temporary total compensation and the Court may order an  
22 extension, not to exceed eight (8) additional weeks. A claimant who  
23 has been recommended by a treating physician for surgery for a soft  
24 tissue injury may petition the Court for one extension of temporary

1 total compensation and the Court may order an extension, not to  
2 exceed sixteen (16) additional weeks, if the treating physician  
3 indicates that an extension is appropriate or as agreed to by all  
4 parties. In the event the surgery is not performed within one  
5 hundred twenty (120) days of the approval of the surgery by the  
6 employer or employer's insurance carrier or an order of the Court  
7 authorizing the surgery, the benefits for the extension period shall  
8 be terminated by the Court, unless the Court finds the delay was  
9 beyond the control of the claimant. In the event surgery is  
10 performed, the period of temporary total disability is subject to  
11 the limitations established by subsection A of this section. This  
12 subsection shall apply to all cases coming before the Court after  
13 the effective date of this act, regardless of the date of injury.

14 L. For purposes of this section, "soft tissue injury" means  
15 damage to one or more of the tissues that surround bones and joints.  
16 Soft tissue injury includes, but is not limited to: sprains,  
17 strains, contusions, tendonitis, and muscle tears. Cumulative  
18 trauma is to be considered a soft tissue injury. Soft tissue injury  
19 does not include any of the following:

20 1. Injury to or disease of the spine, spinal disks, spinal  
21 nerves or spinal cord, where corrective surgery is performed;

22 2. Brain or closed-head injury as evidenced by:

23 a. sensory or motor disturbances,

24 b. communication disturbances,

- c. complex integrated disturbances of cerebral function,
- d. episodic neurological disorders, or
- e. other brain and closed-head injury conditions at least as severe in nature as any condition provided in subparagraphs a through d of this paragraph; or

3. Any joint replacement.

M. In all cases of nonsurgical soft tissue injury, the employee shall only be entitled to temporary total compensation as set out in subsection K of this section, unless there is objective medical evidence of a permanent anatomical abnormality. In determining the existence of such an abnormality, the Court may consider if there is credible medical evidence that the ability of the employee to earn wages at the same level as before the injury has been impaired. This subsection shall apply to all cases coming before the Court after the effective date of this act, regardless of the date of injury.

N. Notwithstanding any other section of the Workers' Compensation Act, temporary compensation shall be payable without an award by the Court. The first payment of temporary compensation shall become due on the tenth day after the employer has received notice of injury.

O. Payments for temporary total disability or temporary partial disability shall not constitute admission by the employer or insurance carrier as to liability for benefits or any issue.

1 P. No employee may receive temporary total disability benefits  
2 covering the same period of time for which unemployment benefits as  
3 provided by the Oklahoma Employment Security Commission are received  
4 by the employee or for which short term disability benefits are  
5 received by the employee by reason of a policy of insurance provided  
6 by the employer.

7 SECTION 33. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 333 of Title 85, unless there is  
9 created a duplication in numbering, reads as follows:

10 A. Any claim by an employee for compensation for permanent  
11 partial impairment must be supported by competent medical testimony  
12 which shall be supported by objective medical findings, as defined  
13 in this act, and which shall include an evaluation by a physician  
14 stating his opinion of the employee's percentage of permanent  
15 partial impairment and whether or not the impairment is job-related  
16 and caused by the accidental injury or occupational disease. A copy  
17 of any written evaluation shall be sent to both parties within seven  
18 (7) days. Medical opinions addressing compensability and permanent  
19 impairment must be stated within a reasonable degree of medical  
20 certainty. For purposes of this section, a physician shall have the  
21 same meaning as defined in Section 27 of this act and shall include  
22 a person licensed by another state who would be qualified to be a  
23 licensed physician under the laws of this state. Any party may  
24 submit the report of an evaluating physician.

1 B. Permanent partial impairment shall not be allowed to a part  
2 of the body for which no medical treatment has been received.

3 C. A physician shall evaluate impairment or disability to parts  
4 of the body other than scheduled members in accordance with the  
5 latest edition of the American Medical Association's "Guides to the  
6 Evaluation of Permanent Impairment", hereinafter referred to as  
7 "Guides", or alternative method adopted by provisions hereinafter  
8 described, in effect at the time of the evaluation. The Physician  
9 Advisory Committee may recommend the adoption of a method or system  
10 to evaluate permanent impairment that shall deviate from, be used in  
11 place of, or in combination with the Guides. Such recommendation  
12 shall be made to the Administrator of the Workers' Compensation  
13 Court who may adopt the recommendation in part or in whole. The  
14 adopted method or system shall be submitted by the Administrator to  
15 the Governor, the Speaker of the House of Representatives and the  
16 President Pro Tempore of the Senate within the first ten (10)  
17 legislative days of a regular session of the Legislature. Such  
18 method or system so submitted shall be subject to disapproval by  
19 joint or concurrent resolution of the Legislature during the  
20 legislative session in which submitted. If disapproved, the  
21 existing method of determining permanent partial impairment shall  
22 continue in effect. If the Legislature takes no action on the  
23 method or system submitted by the Administrator, the method or

24

1 system shall become operative ten (10) days following the  
2 adjournment of the Legislature.

3 D. The examining physician shall not deviate from the Guides or  
4 any alternative thereto except as may be specifically provided for  
5 in the Guides or modifications to the Guides adopted pursuant to  
6 subsection C of this section.

7 E. In cases of permanent partial impairment, the compensation  
8 shall be seventy percent (70%) of the employee's average weekly  
9 wages, and shall be paid to the employee for the period prescribed  
10 by the following schedule:

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

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

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

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

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

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

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

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

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

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

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

13 Arm: For the loss of an arm, two hundred seventy-five (275)  
14 weeks. Provided, that for the purposes of the arm as a scheduled  
15 member, the arm shall mean that part of the body that extends from  
16 the surgical neck of the humerus and includes the elbow joint.

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

18 Leg: For the loss of a leg, two hundred seventy-five (275)  
19 weeks. Provided, that for the purposes of the leg as a scheduled  
20 member, the leg shall mean that part of the body that extends from  
21 the surgical neck of the femur and includes the knee joint.

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

24

1 Deafness: Deafness from industrial cause, including occupations  
2 which are hazardous to hearing, accident or sudden trauma, three  
3 hundred thirty (330) weeks, and total deafness of one ear from  
4 industrial cause, including occupations which are hazardous to  
5 hearing, accident or sudden trauma, one hundred ten (110) weeks.  
6 Any examining physician shall only evaluate deafness or hearing  
7 impairment in accordance with the latest publication of the American  
8 Medical Association's "Guides to the Evaluation of Permanent  
9 Impairment" in effect at the time of the injury or alternative  
10 method provided for under provisions of this title.

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

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

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

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

3       Hernia: In case of an injury resulting in the first or second  
4 hernia in the same area of the body, there shall be no award of  
5 permanent partial impairment. Payment of benefits in such cases  
6 shall be limited to temporary total compensation for six (6) weeks,  
7 and all necessary medical costs including, but not limited to, the  
8 cost of surgery. A claimant who has had surgery for a hernia may  
9 petition the Workers' Compensation Court for one extension of  
10 temporary total compensation and the Court may order such an  
11 extension, not to exceed six (6) additional weeks, if the treating  
12 physician indicates such an extension is appropriate, or as agreed  
13 to by all parties. An award for temporary total disability or  
14 permanent partial impairment may be entered by the Court if an  
15 injury results in a third hernia, or more, in the same area of the  
16 body.

17       Other cases: In cases in which the Court finds an injury to a  
18 part of the body not specifically covered by the foregoing  
19 provisions of this section, the employee may be entitled to  
20 compensation for permanent partial impairment. The compensation  
21 ordered paid shall be seventy percent (70%) of the employee's  
22 average weekly wage for the number of weeks which the partial  
23 disability of the employee bears to five hundred (500) weeks. No  
24 permanent disability shall be awarded unless there is objective

1 medical evidence of a permanent anatomical abnormality. In  
2 determining the existence of such an abnormality, the Court may  
3 consider if there is credible medical evidence that the ability of  
4 the employee to earn wages at the same level as before the injury  
5 has been permanently impaired.

6 F. The compensation payments under the provisions of the  
7 Workers' Compensation Act for permanent partial impairment shall  
8 not:

9 1. Exceed the sum of Three Hundred Twenty-three Dollars  
10 (\$323.00) per week for injuries occurring on or after August 27,  
11 2010, through August 26, 2015, or fifty percent (50%) of the state's  
12 average weekly wage beginning August 27, 2015;

13 2. At any time be less than One Hundred Fifty Dollars (\$150.00)  
14 per week for injuries occurring on or after August 27, 2010.

15 G. Previous Disability: The fact that an employee has suffered  
16 previous disability or impairment or received compensation therefor  
17 shall not preclude the employee from compensation for a later  
18 accidental personal injury or occupational disease. In the event  
19 there exists a previous impairment, including a previous non-work-  
20 related injury or condition which produced permanent disability and  
21 the same is aggravated or accelerated by an accidental personal  
22 injury or occupational disease, compensation for permanent  
23 disability shall be only for such amount as was caused by such  
24 accidental personal injury or occupational disease and no additional

1 compensation shall be allowed for the preexisting disability or  
2 impairment. The sum of all permanent partial impairment awards,  
3 excluding awards against the Multiple Injury Trust Fund, shall not  
4 exceed five hundred twenty (520) weeks, except for awards for  
5 amputations and disability to the parts of the body for which  
6 surgery was received in the latest injury.

7 H. No payments on any permanent partial impairment order shall  
8 begin until payments on any preexisting permanent partial impairment  
9 orders have been paid.

10 SECTION 34. 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 In case of an injury resulting in serious and permanent  
14 disfigurement, compensation shall be payable in an amount to be  
15 determined by the Workers' Compensation Court, but not in excess of  
16 Fifty Thousand Dollars (\$50,000.00). An award for permanent  
17 disfigurement shall not be made for a part of the body for which  
18 permanent partial impairment is awarded.

19 SECTION 35. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 335 of Title 85, unless there is  
21 created a duplication in numbering, reads as follows:

22 Where a compensable injury results in the loss of one or more  
23 eyes, teeth, or members of the body, or the replacement of a joint,  
24 the employer shall furnish such prosthetic devices as may be

1 necessary as determined by the Workers' Compensation Court in the  
2 treatment and rehabilitation of the injured worker for the lifetime  
3 of the worker. Where a worker sustains a compensable injury,  
4 arising out of and in the course of his employment, which results in  
5 damage to a prosthetic device with which such worker is equipped,  
6 the employer shall repair or replace such device for the lifetime of  
7 the worker. Provided, that a subsequent injury to the part of the  
8 body for which a prosthetic device is provided shall terminate the  
9 obligation of the employer to provide such prosthetic device.

10 SECTION 36. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 336 of Title 85, unless there is  
12 created a duplication in numbering, reads as follows:

13 A. In case of total disability adjudged to be permanent,  
14 seventy percent (70%) of the employee's average weekly wages shall  
15 be paid to the employee during the continuance of the disability  
16 until such time as the employee reaches the age of maximum Social  
17 Security retirement benefits or for a period of fifteen (15) years,  
18 whichever is longer. In the event the claimant dies of causes  
19 unrelated to the injury or illness, any person entitled under  
20 provisions of Section 49 to revive the action shall receive benefits  
21 only until the date the claimant's benefits would have terminated  
22 had the claimant lived. In the event the Workers' Compensation  
23 Court awards both permanent partial impairment and permanent total  
24 disability benefits, the permanent total disability award shall not

1 be due until the permanent partial impairment award is paid in full.  
2 If otherwise qualified according to the provisions of this act,  
3 permanent total disability benefits may be awarded to an employee  
4 who has exhausted the maximum period of temporary total disability  
5 even though the employee has not reached maximum medical  
6 improvement.

7 B. Any employee convicted of a misdemeanor or felony and  
8 sentenced to a term of incarceration of at least ninety (90) days in  
9 this state shall have all benefits for permanent total disability  
10 awarded by the Court and paid during the period of incarceration  
11 deposited to the credit of an account established pursuant to  
12 Section 549 of Title 57 of the Oklahoma Statutes for distribution in  
13 full to the Department of Corrections for costs of incarceration.  
14 The State Board of Corrections shall have the power to collect  
15 workers' compensation benefits on behalf of the prisoner as provided  
16 in this subsection and to distribute the benefits as provided by  
17 law.

18 C. The Court shall, every three (3) years, review the status of  
19 any employee receiving benefits for permanent total disability.  
20 Upon request of the employer or insurance carrier, the Court shall  
21 require the employee to annually file an affidavit under penalty of  
22 perjury stating that he or she is not gainfully employed and not  
23 capable of gainful employment. Failure to file such affidavit shall  
24

1 result in suspension of benefits; provided, however, reinstatement  
2 of benefits may occur after proper hearing before the Court.

3 SECTION 37. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 337 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

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

10 1. If there is a surviving spouse, to such surviving spouse who  
11 shall remain unmarried, seventy percent (70%) of the average weekly  
12 wages the deceased was earning. In no event shall this spousal  
13 weekly income benefit be diminished by the award to other  
14 beneficiaries. In addition to the benefits theretofore paid or due,  
15 two (2) years' indemnity benefit in one lump sum shall be payable to  
16 a surviving spouse upon remarriage;

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

23 3. To the children, if there is no surviving spouse, fifty  
24 percent (50%) of the average weekly wages the deceased was earning

1 for one child, and twenty percent (20%) of such wage for each  
2 additional child, divided among all children, to share and share  
3 alike;

4 4. The weekly income benefits payable for the benefit of any  
5 child under this section shall cease when the child dies or reaches  
6 the age of eighteen (18), unless the child is over eighteen (18)  
7 years of age and remains enrolled as a full-time student in high  
8 school or is being home-schooled in a high-school course approved by  
9 the Oklahoma Department of Education; or unless a child is over  
10 eighteen (18) years of age and is physically or mentally incapable  
11 of self-support; or unless the child is under the age of twenty  
12 three (23) and enrolled as a full-time student in any accredited  
13 institution of higher education or vocational or technology  
14 education;

15 5. If there is no surviving spouse or children, to each parent,  
16 if actually dependent, twenty-five percent (25%) of the average  
17 weekly wages the deceased was earning;

18 6. If there is no surviving spouse or children, to the  
19 brothers, sisters, grandparents and grandchildren, if actually  
20 dependent, twenty-five percent (25%) of the average weekly wages the  
21 deceased was earning to each such dependent. If there should be  
22 more than one of such dependents, the total income benefits payable  
23 for the benefit of such dependents shall be divided to share and  
24 share alike.

1 B. A person ceases to be actually dependent when the person's  
2 income from all sources exclusive of workers' compensation income  
3 benefits is such that, if it had existed at the time the original  
4 determination of actual dependency was made, it would not have  
5 supported a finding of dependency.

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

13 D. The weekly income benefits payable to all beneficiaries  
14 under this section shall not exceed one hundred percent (100%) of  
15 the average weekly wages of the employee or one hundred percent  
16 (100%) of the average weekly wage of the state, whichever is less.

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

23 F. In the event that no benefits under other provisions of this  
24 section are paid to the dependents or the heirs-at-law of the

1 deceased, an amount not to exceed Eight Thousand Dollars (\$8,000.00)  
2 shall be paid for funeral expenses.

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

11 H. In addition to weekly income benefits, if there is no  
12 surviving spouse, but there are surviving children entitled to  
13 receive death benefits herein, each surviving child shall be  
14 entitled to a lump-sum payment of Twenty-five Thousand Dollars  
15 (\$25,000.00), provided the total amount of lump-sum payments shall  
16 not exceed One Hundred Fifty Thousand Dollars (\$150,000.00), to be  
17 divided among all the children to share and share alike. The  
18 survivors shall also be entitled to receive funeral benefits in an  
19 amount not to exceed Ten Thousand Dollars (\$10,000.00).

20 I. Any claim under this section shall be substantiated by the  
21 filing of a properly executed and authenticated proof of loss, which  
22 form shall be prescribed by the Administrator, and payment of such  
23 sum shall be made within fifteen (15) days after adjudication of  
24 entitlement by the Workers' Compensation Court. Such sum shall not

1 be subject to any award of attorney fees in uncontested cases,  
2 except the Court shall appoint a guardian ad litem to represent  
3 known and unknown minor children and the guardian ad litem shall be  
4 paid a reasonable fee for the services.

5 J. All orders of the Court awarding lump-sum death benefits and  
6 weekly income benefits to a child under eighteen (18) years of age,  
7 shall provide for the appointment of a guardian ad litem and that  
8 such benefits, after deducting for attorney fees and expenses  
9 incurred to prosecute the claim, be deposited, with proof of receipt  
10 thereof, in a federally insured banking institution in Oklahoma.  
11 The benefits so deposited shall not be withdrawn without further  
12 order of the Court or until the child reaches the age of eighteen  
13 (18). An annual accounting of all such trust funds shall be made to  
14 the Court by the duly appointed guardian ad litem.

15 K. Any claim for death benefits may be concluded by compromise  
16 settlement on a form prescribed by the Administrator and approved by  
17 a judge of the Court. In the event a claimant is a minor, a duly  
18 appointed guardian ad litem shall be authorized to enter into such  
19 compromise settlement.

20 SECTION 38. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 338 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. An employee who has suffered an accidental injury or  
24 occupational disease covered by the Workers' Compensation Act shall

1 be entitled to prompt and reasonable physical rehabilitation  
2 services. When, as a result of the injury, the employee is unable  
3 to perform the same occupational duties the employee was performing  
4 prior to the injury, the employee shall be entitled to such  
5 vocational rehabilitation services provided by a technology center  
6 school, a public or private vocational skills center or public  
7 secondary school offering vocational-technical education courses, or  
8 a member institution of The Oklahoma State System of Higher  
9 Education, which shall include retraining and job placement so as to  
10 restore the employee to gainful employment. Vocational  
11 rehabilitation benefits shall not be provided to any nondocumented  
12 employee who is unable, by law, to be hired in Oklahoma.

13 B. The Administrator of the Workers' Compensation Court shall  
14 hire a Vocational Rehabilitation Director to oversee the vocational  
15 rehabilitation program of the Workers' Compensation Court. The job  
16 of the Vocational Rehabilitation Director is to help injured workers  
17 return to the work force through the encouragement of light-duty  
18 work or retraining.

19 C. Upon the request of either party, or by order of the Court,  
20 the Vocational Rehabilitation Director will assist the Court in  
21 determining if it is appropriate for a claimant to receive  
22 vocational rehabilitation training or services. If appropriate, the  
23 Court shall refer the employee to a qualified expert for evaluation  
24 of the practicability of, need for and kind of rehabilitation

1 services or training necessary and appropriate in order to restore  
2 the employee to gainful employment. The cost of the evaluation  
3 shall be paid by the employer. Following the evaluation, if the  
4 employee refuses the services or training ordered by the Court, or  
5 fails to complete in good faith the vocational rehabilitation  
6 training ordered by the Court, then the cost of the evaluation and  
7 services or training rendered may, in the discretion of the Court,  
8 be deducted from any award of benefits to the employee which remains  
9 unpaid by the employer. Upon receipt of such report, and after  
10 affording all parties an opportunity to be heard, the Court shall  
11 order that any rehabilitation services or training, recommended in  
12 the report, or such other rehabilitation services or training as the  
13 Court may deem necessary, provided the employee elects to receive  
14 such services, shall be provided at the expense of the employer.  
15 Except as otherwise provided in this subsection, refusal to accept  
16 rehabilitation services by the employee shall in no way diminish any  
17 benefits allowable to an employee.

18 D. Whenever it is apparent to the Court that the employee's  
19 injury will prevent the employee from returning to his or her former  
20 employment, the Court may order vocational rehabilitation services,  
21 even though the employee remains temporarily totally disabled and  
22 under active medical care. In granting early benefits for  
23 vocational rehabilitation, the Court shall consider temporary  
24 restrictions and the likelihood that such rehabilitation will return

1 the employee to gainful employment earlier than if such benefits are  
2 granted after the permanent partial impairment hearing in the claim.

3 E. No person shall be adjudicated to be permanently and totally  
4 disabled, except in claims against the Multiple Injury Trust Fund,  
5 unless first having obtained an evaluation as to the practicability  
6 of restoration to gainful employment through vocational  
7 rehabilitation services or training. The employee seeking permanent  
8 and total benefits shall pay the cost of the evaluation. If an  
9 employee claiming permanent total disability status unreasonably  
10 refuses to be evaluated or to accept vocational rehabilitation  
11 services or training, permanent total disability benefits shall not  
12 be awarded during the period of such refusal, and the employee shall  
13 be limited to permanent partial impairment benefits only.

14 F. Vocational rehabilitation services or training shall not  
15 extend for a period of more than fifty-two (52) weeks. This period  
16 may be extended for an additional fifty-two (52) weeks or portion  
17 thereof by special order of the Court, after affording the  
18 interested parties an opportunity to be heard. A request for  
19 vocational rehabilitation services or training may be filed with the  
20 Administrator by an interested party at any time after the date of  
21 injury but not later than sixty (60) days from the date of the final  
22 determination that permanent partial impairment benefits are payable  
23 to the employee.

24

1 G. Where rehabilitation requires residence at or near the  
2 facility or institution which is away from the employee's customary  
3 residence, reasonable cost of the employee's board, lodging, travel,  
4 tuition, books and necessary equipment in training shall be paid for  
5 by the insurer in addition to weekly compensation benefits to which  
6 the employee is otherwise entitled under the Workers' Compensation  
7 Act.

8 H. During the period when an employee is actively and in good  
9 faith being evaluated or participating in a retraining or job  
10 placement program for purposes of evaluating permanent total  
11 disability status, the employee shall be entitled to receive  
12 benefits at the same rate as the employee's temporary total  
13 disability benefits for a period of fifty-two (52) weeks, which may  
14 be extended by the Court for up to a maximum of an additional fifty-  
15 two (52) weeks. No attorney fees shall be awarded or deducted from  
16 such benefits received during this period. All tuition related to  
17 vocational rehabilitation services shall be paid by the employer or  
18 the employer's insurer on a periodic basis directly to the facility  
19 providing the vocational rehabilitation services or training to the  
20 employee.

21 SECTION 39. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 339 of Title 85, unless there is  
23 created a duplication in numbering, reads as follows:

24

1       A. If the employee and employer shall reach an agreement for  
2 the full, final and complete settlement of any issue of a claim  
3 pursuant to the Workers' Compensation Act, a form designated as  
4 "Compromise Settlement" shall be signed by both the employer and  
5 employee, or representatives thereof, and shall be approved by a  
6 judge of the Workers' Compensation Court or the Administrator of the  
7 Workers' Compensation Court and filed with the Administrator. In  
8 cases in which the employee is not represented by legal counsel, a  
9 judge of the Court or the Administrator shall have jurisdiction to  
10 approve a full, final and complete settlement of any issue upon the  
11 filing of an Employer's First Notice of Injury. There shall be no  
12 requirement for the filing of an Employee's First Notice of  
13 Accidental Injury and Claim for Compensation to effect such  
14 settlement in cases in which the employee is not represented by  
15 legal counsel.

16       B. In the event all issues of a claim are not fully, finally  
17 and completely settled by a Compromise Settlement, the issues not  
18 settled by the parties and subject to the Court's continuing  
19 jurisdiction must be noted by appendix to the Compromise Settlement  
20 or on a form created for such purpose by the Administrator. The  
21 appendix must be signed by the parties and approved by the Court as  
22 set forth herein.

23       C. In the absence of fraud, a Compromise Settlement shall be  
24 deemed binding upon the parties thereto and a final adjudication of

1 all rights pursuant to the Workers' Compensation Act. An official  
2 record shall be made by a court reporter of the testimony taken to  
3 effect the Compromise Settlement.

4 D. A good faith effort shall be made on the part of any  
5 insurance carrier, CompSource Oklahoma, or group self-insured plan  
6 to notify an insured employer of the possibility of and terms of any  
7 settlement of a workers' compensation case pursuant to this section.  
8 Written comments or objections to settlements shall be filed with  
9 the Court and periodically shared with the management of the  
10 applicable insurer. A written notice shall be made to all  
11 policyholders of their right to a good faith effort by their insurer  
12 to notify them of any proposed settlement, if the policyholder so  
13 chooses.

14 SECTION 40. 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. Upon completion of any hearing, after the judge has made a  
18 just and equitable order, decision or award, any party feeling  
19 aggrieved by such order, decision, or award, shall, within ten (10)  
20 days, have the right to take an appeal to the Workers' Compensation  
21 Court sitting en banc by filing with the Administrator of the  
22 Workers' Compensation Court a notice of such appeal. The Court en  
23 banc shall consist of three (3) judges of the Court, none of whom  
24 shall have presided over any of the previous hearings on the claim.

1 The Court en banc, after hearing argument of counsel, or a party not  
2 represented by counsel, may reverse or modify the decision only if  
3 it determines that such decision was against the clear weight of the  
4 evidence or contrary to law. Upon completion of the appeal, the  
5 members of the Court sitting en banc shall issue such order,  
6 decision or award as is proper, just and equitable. All proceedings  
7 of the Court sitting en banc shall be recorded by a court reporter  
8 of the Court. Any order of the Court sitting en banc which reverses  
9 a decision of the trial judge shall contain specific findings to  
10 explain such reversal. All orders, decisions or awards shall be  
11 approved by a majority of the members of the Court sitting en banc.  
12 Provided, there may be more than one Court en banc sitting at the  
13 same time for purposes of hearing the appeals provided for herein.

14 B. Appeals shall be allowed on a question of law or a question  
15 of fact, or a mixed question of law and fact, and shall be  
16 determined on the record made before the trial judge. Provided,  
17 when the order of the judge of the Court making an award to a  
18 claimant is appealed by the employer or the insurance carrier,  
19 interest shall be allowed on the accrued amounts of the award due  
20 from the date the award was filed, if the award is not modified or  
21 vacated on appeal.

22 C. In each case filed with the Court en banc, and at the time  
23 of filing same, the appellant shall deposit with the clerk as costs  
24 One Hundred Seventy-five Dollars (\$175.00) of which no rebate of any

1 part thereof shall be made. The fee collected under this subsection  
2 shall be deposited as follows: One Hundred Fifty Dollars (\$150.00)  
3 to the credit of the Administrator of Workers' Compensation  
4 Revolving Fund for the costs of administering the Workers'  
5 Compensation Act; and Twenty-five Dollars (\$25.00) to the credit of  
6 the Administrator of Workers' Compensation Revolving Fund for  
7 purposes of implementing the provisions of this act, including  
8 strengthening and providing additional funding for the Attorney  
9 General's Workers' Compensation Fraud Unit, providing counseling  
10 services pursuant to the workers' compensation counselor or  
11 ombudsman program and safety in the workplace.

12 D. The order, decision or award of the Court shall be final and  
13 conclusive upon all questions within its jurisdiction between the  
14 parties, unless, within twenty (20) days after a copy of such order,  
15 decision or award has been sent by the Administrator to the parties  
16 affected, an action is commenced in the Supreme Court, to review  
17 such order, decision or award. Any order, decision or award made by  
18 a judge of the Court shall be considered as final under the  
19 provisions of this section unless appealed to the Court sitting en  
20 banc as provided for in subsection A of this section. The order,  
21 decision or award of a judge of the Court shall be final and  
22 conclusive upon all questions within the judge's jurisdiction  
23 between the parties unless appealed directly to the Supreme Court or  
24 to the Court sitting en banc as hereinbefore provided. Any party

1 litigant desiring to appeal directly from such order, decision or  
2 award to the Supreme Court, shall, within twenty (20) days after a  
3 copy of the order, decision or award has been sent by the  
4 Administrator to the parties affected, commence an action in the  
5 Supreme Court to review such order, decision or award. The Supreme  
6 Court shall have original jurisdiction of such action, and shall  
7 prescribe rules for the commencement and trial of the same. After  
8 the effective date of this act, regardless of the date of injury,  
9 the Supreme Court may modify, reverse, remand for rehearing, or set  
10 aside the order or award upon any of the following grounds:

- 11 1. The Court acted without or in excess of its powers;
- 12 2. The order or award was contrary to law;
- 13 3. The order or award was procured by fraud; or
- 14 4. The order or award was against the clear weight of the  
15 evidence.

16 Such action shall be commenced by filing with the Clerk of the  
17 Supreme Court a certified copy of the order, decision or award of  
18 the Court sitting en banc or the judge attached to the petition by  
19 the complaint wherein the complainant or petitioner shall make the  
20 assignments or specifications as to wherein the order, decision or  
21 award is erroneous or illegal. Provided, however, no proceeding to  
22 reverse, vacate or modify any order, decision or award of the Court  
23 sitting en banc or judge of the Court wherein compensation has been  
24 awarded an injured employee shall be entertained by the Supreme

1 Court unless the Administrator shall take a written undertaking to  
2 the claimant executed on the part of the respondent or insurance  
3 carrier, or both, with one or more sureties to be approved by the  
4 Administrator, to the effect that the appellant will pay the amount  
5 of the award rendered therein, together with interest thereon from  
6 the date of the award by the judge of the Court and all costs of the  
7 proceeding, or on the further order of the Court sitting en banc or  
8 judge of the Court after the appeal has been decided by the Supreme  
9 Court, except that municipalities and other political subdivisions  
10 of this state are exempt from making such written undertakings.  
11 Before the Clerk of the Supreme Court shall accept the action for  
12 filing, a certificate from the Administrator shall be required,  
13 showing that this provision has been complied with. The proceedings  
14 shall be heard in a summary manner and shall have precedence over  
15 all other civil cases in the Supreme Court, except preferred  
16 Corporation Commission appeals. The Supreme Court shall require the  
17 appealing party to file within forty-five (45) days from the date of  
18 the filing of an appeal or an order appealed from, a transcript of  
19 the record of the proceedings before the Court, or upon application  
20 and for good cause shown, the Supreme Court may extend the time for  
21 filing the transcript of the record for a period of time not to  
22 exceed ninety (90) days from the date, and such action shall be  
23 subject to the law and practice applicable to other civil actions  
24 cognizable in the Supreme Court. The Court whose action was

1 appealed shall enter any order directed by the Supreme Court under  
2 the final determination.

3 E. A fee of One Hundred Dollars (\$100.00) per appeal to the  
4 Supreme Court shall be collected by the Administrator and taxed as  
5 costs for preparing, assembling, indexing and transmitting the  
6 record for appellate review. This fee shall be paid by the party  
7 taking the appeal. If more than one party to the action shall  
8 prosecute an appeal from the same order, decision or award, the fee  
9 shall be paid by the party whose petition in error is determined by  
10 the Court or by the appellate court to commence the principal  
11 appeal. The fees collected shall be deposited to the credit of the  
12 Administrator of Workers' Compensation Revolving Fund.

13 F. When the only controverted issue in a death claim is the  
14 determination of proper beneficiaries entitled to receive death  
15 benefits, and the parties-beneficiary appeal the decision of the  
16 Court, the employer or insurance carrier may pay the proceeds, as  
17 they accrue, to the Administrator. The Administrator shall hold the  
18 proceeds in trust in an interest-bearing account during the appeal  
19 period and shall distribute the proceeds and interest to the proper  
20 beneficiaries upon written direction of the Court. The employer or  
21 insurance carrier shall not be taxed interest or cost on the order  
22 of the death claim if payments have been made to the Administrator  
23 as they accrue.

24

1 G. For purposes of this section, interest shall be computed  
2 pursuant to Section 727.1 of Title 12 of the Oklahoma Statutes.

3 SECTION 41. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 341 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. No employer may discharge or, except for nonpayment of  
7 premium, terminate any group health insurance of any employee  
8 because the employee has in good faith:

9 1. Filed a claim;

10 2. Retained a lawyer for representation regarding a claim;

11 3. Instituted or caused to be instituted any proceeding under  
12 the provisions of this title;

13 4. Testified or is about to testify in any proceeding under the  
14 provisions of this title; or

15 5. Elected to participate or not to participate in a certified  
16 workplace medical plan as provided in this title.

17 B. No employer may discharge any employee during a period of  
18 temporary total disability solely on the basis of absence from work.

19 C. After an employee's period of temporary total disability has  
20 ended, no employer shall be required to rehire or retain any  
21 employee who is determined to be physically unable to perform  
22 assigned duties. The failure of an employer to rehire or retain any  
23 such employee shall not be deemed a violation of this section.

24

1 D. No employer may discharge an employee for the purpose of  
2 avoiding payment of temporary total disability benefits to the  
3 injured employee.

4 E. An employer which violates any provision of this section  
5 shall be liable in a district court action for reasonable damages,  
6 actual and punitive if applicable, suffered by an employee as a  
7 result of the violation. An employee discharged in violation of the  
8 Workers' Compensation Act shall be entitled to be reinstated to his  
9 or her former position. Exemplary or punitive damage awards made  
10 pursuant to this section shall not exceed One Hundred Thousand  
11 Dollars (\$100,000.00). The employee shall have the burden of proof  
12 by a preponderance of the evidence.

13 SECTION 42. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 342 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16 Within the time prescribed by Section 18 of this act, the  
17 Workers' Compensation Court may find that the injured employee has  
18 suffered a change of condition for the worse and order temporary  
19 total disability, additional permanent partial impairment, permanent  
20 total disability, and medical benefits. Provided, that any change  
21 of condition shall only be found to those body parts adjudicated by  
22 the previous award or as a result of a consequential injury and must  
23 be proved by objective medical evidence of a change of condition.  
24 Additional permanent partial impairment awarded after a change of

1 condition and the permanent partial impairment from the previous  
2 award shall not exceed five hundred twenty (520) weeks, except for  
3 additional permanent partial impairment resulting from amputation or  
4 surgery as a result of the change of condition.

5 SECTION 43. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 343 of Title 85, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. A claim for legal services in contested temporary total  
9 disability cases shall not exceed ten percent (10%) of the amount of  
10 the award and shall be paid periodically with the attorney receiving  
11 every tenth check. There shall be no claim for legal services in  
12 cases in which periodic temporary total compensation was being paid  
13 at the time of the filing of the Employee's First Notice of Injury  
14 and Claim for Compensation.

15 B. A claim for legal services shall not exceed twenty percent  
16 (20%) of the amount of the award for permanent disability. The  
17 legal fee shall be deducted from the end of the award, commuted to a  
18 lump sum and be paid within twenty (20) days of the order awarding  
19 such permanent partial impairment.

20 C. A claim for legal services shall not exceed twenty percent  
21 (20%) of a permanent total disability award. The right to such  
22 legal fee shall be vested and shall be paid periodically with the  
23 attorney receiving twenty percent (20%) of each check.

24

1 D. A claim for legal services in a death case shall not exceed  
2 twenty percent (20%) of the lump sum and accrued benefits awarded  
3 and shall be paid in a lump sum. The employer shall deduct from  
4 continuing periodic payments at a rate of ten percent (10%) per  
5 payment until the legal fee is satisfied.

6 E. In any claim in which the respondent has admitted  
7 compensability of an accidental injury within twenty (20) days of  
8 the filing of an Employee's First Notice of Accidental Injury and  
9 Claim for Compensation, has not disputed medical treatment, and has  
10 made a settlement offer in writing within fifteen (15) days after  
11 the claimant reaches maximum medical improvement, the attorney fee  
12 shall be limited to thirty-five percent (35%) of the amount of any  
13 award or settlement of permanent partial impairment which is greater  
14 than the amount of the offer. In addition, an attorney fee shall be  
15 awarded for other contested benefits obtained on behalf of the  
16 injured worker at any time during the pendency of the claim and  
17 shall be based upon a reasonable hourly rate. In no event shall the  
18 total attorney fee be in excess of twenty percent (20%) of the total  
19 permanent partial impairment award or settlement.

20 F. No attorney fees shall be awarded in an uncontested death  
21 case, for the value of vocational rehabilitation in a compromise  
22 settlement or order of the Workers' Compensation Court, and for the  
23 amount of a Medicare Set Aside trust agreement required by the  
24

1 Centers for Medicaid and Medicare Services of the U.S. Department of  
2 Health and Human Services.

3 G. All attorney fees shall be deducted from the award or  
4 settlement to the injured worker, except as otherwise provided in  
5 this act.

6 H. In no event shall any claim for legal services exceed twenty  
7 percent (20%) of the total award or compromise settlement.

8 SECTION 44. 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. If the Workers' Compensation Court determines that any  
12 proceeding has not been brought on a reasonable ground, or that  
13 denial of benefits has not been based on a reasonable ground, the  
14 Court shall assess the total cost of the proceeding on the party who  
15 has brought the proceeding, or the party who has unreasonably denied  
16 payment of benefits.

17 B. In the event an employer or insurance company fails to pay  
18 travel expenses as required by this act within sixty (60) days from  
19 the receipt of a request for reimbursement, the Court shall assess a  
20 Five Hundred Dollar (\$500.00) penalty against the employer or  
21 insurance company, payable to the claimant.

22 SECTION 45. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 345 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1       A. Awards for permanent partial impairment shall be made for  
2 the total number of weeks of compensation which the Workers'  
3 Compensation Court shall find the claimant will be entitled to  
4 receive, less any sums previously paid which the Court may find to  
5 be a proper credit thereon. When the award becomes final, the whole  
6 sum or any unpaid portion thereof shall operate as a final  
7 adjudicated obligation and payment thereof may be enforced by the  
8 claimant or in case of the claimant's death, by the surviving  
9 beneficiary entitled to the proceeds as provided in Section 48 of  
10 this act. All awards shall be paid by periodic installments as  
11 determined by the Court. Whenever an injured person receives an  
12 award for permanent partial impairment, permanent total disability  
13 or death benefits, the injured employee or claimant, for good cause  
14 shown, may have the award commuted to a lump-sum payment by  
15 permission of the Court. The lump-sum payment shall not exceed  
16 twenty-five percent (25%) of the total award. The balance of the  
17 total award shall be paid in periodic installments.

18       B. Awards for permanent total disability shall entitle the  
19 claimant to receive weekly income benefits for the period prescribed  
20 in Section 36 of this act. When an award for permanent total  
21 disability becomes final, the accrued portion thereof shall operate  
22 as a final adjudicated obligation and payment thereof may be  
23 enforced by the claimant or in case of the claimant's death, by the  
24 surviving beneficiary entitled to the proceeds as provided in

1 Section 48 of this act. Permanent total disability awards shall not  
2 be commuted to a lump-sum payment.

3 C. All weekly or periodic payments shall be made through the  
4 use of United States legal tender, negotiable instruments payable on  
5 demand or negotiable drafts. Failure for ten (10) days to pay any  
6 final award or any portion thereof as ordered shall immediately  
7 entitle the beneficiary to an order finding the respondent and  
8 insurance carrier to be in default and all unpaid portions,  
9 including future periodic installments unpaid, shall immediately  
10 become due.

11 D. An award for disability may be made after the death of the  
12 injured employee, when death results from causes other than the  
13 injury. If an employee dies as a result of a compensable injury or  
14 an occupational disease, any unaccrued portions of an award or order  
15 shall abate.

16 E. In the event salary or any other remuneration is paid in  
17 lieu of temporary total compensation during the period of temporary  
18 total disability or for any other period of time, no respondent or  
19 insurance carrier shall be allowed to deduct from the amount of the  
20 award for permanent partial or permanent total disability any  
21 amounts paid for temporary total disability, nor shall the  
22 respondent or insurance carrier be given credit for future benefits  
23 under the Workers' Compensation Act.

24

1           SECTION 46.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 346 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. If payment of compensation or an installment payment of  
5 compensation due under the terms of an award, except in regard to an  
6 award from the Multiple Injury Trust Fund, is not made within ten  
7 (10) days after the same is due by the employer or insurance carrier  
8 liable therefor, the Workers' Compensation Court may order a  
9 certified copy of the award to be filed in the office of the court  
10 clerk of any county, which award whether accumulative or lump sum  
11 shall have the same force and be subject to the same law as  
12 judgments of the district court.

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

20           C. Creation of a new business entity for the purpose of  
21 avoiding payment of a workers' compensation judgment is prohibited.

22           SECTION 47.           NEW LAW           A new section of law to be codified  
23 in the Oklahoma Statutes as Section 347 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1       A. Failure to attend in obedience to a subpoena issued by the  
2 Workers' Compensation Court may be punishable as contempt of the  
3 Court. The Court may compel obedience to the subpoena by attachment  
4 proceedings as for contempt pursuant to Sections 393 and 396 of  
5 Title 12 of the Oklahoma Statutes. Punishment for failure to attend  
6 in obedience to a subpoena, except in case of a demand and failure  
7 to pay witness fees as provided by this title, shall be limited to a  
8 fine not to exceed One Thousand Dollars (\$1,000.00) which the Court  
9 may order the witness to pay. The fine imposed by the Court shall  
10 be paid into the Administrator of Workers' Compensation Revolving  
11 Fund.

12       B. In case of disobedience of any person to comply with the  
13 order of the Court, the judge of the district court of the county in  
14 which the person resides or of the county in which such hearing is  
15 being conducted, on application of a judge of the Court, shall  
16 compel obedience by attachment proceedings as for contempt pursuant  
17 to Sections 393 and 396 of Title 12 of the Oklahoma Statutes.

18       SECTION 48.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 348 of Title 85, unless there is  
20 created a duplication in numbering, reads as follows:

21       A. If an employee entitled to compensation under the Workers'  
22 Compensation Act is injured or killed by the negligence or wrong of  
23 another not in the same employ, such injured employee shall, before  
24 any suit or claim under the Workers' Compensation Act, elect whether

1 to take compensation under the Workers' Compensation Act, or to  
2 pursue the employee's remedy against such other. Such election  
3 shall be evidenced in such manner as the Administrator may by rule  
4 or regulation prescribe. If the employee elects to take  
5 compensation under the Workers' Compensation Act, the cause of  
6 action against such other shall be assigned to the insurance carrier  
7 liable for the payment of such compensation, and if the employee  
8 elects to proceed against such other person or insurance carrier, as  
9 the case may be, the employer's insurance carrier shall contribute  
10 only the deficiency, if any, between the amount of the recovery  
11 against such other person actually collected, and the compensation  
12 provided or estimated by the Workers' Compensation Act for such  
13 case. The compromise of any such cause of action by the employee at  
14 any amount less than the compensation provided for by the Workers'  
15 Compensation Act shall be made only with the written approval of the  
16 Court. Whenever recovery against such other person is effected  
17 without compromise settlement by the employee or his  
18 representatives, the employer or insurance company having paid  
19 compensation under the Workers' Compensation Act shall be entitled  
20 to reimbursement as hereinafter set forth and shall pay from its  
21 share of said reimbursement a proportionate share of the expenses,  
22 including attorney fees, incurred in effecting said recovery to be  
23 determined by the ratio that the amount of compensation paid by the  
24 employer bears to the amount of the recovery effected by the

1 employee. After the expenses and attorney fees have been paid, the  
2 balance of the recovery shall be apportioned between the employer or  
3 insurance company having paid the compensation and the employee or  
4 the employee's representatives in the same ratio that the amount of  
5 compensation paid by the employer bears to the total amount  
6 recovered; provided, however, the balance of the recovery may be  
7 divided between the employer or insurance company having paid  
8 compensation and the employee or the employee's representatives as  
9 they may agree.

10 In the event that recovery is effected by compromise settlement,  
11 the expenses, attorney fees and the balance of the recovery may be  
12 divided between the employer or insurance company having paid  
13 compensation and the employee or the employee's representatives as  
14 they may agree. Provided, that in the event they are unable to  
15 agree, then the same shall be apportioned by the district court  
16 having jurisdiction of the employee's action against such other  
17 person in such manner as is just and reasonable.

18 B. The employer or employer's insurance carrier shall not have  
19 the right of subrogation to recover money paid by the employer or  
20 employer's insurance carrier for death claims or death benefits  
21 under the Workers' Compensation Act from third persons, with all  
22 common law rights against other than the employer and his or her  
23 employees preserved and to be in those persons who would have had  
24

1 such rights had there been no death claim or death benefits under  
2 the Workers' Compensation Act.

3 C. The employer or employer's insurance carrier shall have the  
4 right of subrogation to recover money paid by the employer or  
5 employer's insurance carrier for the expenses of the last illness or  
6 accident under the Workers' Compensation Act from third persons,  
7 with all common law rights against other than the employer and his  
8 or her employees preserved and to be in those persons who would have  
9 had such rights had there been no benefits under the Workers'  
10 Compensation Act.

11 SECTION 49. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 349 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14 A. No agreement by any employee to pay any portion of the  
15 premium paid by the employer for the purpose of providing  
16 compensation as herein required, shall be valid, and any employer  
17 who makes a deduction for such purpose from the wages or salary or  
18 any employee entitled to the benefits of this act shall be guilty of  
19 a misdemeanor.

20 B. Claims for compensation or benefits due under the Workers'  
21 Compensation Act shall not be assigned, released or commuted except  
22 as provided by the Workers' Compensation Act, and, except for child  
23 support liens, shall be exempt from all claims of creditors and from  
24 levy, execution or attachment or other remedy for recovery or

1 collection of a debt, which exemption may not be waived. If an  
2 employee dies as a result of the accidental personal injury or  
3 occupational disease, any unaccrued portions of an award or order  
4 for compensation benefits shall abate.

5 C. An award made to a claimant for permanent partial impairment  
6 under the provisions of the Workers' Compensation Act shall, in case  
7 of the death of the claimant, due to causes other than the injury  
8 for which the person has been awarded permanent partial impairment,  
9 be payable to and for the benefit of the following persons:

10 1. If there is a surviving spouse and no child of the deceased  
11 under the age of eighteen (18) years, to the surviving spouse;

12 2. If there is a surviving child or children of the deceased  
13 under the age of eighteen (18) years, or dependent blind or  
14 dependent crippled child or children of any age, but no surviving  
15 spouse, then for the support of each such child, to share and share  
16 alike until the full payment of the award;

17 3. If there is a surviving spouse, a surviving child or  
18 children of the deceased under the age of eighteen (18) years, or a  
19 dependent blind or dependent crippled child or children of any age,  
20 one-half (1/2) shall be payable to the surviving spouse and the  
21 other half to the surviving child or children;

22 4. If there is no surviving spouse or child under the age of  
23 eighteen (18), or dependent blind or dependent crippled child of any  
24 age, then to the dependent parents to share and share alike, and if

1 there are no dependent parents, then to the dependent brothers and  
2 sisters, to share and share alike;

3 5. If the claimant is survived by none of the above named, then  
4 the award for compensation benefits shall abate.

5 D. If the claimant has been adjudged a permanent totally  
6 disabled person prior to death, and such death has resulted from  
7 causes other than the person's accidental personal injury or  
8 occupational disease causing such total permanent disability, the  
9 award may be revived and made payable to the following persons:

10 1. If there is a surviving spouse, to such surviving spouse,  
11 fifty percent (50%) of the average weekly income benefit that was or  
12 would have been payable for permanent total disability to the  
13 deceased;

14 2. If there is a surviving spouse and dependent children under  
15 the age of eighteen (18) years or dependent blind or dependent  
16 crippled child of any age, the surviving spouse shall receive the  
17 amount set forth in subsection C of this section, and in addition,  
18 the following amounts shall be paid:

19 a. to one dependent child, fifteen percent (15%) of the  
20 weekly benefits awarded employee,

21 b. to two or more dependent children, twenty-five percent  
22 (25%) of the weekly benefits awarded employee, which  
23 shall be divided among the children, to share and  
24 share alike;

1           3. If there is no surviving spouse, but there is a surviving  
2 child under the age of eighteen (18) years, or a dependent blind or  
3 dependent crippled child of any age, the child shall receive twenty  
4 five percent (25%) of the weekly benefits awarded the decedent;

5           4. If there is no surviving spouse, but there are two or more  
6 surviving children under the age of eighteen (18) years, or  
7 dependent blind or dependent crippled children of any age, the  
8 children shall receive fifty percent (50%) of the weekly benefits  
9 awarded the decedent, which shall be divided among the children to  
10 share and share alike;

11           5. The income benefits payable to any spouse under this section  
12 shall cease when the spouse dies or remarries;

13           6. The income benefits payable for the benefit of any child  
14 under this section shall cease when the child dies, marries or  
15 reaches the age of eighteen (18) years, or when a child over  
16 eighteen (18) years of age ceases to be physically or mentally  
17 incapable of self-support, or if actually dependent ceases to be  
18 actually dependent, or if enrolled as a full-time student in any  
19 accredited educational institution, ceases to be so enrolled or  
20 reaches the age of twenty-three (23) years. A child who originally  
21 qualified as a dependent by virtue of being less than eighteen (18)  
22 years of age may, upon reaching age eighteen (18) years, continue to  
23 qualify if the child satisfies the tests of being physically or

24

1 | mentally incapable of self-support, actually dependent or enrolled  
2 | in an accredited educational institution;

3 |       7. If there are no surviving dependent persons as set forth  
4 | herein, the award for compensation benefits shall abate;

5 |       8. The maximum weekly income benefits payable for all persons  
6 | in case of the employee's death due to causes other than the  
7 | accidental personal injury or occupational disease shall not exceed  
8 | seventy-five percent (75%) of the average weekly wage of the  
9 | employee.

10 |       SECTION 50.       NEW LAW       A new section of law to be codified  
11 | in the Oklahoma Statutes as Section 350 of Title 85, unless there is  
12 | created a duplication in numbering, reads as follows:

13 |       A. A lien against workers' compensation benefits is authorized  
14 | for the purpose of enforcing a judgment for child support. Child  
15 | support liens filed in accordance with Section 135 of Title 43 of  
16 | the Oklahoma Statutes are specifically authorized and shall be paid  
17 | in accordance with such statute without any order of the Workers'  
18 | Compensation Court.

19 |       B. Additionally, all income assignments or wage assignments for  
20 | child support issued pursuant to Section 1170 of Title 12 of the  
21 | Oklahoma Statutes or Section 237.7 of Title 56 of the Oklahoma  
22 | Statutes are specifically authorized and shall be paid in accordance  
23 | with such statutes without any order of the Court.

24 |

1 C. In the event a child support lien is filed in a case before  
2 the Court, a judge of the Court shall recognize such lien in any  
3 award of monetary benefits and the employer or insurance carrier  
4 shall include the name of the person or government agency asserting  
5 the lien on any check for benefits in excess of One Thousand Dollars  
6 (\$1,000.00).

7 SECTION 51. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 351 of Title 85, unless there is  
9 created a duplication in numbering, reads as follows:

10 A. An employer shall secure compensation to employees in one of  
11 the following ways:

12 1. By insuring and keeping insured the payment of such  
13 compensation with any stock corporation, mutual association, or  
14 other concerns authorized to transact the business of workers'  
15 compensation insurance in this state, or by exchanging contracts of  
16 indemnity or interinsurance, pursuant to reasonable rules prescribed  
17 by the Administrator of the Workers' Compensation Court providing  
18 for and securing the payment of the compensation provided for in the  
19 Workers' Compensation Act. When an insurer issues a policy to  
20 provide workers' compensation benefits pursuant to the provisions of  
21 the Workers' Compensation Act, the insurer shall file, or cause to  
22 be filed, with the Administrator a notice in such form and detail as  
23 the Administrator may prescribe by rule. The notice shall contain  
24 the name, address, and principal occupation of the employer, the

1 number, effective date, and expiration date of the policy, and such  
2 other information as may be required by the Administrator. The  
3 notice shall be filed by the insurer within thirty (30) days after  
4 the effective date of the policy. Any insurer who fails to file the  
5 notice required by this subsection shall be liable for an  
6 administrative violation and subject to a fine by the Administrator  
7 of not more than One Thousand Dollars (\$1,000.00);

8       2. By obtaining and keeping in force guaranty insurance with  
9 any company authorized to do guaranty business in this state. Each  
10 company that issues such guaranty insurance shall file a copy of the  
11 contract with the Administrator within thirty (30) days after the  
12 effective date of the contract. Any company that fails to file a  
13 copy of the contract as required by this subsection shall be liable  
14 for an administrative violation and subject to a fine by the  
15 Administrator of not more than One Thousand Dollars (\$1,000.00);

16       3. By furnishing satisfactory proof to the Administrator of the  
17 employer's financial ability to pay such compensation. The  
18 Administrator, pursuant to rules adopted by the Workers'  
19 Compensation Court or the Administrator for an individual self-  
20 insured or a group self-insurance association, shall require an  
21 employer that has:

22           a. less than one hundred employees or less than One  
23           Million Dollars (\$1,000,000.00) in net assets to:

24

1 (1) deposit with the Administrator securities, an  
2 irrevocable letter of credit or a surety bond  
3 payable to the state, in an amount determined by  
4 the Administrator which shall be at least an  
5 average of the yearly claims for the last three  
6 (3) years, or

7 (2) provide proof of excess coverage with such terms  
8 and conditions as is commensurate with their  
9 ability to pay the benefits required by the  
10 provisions of the Workers' Compensation Act, or

11 b. one hundred or more employees and One Million Dollars  
12 (\$1,000,000.00) or more in net assets to:

13 (1) secure a surety bond payable to the state, or an  
14 irrevocable letter of credit, in an amount  
15 determined by the Administrator which shall be at  
16 least an average of the yearly claims for the  
17 last three (3) years, or

18 (2) provide proof of excess coverage with such terms  
19 and conditions as is commensurate with their  
20 ability to pay the benefits required by the  
21 provisions of the Workers' Compensation Act.

22 The Administrator may waive the requirements of this paragraph  
23 in an amount which is commensurate with the ability of the  
24 individual self-insured or group self-insurance association to pay

1 the benefits required by the provisions of the Workers' Compensation  
2 Act. Irrevocable letters of credit required by this paragraph shall  
3 contain such terms as may be prescribed by the Administrator and  
4 shall be issued for the benefit of the Court by a financial  
5 institution whose deposits are insured by the Federal Deposit  
6 Insurance Corporation.

7 B. An employer, upon application to become a member of a group  
8 self-insurance association, shall file with the Administrator a  
9 notice, in such form as prescribed by the Administrator,  
10 acknowledging that the employer, by entering into a group self-  
11 insurance association, accepts joint and several liability. Such  
12 notice shall be submitted to the Court with the application for  
13 membership.

14 C. Any employer that knowingly provides false information to  
15 the Administrator for purposes of becoming self-insured or a group  
16 self-insurance association shall be subject to the perjury laws of  
17 this state.

18 D. The provisions of this section shall not be construed to  
19 limit or restrict the ability of political subdivisions of this  
20 state or employers subject to the provisions of the Workers'  
21 Compensation Act from joining together to form group self-insurance  
22 associations pursuant to law or rules promulgated by the Court or  
23 the Administrator.

24

1 SECTION 52. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 352 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. In addition to any other penalty prescribed by law, any  
5 employer who fails to secure compensation required by Section 51 of  
6 this act shall be liable for a civil penalty, to be assessed by the  
7 Commissioner of Labor or designee, of not more than Two Hundred  
8 Fifty Dollars (\$250.00) per employee for a first offense, unless the  
9 employer secures workers' compensation insurance within thirty (30)  
10 days after receiving notice of the violation. If the employer  
11 secures workers' compensation insurance within thirty (30) days  
12 after receiving notice of the violation, the employer shall be  
13 liable for a civil penalty of not more than Seventy-five Dollars  
14 (\$75.00) per employee. An employer shall be liable for a civil  
15 penalty of not more than One Thousand Dollars (\$1,000.00) per  
16 employee for a second or subsequent offense. Provided, the maximum  
17 civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for  
18 all related series of violations. All civil penalties collected  
19 shall be deposited in the Department of Labor Revolving Fund and  
20 shall be used to enforce the provisions of the Workers' Compensation  
21 Act.

22 B. After an employer is cited for two offenses of failing to  
23 obtain workers' compensation insurance and fails to obtain coverage  
24 within thirty (30) days of the second citation, the Commissioner of

1 Labor shall issue cease and desist orders, in accordance with the  
2 Department of Labor administrative rules and procedures, against an  
3 employer until the violating employer shall obtain workers'  
4 compensation insurance for its employees. The Commissioner of Labor  
5 shall have the authority to require the cessation of activities of  
6 an employer whose employees are not covered by workers' compensation  
7 insurance until the violating employer shall obtain workers'  
8 compensation insurance for its employees; provided that an employer  
9 who has made application for workers' compensation coverage with  
10 either CompSource Oklahoma or a private insurance carrier, and who,  
11 through no fault of the employer, has not received notice that such  
12 coverage has commenced, shall not be made to cease operations, as  
13 provided for in this section, until a determination has been made  
14 concerning the employee's application for workers' compensation  
15 coverage. Any order to cease and desist issued by the Commissioner  
16 may be enforced in district court. The district court may issue the  
17 Commissioner an injunction without bond, for the purposes of  
18 enforcing this section.

19 C. The Commissioner of Labor or designee shall assess and  
20 collect any civil penalty incurred under subsection A of this  
21 section and, in the Commissioner's discretion, may remit, mitigate  
22 or negotiate the penalty. In determining the amount of the penalty  
23 to be assessed, or the amount agreed upon in any negotiation,  
24 consideration shall be given to the appropriateness of such penalty

1 in light of the life of the business of the employer charged, the  
2 gravity of the violation, and the extent to which the employer  
3 charged has complied with the provisions of Section 51 of this act  
4 or has otherwise attempted to remedy the consequences of the  
5 violation.

6 SECTION 53. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 353 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. For the purpose of determining if a civil fine should be  
10 assessed, a summary hearing shall be conducted by a hearing officer  
11 designated by the Commissioner of Labor. The hearing officer shall  
12 determine from all of the evidence submitted by the Department of  
13 Labor and the employer a fair and equitable resolution of the  
14 violation, taking into consideration the mitigating circumstances as  
15 required by Section 52 of this act. The hearing officer shall  
16 assess, upon the examination of the evidentiary record, a penalty  
17 commensurate with the violation so adjudged. Provided, the employer  
18 may provide additional mitigating circumstances or evidence to the  
19 hearing officer within ten (10) days of the assessment and a  
20 reevaluation of the penalty shall be conducted. Unless a formal  
21 hearing is requested pursuant to the provisions of subsection B of  
22 this section, the penalty shall become final within thirty (30) days  
23 of assessment. Upon becoming final, the penalty shall be regarded

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1 as any other money judgment and may be pursued for collection as  
2 prescribed by law for any other such remedy.

3 B. An employer may appeal the decision of the hearing officer  
4 to the Commissioner of Labor by filing, within thirty (30) days of  
5 the date of assessment, a written request for a formal hearing. The  
6 hearing shall be conducted in accordance with the provisions of the  
7 Administrative Procedures Act. A final order from the hearing may  
8 be appealed to the district court in the county in which the  
9 business of the employer is located pursuant to the provisions of  
10 the Administrative Procedures Act. Subject to approval of the  
11 Attorney General, the Commissioner may engage in any proceeding of  
12 appeal in district court.

13 SECTION 54. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 354 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16 Any employer who willfully fails to provide compensation  
17 required by Section 51 of this act shall be charged with a  
18 misdemeanor and subject to a fine of not more than One Thousand  
19 Dollars (\$1,000.00) or imprisonment in the county jail for not more  
20 than six (6) months, or both such fine and imprisonment. Evidence  
21 of two prior penalties assessed by the Department of Labor pursuant  
22 to Sections 52 and 53 of this act in any given three-year period  
23 shall constitute a prima facie case of a willful violation.

24

1 SECTION 55. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 355 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 No person employed as an administrator of a group self-insurance  
5 association shall:

6 1. Be an attorney-of-record or receive attorney fees, directly  
7 or indirectly, for representing the group self-insurance  
8 association;

9 2. Have any financial interest in the company servicing the  
10 claims of the group self-insurance association;

11 3. Be involved as a provider of services to the group self-  
12 insurance association; or

13 4. Be compensated or employed by the claim servicing company of  
14 the group self-insurance association.

15 SECTION 56. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 356 of Title 85, unless there is  
17 created a duplication in numbering, reads as follows:

18 A. Every policy of insurance covering the liability of the  
19 employer for compensation issued by a stock company or by a mutual  
20 association or other concern authorized to transact workers'  
21 compensation insurance in this state shall contain a provision  
22 setting forth the right of the Administrator of the Workers'  
23 Compensation Court to enforce in the name of the state, for the  
24 benefit of the person entitled to the compensation insured by the

1 policy either by filing a separate application or by making the  
2 insurance carrier a party to the original application, the liability  
3 of the insurance carrier in whole or in part for the payment of such  
4 compensation; provided, however, that payment in whole or in part of  
5 the compensation by either the employer or the insurance carrier  
6 shall, to the extent thereof, be a bar to the recovery against the  
7 other of the amount so paid.

8 B. Every such policy shall contain a provision that, as between  
9 the employee and the insurance carrier, the notice to or knowledge  
10 of the occurrence of the injury on the part of the employer shall be  
11 deemed notice or knowledge, as the case may be on the part of the  
12 insurance carrier, that jurisdiction of the employer shall, for the  
13 purpose incorporated in this title, be jurisdiction of the insurance  
14 carrier, and that the insurance carrier shall in all things be bound  
15 by and subject to the orders, findings, decisions or awards rendered  
16 against the employer for the payment of compensation under the  
17 provisions incorporated in this title.

18 C. Every such policy shall contain a provision to the effect  
19 that the insolvency or bankruptcy of the employer shall not relieve  
20 the insurance carrier from the payment of compensation for injuries  
21 sustained by an employee during the life of such policy.

22 D. 1. Every such policy issued to cover a risk in this state  
23 shall include provisions giving the insured employer the option of  
24 choosing a deductible amount for medical benefits in amounts ranging

1 from Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred  
2 Dollars (\$2,500.00) in increments of Five Hundred Dollars (\$500.00).  
3 The policy issued may also include separate provisions giving the  
4 insured employer the option of choosing a deductible amount for  
5 indemnity benefits in amounts ranging from Five Hundred Dollars  
6 (\$500.00) to Two Thousand Five Hundred Dollars (\$2,500.00) in  
7 increments of Five Hundred Dollars (\$500.00). The insured employer,  
8 if choosing to exercise the option, shall choose only one deductible  
9 amount.

10 2. If an insured employer exercises the option and chooses a  
11 medical benefits deductible or indemnity benefits deductible, the  
12 insured employer shall be liable for the amount of the deductible or  
13 deductibles for the medical or indemnity benefits paid for each  
14 claim of work injury suffered by an injured employee.

15 3. The Insurance Commissioner, in exercising the authority to  
16 approve the form of the policy to be issued, shall not approve any  
17 policy form that permits, directly or indirectly, any part of the  
18 deductible to be charged to or passed on to the injured worker or  
19 insurer.

20 4. The insurer shall pay the entire cost of medical bills  
21 directly to the provider of the services and then seek reimbursement  
22 from the insured employer for the deductible amount. The insurer  
23 shall pay the entire cost of the indemnity benefits as if no  
24

1 deductible were in place and then seek reimbursement from the  
2 insured employer for the deductible amount.

3 5. If the insured employer does not reimburse the deductible  
4 amount directly to the insurer within sixty (60) days of a written  
5 demand therefor, the insurer shall pay the compensable medical claim  
6 or indemnity benefit and may seek to recover the full amount of such  
7 claim from the insured employer.

8 6. Claim amounts up to Five Hundred Dollars (\$500.00) annually  
9 which are paid under the medical benefits deductible or indemnity  
10 benefits deductible pursuant to this subsection shall be excluded  
11 from the calculation of the insured employer's experience modifier.

12 7. The provisions of this subsection shall be fully disclosed  
13 to the prospective purchaser in writing.

14 E. Every such policy issued to a sole proprietor, partnership,  
15 limited liability company, corporation, or other business entity  
16 must disclose to the potential purchaser in writing the option to  
17 elect to include the sole proprietors, any or all of the partnership  
18 members, any or all of the limited liability company members, or any  
19 or all stockholder-employees as employees for the purpose of  
20 workers' compensation insurance coverage by endorsing the policy in  
21 accordance with this title.

22 F. Every contract or agreement of an employer the purpose of  
23 which is to indemnify the employer from loss or damage on account of  
24 the injury of an employee by accidental means, or on account of the

1 negligence of such employer or the employer's officer, agent or  
2 servant shall be absolutely void unless it shall also cover  
3 liability for the payment of the compensation provided for in this  
4 title.

5 G. No contract of insurance issued by a stock company or mutual  
6 association or other concern against the liability arising under  
7 this title shall be canceled within the time limited in such  
8 contract for its expiration until at least ten (10) days after  
9 notice of intention to cancel such contract, on a date specified in  
10 such notice, shall be filed in the office of the Administrator and  
11 also served on the employer. Such notice shall be served on the  
12 employer by delivering it to the employer or by sending it by mail,  
13 by registered letter, addressed to the employer at the employer's  
14 last-known place of residence; provided that, if the employer is a  
15 partnership, then such notice may be so given to any one of the  
16 partners, and if the employer is a corporation, then the notice may  
17 be given to any agent or officer of the corporation upon whom legal  
18 process may be served. Provided, however, if a contract of  
19 insurance has been terminated by an employer insured thereunder who  
20 has obtained other compensation insurance, as evidenced by filing in  
21 compliance with this title, and no intervening rights of any  
22 employee are involved, omission of a predecessor insurer to file  
23 notice of time of termination of liability shall not constitute  
24 basis for imposition of liability against such predecessor insurer.

1 SECTION 57. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 357 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 Every employer and insurance carrier who schedules any employee  
5 as a person employed by the employer for the purpose of paying or  
6 collecting insurance premiums on a workers' compensation insurance  
7 policy or who pays, receives or collects any premiums upon any  
8 insurance policy covering the liability of such employer under the  
9 workers' compensation law by reason of or upon the basis of the  
10 employment of any such employee shall be estopped to deny that such  
11 employee was employed by the employer.

12 SECTION 58. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 358 of Title 85, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. There is hereby created the "Individual Self-Insured  
16 Guaranty Fund Board". The Board shall have supervision over the  
17 administration and operation of the Individual Self-Insured Guaranty  
18 Fund.

19 B. The Board shall consist of not less than three (3) nor more  
20 than nine (9) members. Each member shall be from an employer who  
21 has been approved by the Workers' Compensation Court as an own-risk  
22 carrier or self-insured risk. The Board shall be appointed by the  
23 Administrator of the Workers' Compensation Court.

24

1 The initial members of the Board shall be appointed to terms of  
2 office as follows:

- 3 1. One member shall be appointed for one (1) year;
- 4 2. One member shall be appointed for two (2) years; and
- 5 3. One member shall be appointed for three (3) years.

6 If more than three members are appointed, the fourth member  
7 shall be appointed for four (4) years and each of the others  
8 appointed shall be for terms of office in the order of their  
9 appointment of one, two, three or four years with the ninth member  
10 also serving four (4) years. Thereafter, each person appointed  
11 shall serve for four (4) years. Provided, board members serving on  
12 the effective date of this act shall continue to serve until  
13 expiration of their respective terms. Members may be appointed to  
14 successive terms.

15 C. The State Treasurer shall establish the Individual Self-  
16 Insured Guaranty Fund in the State Treasury.

17 D. The monies paid into the Fund, together with the interest  
18 thereon, shall constitute the Individual Self-Insured's Guaranty  
19 Fund.

20 E. Until the Individual Self-Insured Guaranty Fund contains One  
21 Million Dollars (\$1,000,000.00), the Oklahoma Tax Commission shall  
22 assess and collect from the employers carrying their own-risk a tax  
23 at the rate of one percent (1%) of the total compensation for  
24 permanent partial impairment awards paid out during each quarter of

1 the calendar year by the employers. The Oklahoma Tax Commission  
2 shall forward to the State Treasurer the proceeds of the tax for  
3 deposit in the Fund. When the amount in the Fund falls below Seven  
4 Hundred Fifty Thousand Dollars (\$750,000.00), the tax made pursuant  
5 to this section shall be assessed until the Fund contains One  
6 Million Dollars (\$1,000,000.00). The State Treasurer shall place  
7 monies in the Fund in interest-bearing accounts.

8 F. If an employer, who is currently approved by the Court as a  
9 self-insured or own-risk carrier, is unable to make payment of an  
10 award and judgment is rendered against such employer and execution  
11 is levied and returned unsatisfied in whole or in part, payments for  
12 such liabilities shall be made from the Individual Self-Insured  
13 Guaranty Fund. The Administrator shall proceed to recover such  
14 payments from the employer, or the employer's receiver or trustee in  
15 bankruptcy, and may commence an action or proceeding or file a claim  
16 therefor. The Attorney General shall appear on behalf of the  
17 Administrator in any such action or proceeding. All monies  
18 recovered in such action shall be paid into the Fund.

19 G. Each employer approved as an individual self-insurer or own-  
20 risk carrier shall pay into the Fund a sum equal to that assessed  
21 against such employer as provided for in subsection E of this  
22 section. When the award becomes final, the sum shall be payable  
23 regardless of whether or not the award made to the claimant is paid.

24

1 H. In making and entering awards for compensation for permanent  
2 partial impairment, the Court shall determine and fix the amounts  
3 that shall be paid to the Tax Commission pursuant to the provisions  
4 of subsection E of this section. The amount so determined and fixed  
5 shall have the same force and effect as an award of the Court for  
6 compensation and all provisions relating to the collection of awards  
7 of the Court shall apply to such judgments.

8 I. It shall be the duty of the Oklahoma Tax Commission to  
9 collect the payments provided for in this section. The Oklahoma Tax  
10 Commission is hereby authorized to bring an action for the recovery  
11 of any delinquent or unpaid payments required in this section.

12 J. The Oklahoma Tax Commission shall on or before the first day  
13 of April of each year find and determine the amount of money held as  
14 of March 1 of that year by the State Treasurer for the benefit of  
15 the Individual Self-Insured Guaranty Fund and shall on or before the  
16 first day of October of each year find and determine the amount of  
17 money held as of September 1 of that year by the State Treasurer for  
18 the benefit of the Individual Self-Insured Guaranty Fund. Promptly  
19 after making each such determination, the Oklahoma Tax Commission  
20 shall advise the Administrator in writing of its findings.

21 K. Eighty percent (80%) of all sums held by the State Treasurer  
22 to the credit of the Individual Self-Insured Guaranty Fund by order  
23 of the Administrator, with the approval of the Individual Self-  
24 Insured Guaranty Fund Board, may be invested in or loaned on the

1 pledge of any of the securities in which a state bank may invest the  
2 moneys deposited therein by the State Treasurer; or may be deposited  
3 in state or national banks or trust companies upon insured time  
4 deposit bearing interest at a rate no less than currently being paid  
5 upon insured savings accounts in said institutions. As used in this  
6 section, "insured" means insurance as provided by an agency of the  
7 federal government. All such securities or evidence of indebtedness  
8 shall be placed in the hands of the State Treasurer, who shall be  
9 the custodian thereof, shall collect the principal and interest when  
10 due, and shall pay the same into said Fund. The State Treasurer  
11 shall pay by vouchers drawn on the Individual Self-Insured Guaranty  
12 Fund for the making of such investments, when signed by the  
13 Administrator and approved by the Individual Self-Insured Guaranty  
14 Board, upon delivery of such securities or evidence of indebtedness  
15 to him. The Administrator, upon approval of the individual Self-  
16 Insured Guaranty Board, may sell any of such securities, the  
17 proceeds thereof to be paid over to the State Treasurer for deposit  
18 in the Fund.

19 L. The refund provisions of Sections 227 through 229 of Title  
20 68 of the Oklahoma Statutes shall be applicable to any payment of  
21 assessments made to the Fund when the Fund has over One Million  
22 Dollars (\$1,000,000.00) in it. Refunds shall be paid from the Fund.

23 M. The Oklahoma Tax Commission shall pay, monthly, to the State  
24 Treasurer to the credit of the Individual Self-Insured Guaranty Fund

1 all moneys collected under the provisions of this section. The  
2 State Treasurer shall pay out of the Individual Self-Insured  
3 Guaranty Fund only upon the order and direction of a court of this  
4 state acting under the provisions thereof.

5 N. Where an award has been made by the Court or a payment in  
6 lieu thereof for compensable injury for a permanent partial  
7 impairment, the employer shall pay to the Tax Commission such sum as  
8 is due of which ninety-eight percent (98%) of said sum shall be paid  
9 into the Fund and the remaining two percent (2%) thereof shall be  
10 paid to the Oklahoma Tax Commission not later than the fifteenth of  
11 the month following the close of the calendar quarter in which the  
12 award was made.

13 O. The Board may retain an insurance carrier or approved  
14 service organization to process, investigate and pay valid claims.  
15 The charge for such service shall be paid from the Fund.

16 P. The provisions of this section shall not apply to any state  
17 entity or any political subdivision of the state.

18 Q. No claim or award shall be allowed against the Fund unless  
19 such claim or award is made within (1) one year of the time provided  
20 in subsection F of this section.

21 SECTION 59. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 359 of Title 85, unless there is  
23 created a duplication in numbering, reads as follows:

24

1       A. There is hereby created the "Group Self-Insurance  
2 Association Guaranty Fund Board". The Board shall have supervision  
3 over the administration and operation of the Group Self-Insurance  
4 Association Guaranty Fund.

5       B. The Board shall consist of not less than three (3) nor more  
6 than nine (9) members. Each member shall be an administrator of a  
7 Group Self-Insurance Association which has been approved by the  
8 Workers' Compensation Court as an own-risk carrier or self-insured  
9 risk. The Board shall be appointed by the Administrator of the  
10 Workers' Compensation Court. The initial members of the Board shall  
11 be appointed to terms of office as follows:

- 12       1. One member shall be appointed for one (1) year;
- 13       2. One member shall be appointed for two (2) years; and
- 14       3. One member shall be appointed for three (3) years.

15       If more than three members are appointed, the fourth member  
16 shall be appointed for four (4) years and each of the others  
17 appointed shall be for terms of office in the order of their  
18 appointment of one, two, three or four years with the ninth member  
19 also serving four (4) years. Thereafter, each person appointed  
20 shall serve for four (4) years. Provided, board members serving on  
21 the effective date of this act shall continue to serve until  
22 expiration of their respective terms. Members may be appointed to  
23 successive terms.

24

1 C. The State Treasurer shall establish the Group Self-Insurance  
2 Association Guaranty Fund in the State Treasury.

3 D. The monies paid into the Fund, together with the interest  
4 thereon, shall constitute the Group Self-Insurance Association  
5 Guaranty Fund.

6 E. Until the Group Self-Insurance Association Guaranty Fund  
7 contains One Million Dollars (\$1,000,000.00), the Oklahoma Tax  
8 Commission shall assess and collect from each group self-insurance  
9 association carrying their own risk, a tax at the rate of one  
10 percent (1%) of the total compensation for permanent partial  
11 impairment awards paid out during each quarter of the calendar year  
12 by each group self-insurance association. The Oklahoma Tax  
13 Commission shall forward to the State Treasurer the proceeds of the  
14 tax for deposit in the Fund. When the amount in the Fund falls  
15 below Seven Hundred Fifty Thousand Dollars (\$750,000.00), the tax  
16 made pursuant to this section shall be assessed until the Fund  
17 contains One Million Dollars (\$1,000,000.00). The State Treasurer  
18 shall place monies in the Fund in interest-bearing accounts.

19 F. If a group self-insurance association, that is currently  
20 approved by the Court as a self-insured or own-risk carrier, is  
21 unable to make payment of an award and judgment is rendered against  
22 such group self-insurance association and execution is levied and  
23 returned unsatisfied in whole or in part, payments for such  
24 liabilities shall be made from the Group Self-Insurance Association

1 Guaranty Fund. The Administrator shall proceed to recover such  
2 payments from the group self-insurance association, or the group  
3 self-insurance association's receiver or trustee in bankruptcy, and  
4 may commence an action or proceeding or file a claim therefor. The  
5 Attorney General shall appear on behalf of the Administrator in any  
6 such action or proceeding. All monies recovered in such action  
7 shall be paid into the Fund.

8 G. Each group self-insurance association approved as a self-  
9 insurer or own-risk carrier shall pay into the Fund a sum equal to  
10 that assessed against such group self-insurance association as  
11 provided for in subsection E of this section. When the award  
12 becomes final, the sum shall be payable regardless of whether or not  
13 the award made to the claimant is paid.

14 H. In making and entering awards for compensation for permanent  
15 partial impairment, the Court shall determine and fix the amounts  
16 that shall be paid to the Tax Commission pursuant to the provisions  
17 of subsection E of this section. The amount so determined and fixed  
18 shall have the same force and effect as an award of the Court for  
19 compensation and all provisions relating to the collection of awards  
20 of the Court shall apply to such judgments.

21 I. It shall be the duty of the Oklahoma Tax Commission to  
22 collect the payments provided for in this section. The Oklahoma Tax  
23 Commission is hereby authorized to bring an action for the recovery  
24 of any delinquent or unpaid payments required in this section.

1 J. The Oklahoma Tax Commission shall on or before the first day  
2 of April of each year find and determine the amount of money held as  
3 of March 1 of that year by the State Treasurer for the benefit of  
4 the Group Self-Insurance Association Guaranty Fund and shall on or  
5 before the first day of October of each year find and determine the  
6 amount of money held as of September 1 of that year by the State  
7 Treasurer for the benefit of the Group Self-Insurance Association  
8 Guaranty Fund. Promptly after making each such determination, the  
9 Oklahoma Tax Commission shall advise the Administrator in writing of  
10 its findings.

11 K. Eighty percent (80%) of all sums held by the State Treasurer  
12 to the credit of the Group Self-Insurance Association Guaranty Fund  
13 by order of the Administrator, with the approval of the Group Self-  
14 Insurance Association Guaranty Fund Board, may be invested in or  
15 loaned on the pledge of any of the securities in which a state bank  
16 may invest the moneys deposited therein by the State Treasurer; or  
17 may be deposited in state or national banks or trust companies upon  
18 insured time deposit bearing interest at a rate no less than  
19 currently being paid upon insured savings accounts in said  
20 institutions. As used in this section, "insured" means insurance as  
21 provided by an agency of the federal government. All such  
22 securities or evidence of indebtedness shall be placed in the hands  
23 of the State Treasurer, who shall be the custodian thereof, who  
24 shall collect the principal and interest when due, and pay the same

1 into said Fund. The State Treasurer shall pay by vouchers drawn on  
2 the Group Self-Insurance Association Guaranty Fund for the making of  
3 such investments, when signed by the Administrator and approved by  
4 the Group Self-Insurance Association Guaranty Board, upon delivery  
5 or evidence of indebtedness to him. The Administrator, upon  
6 approval of the Group Self-Insurance Association Guaranty Board, may  
7 sell any of such securities, the proceeds thereof to be paid over to  
8 the State Treasurer for deposit in the Fund.

9 L. The refund provisions of Sections 227 through 229 of Title  
10 68 of the Oklahoma Statutes shall be applicable to any payment of  
11 assessments made to the Fund when the Fund has over One Million  
12 Dollars (\$1,000,000.00) in it. Refunds shall be paid from the Fund.

13 M. The Oklahoma Tax Commission shall pay, monthly, to the State  
14 Treasurer to the credit of the Group Self-Insurance Association  
15 Guaranty Fund all moneys collected under the provisions of this  
16 section. The State Treasurer shall pay out of the Group Self-  
17 Insurance Association Guaranty Fund only upon the order and  
18 direction of a court of this state acting under the provisions  
19 thereof.

20 N. Where an award has been made by the Court or a payment in  
21 lieu thereof for compensable injury for a permanent partial  
22 impairment, the employer shall pay to the Tax Commission such sum as  
23 is due of which ninety-eight percent (98%) of said sum shall be paid  
24 into the Fund and the remaining two percent (2%) thereof shall be

1 paid to the Oklahoma Tax Commission not later than the fifteenth of  
2 the month following the close of the calendar quarter in which the  
3 award was made.

4 O. The Board may retain an insurance carrier or approved  
5 service organization to process, investigate and pay valid claims.  
6 The charge for such service shall be paid from the Fund.

7 P. The provisions of this section shall not apply to any group  
8 self-insurance association consisting of state entities or of any  
9 political subdivisions of the state.

10 Q. No claim or award shall be allowed against said Fund unless  
11 such claim or award is made within one (1) year of the time provided  
12 in subsection F of this section.

13 SECTION 60. 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. Annually, on or before the first day of July, the  
17 Administrator of the Workers' Compensation Court shall prepare, make  
18 public and submit a report for the prior calendar year to the  
19 Governor, the Chief Justice of the Supreme Court, the President Pro  
20 Tempore of the Senate, the Speaker of the House of Representatives  
21 and each member of the Legislature, which shall include a statement  
22 of the number of awards made and the causes of the accidents leading  
23 to the injuries for which the awards were made, total work load data  
24 of the Workers' Compensation Court, a detailed report of the work

1 load of and orders written by each judge of the Court, a detailed  
2 statement of the expenses of the office of the Administrator and the  
3 Court, together with any other matter which the Administrator deems  
4 proper to report to the Governor, including any recommendations the  
5 Administrator may desire to make.

6 B. After public hearing and consultation with representatives  
7 of employers, insurance carriers, and employees, the Administrator  
8 shall implement by July 1, 2012, an electronic data interchange  
9 (EDI) system that provides relevant data concerning the Oklahoma  
10 workers' compensation system and the delivery of benefits to injured  
11 workers.

12 C. To assist the Administrator in developing and implementing  
13 the EDI system, there is hereby created the Oklahoma Workers'  
14 Compensation Electronic Data Interchange Advisory Committee. Within  
15 thirty (30) days of the effective date of this act, the Governor  
16 shall appoint five persons to serve as members of the advisory  
17 committee. The Administrator shall act as chair of the advisory  
18 committee and shall provide adequate notice of meetings of the  
19 committee and public hearings as required by law.

20 SECTION 61. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 361 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. A fee of One Hundred Forty Dollars (\$140.00) per case,  
24 including any Compromise Settlement authorized by Section 39 of this

1 act, shall be collected by the Administrator of the Workers'  
2 Compensation Court and taxed as costs to be paid by the party  
3 against whom any award becomes final, to be deposited as follows:

4 1. One Hundred Five Dollars (\$105.00) to the credit of the  
5 Administrator of Workers' Compensation Revolving Fund created by  
6 Section 63 of this act;

7 2. Ten Dollars (\$10.00) to the credit of the Office of the  
8 Attorney General's Workers' Compensation Fraud Unit Revolving Fund  
9 created by Section 19.2 of Title 74 of the Oklahoma Statutes; and

10 3. Twenty-five Dollars (\$25.00) to the credit of the  
11 Administrator of Workers' Compensation Revolving Fund for purposes  
12 of implementing the provisions of this act, including strengthening  
13 and providing additional funding for the Attorney General's Workers'  
14 Compensation Fraud Unit, providing counseling services pursuant to  
15 the workers' compensation counselor or ombudsman program and safety  
16 in the workplace.

17 B. A fee of One Hundred Thirty Dollars (\$130.00) per action to  
18 reopen any case pursuant to Section 18 of this act shall be  
19 collected by the Administrator and taxed as costs to be paid by the  
20 party that reopens the case. The fee collected pursuant to this  
21 subsection shall be deposited to the credit of the Administrator of  
22 Workers' Compensation Revolving Fund for purposes of implementing  
23 the provisions of this act, including strengthening and providing  
24 additional funding for the Attorney General's Workers' Compensation

1 Fraud Unit, providing counseling services pursuant to the workers'  
2 compensation counselor or ombudsman program and safety in the  
3 workplace.

4 SECTION 62. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 362 of Title 85, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. All group self-insureds allowed pursuant to the provisions  
8 of Section 89 of this act shall pay an annual application fee of One  
9 Thousand Dollars (\$1,000.00) to the Administrator of the Workers'  
10 Compensation Court.

11 B. All individual own-risk or self-insured risk employers shall  
12 pay an annual application fee of One Thousand Dollars (\$1,000.00) to  
13 the Administrator.

14 C. All court approved servicing companies shall pay an annual  
15 application fee of One Thousand Dollars (\$1,000.00) to the  
16 Administrator.

17 D. Each individual own-risk or self-insured risk employer whose  
18 financial statements or loss runs, or both, are subject to interim  
19 review by Workers' Compensation Court personnel shall pay an  
20 additional fee to the Administrator of Five Hundred Dollars  
21 (\$500.00) per review, not to exceed One Thousand Dollars (\$1,000.00)  
22 per state fiscal year.

23

24

1 E. All fees collected pursuant to the provisions of this  
2 section shall be deposited to the credit of the Administrator of  
3 Workers' Compensation Revolving Fund.

4 SECTION 63. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 363 of Title 85, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. Persons requesting and receiving copies of documents on file  
8 with the Administrator of the Workers' Compensation Court shall pay  
9 a fee to the Administrator of One Dollar (\$1.00) for each page  
10 copied. All fees so collected shall be deposited in the State  
11 Treasury in a revolving fund to be designated the "Administrator of  
12 Workers' Compensation Revolving Fund". The fund created herein  
13 shall be a continuing fund not subject to fiscal year limitations.  
14 Monies accruing to the credit of the fund may be expended in the  
15 manner prescribed by law in defraying necessary expenses in carrying  
16 out the provisions of this act and without legislative  
17 appropriation. Expenditures from the fund shall be made upon  
18 warrants issued by the State Treasurer against claims as prescribed  
19 by law with the Director of State Finance for approval and payment.

20 B. All penalties and fines imposed by the Workers' Compensation  
21 Court or Administrator, upon collection, shall be deposited to the  
22 credit of the Administrator of the Workers' Compensation Revolving  
23 Fund.

24

1           SECTION 64.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 364 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. Every employer shall furnish the Administrator of the  
5 Workers' Compensation Court, upon request, any information required  
6 by the Administrator to carry out the provisions of the Workers'  
7 Compensation Act.

8           B. All books, records and payrolls of the employers showing or  
9 reflecting in any way upon the amount of wage expenditures of such  
10 employers shall always be open for inspection by the Administrator  
11 or any other authorized auditors, accountants, or inspector for the  
12 purpose of ascertaining the correctness of the wage expenditure and  
13 number of employees and such other information as may be necessary  
14 for the purposes and uses of the Administrator in the administration  
15 of the Workers' Compensation Act. No person shall be excused from  
16 testifying or from producing any books or papers or documents in any  
17 investigation or inquiry, by or upon any hearing before the Workers'  
18 Compensation Court, when ordered to do so by the Court, upon the  
19 ground that the testimony or payroll or other competent evidence  
20 required of the person may tend to incriminate or subject the person  
21 to penalty or forfeiture; but no person shall be prosecuted,  
22 punished or subjected to any penalty or forfeiture for or on account  
23 of any act, transaction, matter or thing concerning which the person  
24 shall under oath, have, by order of the Court, testified to or

1 produced documentary evidence of; provided however, that no person  
2 so testifying shall be exempt from prosecution or punishment for any  
3 perjury committed by the person in the person's testimony.

4 SECTION 65. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 365 of Title 85, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. Except as otherwise provided by state or federal law and  
8 subject to the provisions of this section, an employer may inquire  
9 about previous workers' compensation claims paid to an employee  
10 while the employee was employed by a previous employer. If the  
11 employee fails to answer truthfully about any previous permanent  
12 partial impairment awards made pursuant to workers' compensation  
13 claims, the employee shall be subject to discharge by the employer.

14 B. All requests made to the Workers' Compensation Court for  
15 information on prior workers' compensation claims involving a  
16 worker, including written inquiries about prior claims and requests  
17 to access a worker's compensation claim file, must be in writing, on  
18 a form prescribed by the Administrator, and accompanied by a fee of  
19 One Dollar (\$1.00) per search request, not to exceed One Dollar  
20 (\$1.00) per claims record of a particular worker. The fee shall be  
21 deposited to the credit of the Administrator of Workers'  
22 Compensation Revolving Fund. The form shall require identification  
23 of the person requesting the information, and the person for whom a  
24 search is being made if different from the requester. The form must

1 contain an affidavit signed by the requester under penalty of  
2 perjury that the information sought is not requested for a purpose  
3 in violation of state or federal law. The form must be used by all  
4 repositories of archived Court claim files. All request forms shall  
5 be maintained by the Administrator as a public record, together with  
6 a record of a worker's written authorization permitting a search  
7 indexed by the worker's social security number as required by  
8 Section 3113 of Title 74 of the Oklahoma Statutes. The request  
9 forms and authorizations shall be indexed alphabetically by the last  
10 name of the worker.

11 1. This subsection shall not apply:

- 12 a. to requests for claims information made by a public  
13 officer or by a public employee in the performance of  
14 his or her duties on behalf of a governmental entity  
15 or as may be allowed by law,
- 16 b. to requests for claims information made by an insurer,  
17 self-insured employer, third-party claims  
18 administrator, or a legal representative thereof, when  
19 necessary to process or defend a worker's compensation  
20 claim,
- 21 c. when a worker or the worker's representative requests  
22 review of the worker's claims information,
- 23 d. when the disclosure is made for educational or  
24 research purposes and in such a manner that the

1 disclosed information cannot be used to identify any  
2 worker who is the subject of a claim,

3 e. to requests for claims information made by a health  
4 care or rehabilitation provider or the provider's  
5 legal representative when necessary to process payment  
6 of health care or rehabilitation services rendered to  
7 a worker, and

8 f. to requests for claim information made by an employer  
9 or personnel service company, including but not  
10 limited to an individual or entity, where the worker  
11 executes a written authorization permitting the search  
12 and designating the employer or personnel service  
13 company as the worker's representative for that  
14 purpose; however, nothing in this subparagraph shall  
15 relieve the employer or personnel service company from  
16 complying with the requirements of utilizing the form  
17 set forth in paragraph 1 of this subsection.

18 SECTION 66. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 366 of Title 85, unless there is  
20 created a duplication in numbering, reads as follows:

21 A. There is hereby created a Physician Advisory Committee  
22 comprised of nine (9) members to be appointed as follows:

23 1. The Governor shall appoint three members, one of whom shall  
24 be licensed in this state as a doctor of medicine specializing in

1 pain management, one doctor of medicine who shall be engaged in the  
2 practice of family medicine, and one who shall be a doctor of  
3 medicine engaged in the practice of orthopedic surgery.

4 2. The President Pro Tempore of the Senate shall appoint three  
5 members, one of whom shall be licensed in this state as a doctor of  
6 medicine and neurosurgery, one of whom shall be licensed in this  
7 state either as a doctor of medicine or a doctor of osteopathy and  
8 shall be engaged in the practice of occupational medicine, and one  
9 of whom shall be licensed in this state as a podiatric physician,

10 3. The Speaker of the House of Representatives shall appoint  
11 three members, one of whom shall be licensed either as a doctor of  
12 medicine or a doctor of osteopathy who shall be engaged in a  
13 specialty other than neurosurgery or orthopedics, one of whom shall  
14 be licensed in this state either as a doctor of medicine or a doctor  
15 of osteopathy and shall be engaged in the practice of occupational  
16 medicine, and one of whom shall be licensed in this state as a  
17 chiropractic physician.

18 4. All members serving on the effective date of this act shall  
19 continue to serve for the remainder of his term. Thereafter, each  
20 position will be filled by the appointing official for a term of  
21 three (3) years. Members shall be subject to reappointment, with  
22 any new appointee to serve out the remainder of the unexpired term  
23 of the committee member so replaced.

24 B. The Committee shall:

1           1. Assist and advise the Administrator of the Workers'  
2 Compensation Court regarding utilization review as it relates to the  
3 medical practice and treatment of work-related injuries. Such  
4 utilization review shall include a review of reasonable and  
5 necessary treatment; abusive practices; needless treatments,  
6 testing, or procedures; or a pattern of billing in excess of or in  
7 violation of the Schedule of Medical Fees. The Physician Advisory  
8 Committee shall review and make findings and recommendations to the  
9 Administrator with respect to charges of inappropriate or  
10 unnecessary treatment or procedures, abusive practices, or excessive  
11 billing disclosed through utilization review. The guidelines shall  
12 be designed to assist providers by offering an analytical framework  
13 for the evaluation and treatment of injured workers;

14           2. Assist the Administrator in reviewing medical practices of  
15 health care providers, including evaluations of permanent impairment  
16 provided by health care providers. The Committee shall review and  
17 make findings and recommendations to the Administrator with respect  
18 to charges of abusive practices by health care providers providing  
19 medical services or evaluations of permanent impairment through the  
20 workers' compensation system;

21           3. After public hearing, review and make recommendations for  
22 acceptable deviations from the American Medical Association's  
23 "Guides to the Evaluation of Permanent Impairment";  
24

1 4. After public hearing, review and make recommendations to the  
2 Administrator for an alternative method or system to evaluate  
3 permanent impairment that shall be used in place of or in  
4 combination with the American Medical Association's "Guides to the  
5 Evaluation of Permanent Impairment". Appropriate and scientific  
6 data shall be considered;

7 5. After public hearing, adopt treatment guidelines and  
8 protocols for treatment of injuries, including, but not limited to,  
9 injuries to the hand, wrist, back, knee, neck and shoulder and  
10 utilization controls for all treatments, including, but not limited  
11 to, x-ray and imaging technology for diagnostic purposes, for  
12 adoption by the Administrator. Treatment guidelines and protocols  
13 shall be based upon nationally accepted practice standards and shall  
14 indicate when surgery is indicated and the appropriate surgical  
15 procedure for the condition;

16 6. After public hearing, adopt guidelines for the prescription  
17 and dispensing of any controlled substance included in Schedule II  
18 of the Uniform Controlled Dangerous Substances Act;

19 7. Review utilization on cases or of providers when requested  
20 by any employer, injured employee or insurer. The Committee may  
21 issue a public or private censure to any provider for utilization  
22 which is excessive or inadequate, or recommend the Court order  
23 treatment within the treatment guidelines;

24

1 8. Provide general recommendations to the judges of the Court  
2 on the issues of injury causation and apportionment;

3 9. Conduct educational seminars for the judges of the Court,  
4 employers, employees, and other interested parties;

5 10. Assist the judges of the Court in accessing medical  
6 information from scientific literature; and

7 11. Report its progress annually to the Governor, the President  
8 Pro Tempore of the Senate, and the Speaker of the House of  
9 Representatives.

10 C. The Court shall be bound by the findings and recommendations  
11 of the Physician Advisory Committee in regard to reasonable and  
12 necessary medical treatment, duration of treatment, continuing  
13 medical maintenance, and development of a formulary for the use of  
14 prescription medicines, unless there is clear and convincing  
15 evidence to the contrary. Any order for medical care not consistent  
16 with findings and recommendations of the Physician Advisory  
17 Committee shall contain specific findings to support the deviation  
18 from said findings and recommendations.

19 D. Members of the Physician Advisory Committee shall receive no  
20 compensation for serving on the Committee but shall be reimbursed by  
21 the Court for their necessary travel expenses incurred in the  
22 performance of their duties in accordance with the State Travel  
23 Reimbursement Act.

24

1 E. Meetings of the Physician Advisory Committee shall be called  
2 by the Administrator but held at least quarterly. The presence of a  
3 simple majority of the members constitutes a quorum. No action  
4 shall be taken by the Physician Advisory Committee without the  
5 affirmative vote of at least a simple majority of the members.

6 F. The Administrator shall provide office supplies and  
7 personnel of the Court to assist the Committee in the performance of  
8 its duties.

9 G. Upon written request, the Insurance Commissioner, CompSource  
10 Oklahoma, and every approved self-insured employer in Oklahoma shall  
11 provide the Committee with data necessary to the performance of its  
12 duties.

13 H. Any health care provider acting in good faith and within the  
14 scope of the provider's duties as a member of the Physician Advisory  
15 Committee shall be immune from civil liability for making any report  
16 or other information available to the judges of the Court or to the  
17 Administrator or for assisting in the origination, investigation, or  
18 preparation of the report or other information so provided.

19 SECTION 67. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 367 of Title 85, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. There is hereby created an Advisory Council on Workers'  
23 Compensation.

24

1 B. The voting membership of the Advisory Council shall consist  
2 of nine (9) members. Any member serving on the effective date of  
3 this act shall serve the remainder of his or her term. The  
4 Administrator of the Workers' Compensation Court and presiding judge  
5 of the Workers' Compensation Court shall be ex officio nonvoting  
6 members.

7 1. The Governor shall appoint three (3) members representing  
8 employers in this state, one of whom shall be from a list of  
9 nominees provided by the predominant statewide broad-based business  
10 organization;

11 2. The Speaker of the House of Representatives shall appoint  
12 three (3) members representing employees in this state, one of whom  
13 shall be from a list of nominees provided by the most representative  
14 labor organization in the state; and

15 3. The President Pro Tempore of the Senate shall appoint three  
16 (3) members who are attorneys representing the legal profession in  
17 this state, one of whom shall be an attorney who practices primarily  
18 in the area of defense of workers' compensation claims.

19 C. The term of office for appointees shall be as follows:

20 1. The term of office for three positions, one each appointed  
21 by the Governor, the President Pro Tempore of the Senate and the  
22 Speaker of the House of Representatives shall expire on March 1,  
23 2012;

24

1           2. The term of office for three positions, one each appointed  
2 by the Governor, the President Pro Tempore of the Senate and the  
3 Speaker of the House of Representatives shall expire on March 1,  
4 2013; and

5           3. The term of office for three positions, one each appointed  
6 by the Governor, the President Pro Tempore of the Senate and the  
7 Speaker of the House of Representatives shall expire on March 1,  
8 2014.

9           D. Thereafter, successors in office shall be appointed for a  
10 three-year term. Members shall be eligible to succeed themselves in  
11 office; and

12           E. Any person appointed to fill a vacancy shall be appointed  
13 for the unexpired portion of the term.

14           F. The chairman and the vice-chairman of the Advisory Council,  
15 one of whom shall be an employee representative and one of whom  
16 shall be an employer representative, shall be elected by the Council  
17 from among its voting members.

18           G. Members shall receive their traveling and other necessary  
19 expenses incurred in the performance of their duties as provided in  
20 the State Travel Reimbursement Act.

21           H. Meetings of the Advisory Council shall be quarterly or as  
22 called by the chair or upon petition by a majority of the voting  
23 members. The presence of five (5) voting members constitutes a  
24

1 quorum. No action shall be taken by the Advisory Council without  
2 the affirmative vote of at least five (5) members.

3 I. The Administrator shall provide office supplies and  
4 personnel of the Court to carry out any of the duties that have been  
5 entrusted to the Council.

6 J. The Advisory Council shall analyze and review the workers'  
7 compensation system, the reports of the Administrator, and trends in  
8 the field of workers' compensation. The Council may recommend  
9 improvements and proper responses to developing trends. The Council  
10 shall report its findings annually to the Governor, the Chief  
11 Justice of the Supreme Court, the President Pro Tempore of the  
12 Senate, and the Speaker of the House of Representatives.

13 K. In addition to other duties required by this section, the  
14 Advisory Council shall consult with the Court regarding oversight of  
15 independent medical examiners as provided in Section 29 of this act.

16 SECTION 68. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 368 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. There is hereby created and established a fund to be known  
20 as "CompSource Oklahoma", to be administered by a President and  
21 Chief Executive Officer, without liability on the part of the state  
22 beyond the amount of said fund, for the purpose of insuring  
23 employers against liability for compensation, and for assuring for  
24 the persons entitled thereto compensation provided by the workers'

1 compensation law, and for the further purpose of insuring persons,  
2 firms and corporations against loss, expense or liability by reason  
3 of bodily injury, death by accident, occupational disability, or  
4 occupational disease suffered by employees, for which the insured  
5 may be liable or have assumed liability. Said fund may further  
6 provide insurance for employers against liability incurred as the  
7 result of injuries sustained by employees engaged in employment  
8 subject to the Longshoremen's and Harbor Workers' Compensation Act,  
9 33 U.S.C., Section 901 et seq., or employees engaged in employment  
10 subject to Title IV of the Federal Coal Mine Health and Safety Act  
11 of 1969 as amended by the Black Lung Benefits Act of 1972, as  
12 enacted or as may be amended by the Congress of the United States.

13 B. CompSource Oklahoma shall be a revolving fund and shall  
14 consist of all premiums received and paid into said fund for  
15 insurance issued, all property and securities acquired by and  
16 through the use of monies belonging to the fund and all interest  
17 earned upon monies belonging to the fund and deposited or invested  
18 as herein provided.

19 C. Said fund shall be applicable to the payment of losses  
20 sustained on account of insurance and to the payment of expenses in  
21 the manner provided in this title.

22 D. Said fund shall be fairly competitive with other insurance  
23 carriers and it is the intent of the Legislature that said fund  
24 shall become neither more nor less than self-supporting.

1 E. CompSource Oklahoma shall report to the Insurance  
2 Commissioner no later than the last day of February of each year the  
3 amount of premium taxes and fees for which it would be liable if it  
4 were operating as a private carrier.

5 F. The official name of the fund which is known as "The State  
6 Insurance Fund" shall be designated in all future references as  
7 "CompSource Oklahoma". Any references in the Oklahoma Statutes to  
8 The State Insurance Fund shall be deemed references to CompSource  
9 Oklahoma.

10 G. The Board of Managers of CompSource Oklahoma shall have full  
11 power and authority to fix and determine the rates to be charged by  
12 CompSource Oklahoma for insurance.

13 SECTION 69. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 369 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16 A. There is hereby created a board to be known as the "Board of  
17 Managers of CompSource Oklahoma", which shall have supervision over  
18 the administration and operation of CompSource Oklahoma, and shall  
19 be composed of nine (9) members as follows:

- 20 1. The Director of State Finance or a designee;
- 21 2. The Lieutenant Governor or a designee;
- 22 3. The State Auditor and Inspector or a designee;
- 23 4. The Director of Central Purchasing of the Department of  
24 Central Services;

1       5. One member appointed by the Governor;

2       6. Two members appointed by the Speaker of the House of  
3 Representatives, one of whom shall be representative of employers;  
4 and

5       7. Two members appointed by the President Pro Tempore of the  
6 Senate, one of whom shall be representative of employees.

7       The appointed members of the Board shall serve at the pleasure  
8 of the appointing authority.

9       B. The members of the Board shall elect annually from their  
10 number a Chair and a Secretary. The Secretary shall keep true and  
11 complete records of all proceedings of the Board. The Board shall  
12 meet quarterly, and at all other times when a meeting is called by  
13 the Chair, and at such meetings the Board may consider the condition  
14 of CompSource Oklahoma and quarterly shall make a detailed  
15 examination into the condition of its reserves and investments and  
16 at each meeting may examine all other matters relating to the  
17 administration of such fund. The time and place of the regular  
18 meetings and the manner in which special meetings may be called  
19 shall be set forth in the bylaws of the said Fund. Except as  
20 otherwise provided in this act or in the bylaws, all actions shall  
21 be taken by the affirmative vote of a majority of the Board members  
22 present at a meeting, except that no investment policy and no  
23 amendment of bylaws shall be valid unless authorized or ratified by  
24 the affirmative vote of at least four Board members.

1 C. Appointed members of the Board shall be reimbursed for  
2 expenses as provided in the State Travel Reimbursement Act. Said  
3 reimbursement, not to exceed thirty (30) days in any calendar year,  
4 shall be paid only when the Board is transacting official business.  
5 Any reimbursement in excess of thirty (30) days shall be approved by  
6 a majority of the Board. The Board shall have access to all records  
7 and books of account and shall have power to require the presence or  
8 appearance of any officer or employee of CompSource Oklahoma. All  
9 information obtained by the members of the Board shall be  
10 confidential unless disclosed by order of the Board.

11 D. No person or organization in a position to influence  
12 official action of members of the Board of Managers of CompSource  
13 Oklahoma, the President and Chief Executive Officer, and the  
14 employees of CompSource Oklahoma shall furnish presents, gratuities,  
15 transportation, lodging, educational seminars, conferences,  
16 meetings, or similar functions to the Board of Managers of  
17 CompSource Oklahoma, the President and Chief Executive Officer, and  
18 the employees of CompSource Oklahoma other than as provided by law  
19 and the rules of the Ethics Commission.

20 E. The official name of the Board of Managers which is known as  
21 the "Board of Managers of the State Insurance Fund" shall be  
22 designated in all future references as the "Board of Managers of  
23 CompSource Oklahoma". Any references in the Oklahoma Statutes to  
24

1 the Board of Managers of the State Insurance Fund shall be deemed  
2 references to the Board of Managers of CompSource Oklahoma.

3 SECTION 70. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 370 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. The Board of Managers of CompSource Oklahoma shall appoint a  
7 President and Chief Executive Officer, who shall be executive  
8 manager of CompSource Oklahoma.

9 B. All references in the Oklahoma Statutes to the State  
10 Insurance Fund Commissioner or the Commissioner of the State  
11 Insurance Fund shall be deemed references to the CompSource Oklahoma  
12 President and Chief Executive Officer.

13 C. The CompSource Oklahoma President and Chief Executive  
14 Officer is hereby vested with full power, authority and jurisdiction  
15 over CompSource Oklahoma. He or she shall perform any duties which  
16 are necessary or convenient in the exercise of any power, authority,  
17 or jurisdiction over the fund in the administration thereof, or in  
18 connection with the insurance business to be carried on by him or  
19 her under the provisions of this title as fully and completely as a  
20 governing body of a private insurance carrier might or could do  
21 including the acquisition, operation and maintenance of an  
22 electronic data processing facility.

23  
24

1           SECTION 71.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 371 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. Volunteer fire departments organized pursuant to state law  
5 may obtain workers' compensation insurance for volunteer  
6 firefighters through the Volunteer Firefighter Group Insurance Pool  
7 pursuant to requirements established by CompSource Oklahoma which  
8 shall administer the Pool. For the premium set by CompSource  
9 Oklahoma, the state shall provide Fifty-five Dollars (\$55.00) per  
10 firefighter per year. Except as otherwise provided by subsection D  
11 of this section, the total amount paid by the state shall not exceed  
12 Three Hundred Twenty Thousand Three Hundred Thirty-eight Dollars  
13 (\$320,338.00) per year or so much thereof as may be necessary to  
14 fund the Volunteer Firefighter Group Insurance Pool.

15           B. CompSource Oklahoma shall collect the premium from state  
16 agencies, public trusts and other instrumentalities of the state.  
17 Any funds received by CompSource Oklahoma from any state agency,  
18 public trust, or other instrumentality for purposes of workers'  
19 compensation insurance pursuant to this section shall be deposited  
20 to the credit of the Volunteer Firefighter Group Insurance Pool.  
21 CompSource Oklahoma shall collect premiums, pay claims, and provide  
22 for excess insurance as needed.

23           C. CompSource Oklahoma shall report annually to the Governor,  
24 the Speaker of the Oklahoma House of Representatives, and the

1 President Pro Tempore of the State Senate the number of enrollees in  
2 the Volunteer Firefighter Group Insurance Pool, and the amount of  
3 any anticipated surplus or deficiency of the Pool; and shall also  
4 provide to the Governor, the Speaker of the Oklahoma House of  
5 Representatives and the President Pro Tempore of the State Senate  
6 sixty (60) days advance notice of any proposed change in rates for  
7 the Volunteer Firefighter Group Insurance Pool.

8 D. The amount of claims paid, claim expenses, underwriting  
9 losses, loss ratio, or any other financial aspect of the Volunteer  
10 Firefighter Group Insurance Pool shall not be considered when  
11 determining or considering bids for the amount of any premiums,  
12 rates, or expenses owed by or any discounts, rebates, dividends, or  
13 other financial benefits owed to any other policyholder of  
14 CompSource Oklahoma.

15 E. Except as otherwise provided by law, any increase in the  
16 state payment rate for volunteer firefighters under the Volunteer  
17 Firefighter Group Insurance Pool shall not exceed five percent (5%)  
18 per annum. Any proposed change in rates for the Volunteer  
19 Firefighter Group Insurance Pool must be approved by the Board of  
20 Managers of CompSource Oklahoma with notice provided pursuant to  
21 subsection B of this section. CompSource Oklahoma shall not  
22 increase premiums for the Volunteer Firefighter Group Insurance Pool  
23 more than once per annum.

24

1 F. For purposes of this section, the term "volunteer fire  
2 departments" includes those volunteer fire departments which have  
3 authorized voluntary or uncompensated workers rendering services as  
4 firefighters and are created by law.

5 SECTION 72. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 372 of Title 85, unless there is  
7 created a duplication in numbering, reads as follows:

8 The CompSource Oklahoma President and Chief Executive Officer  
9 shall have full power and authority to manage and conduct all  
10 business and affairs relating to CompSource Oklahoma, all of which  
11 business and affairs shall be conducted under the name of CompSource  
12 Oklahoma, and in that name and without any other name or title, the  
13 CompSource Oklahoma President and Chief Executive Officer may:

14 1. Sue and be sued in all the courts of the state, in all  
15 actions arising out of any act, deed, matter or things made,  
16 omitted, entered into, done or suffered in connection with  
17 CompSource Oklahoma, and administer, manage, or conduct all the  
18 business and affairs relating thereto;

19 2. Make and enter into contracts of insurance as herein  
20 provided, and such other contracts or obligations relating to  
21 CompSource Oklahoma, as are authorized or permitted under the  
22 provisions of this title, including contracting with or appointing  
23 agents or brokers; provided the agents or brokers do not contract  
24 with or have an appointment solely with CompSource Oklahoma;

1           3. Invest and reinvest the monies belonging to CompSource  
2 Oklahoma as hereinafter provided;

3           4. Conduct all business and affairs, relating to CompSource  
4 Oklahoma, whether herein specifically designated or in addition  
5 thereto;

6           5. The CompSource Oklahoma President and Chief Executive  
7 Officer may delegate to any officer of CompSource Oklahoma, under  
8 such rules and regulations, and subject to such conditions as he or  
9 she may from time to time prescribe, any of the powers, functions or  
10 duties conferred or imposed on the CompSource Oklahoma President and  
11 Chief Executive Officer under the provisions of this act in  
12 connection with CompSource Oklahoma, the administration, management  
13 and conduct of the business or affairs relating thereto, and the  
14 officer or officers to whom such delegation is made may exercise the  
15 power and functions and perform the duties delegated with the same  
16 force and effect as the CompSource Oklahoma President and Chief  
17 Executive Officer, but subject to his or her approval;

18           6. The Board of Managers of CompSource Oklahoma shall not, nor  
19 shall the CompSource Oklahoma President and Chief Executive Officer  
20 or any officer or employee of CompSource Oklahoma be personally  
21 liable in his or her private capacity for or on account of any act  
22 performed or contract or other obligation entered into or undertaken  
23 in an official capacity in good faith and without intent to defraud,  
24

1 in connection with the administration, management or conduct of  
2 CompSource Oklahoma, its business or other affairs relating thereto.

3 SECTION 73. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 373 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. In conducting the business and affairs of CompSource  
7 Oklahoma, the CompSource Oklahoma President and Chief Executive  
8 Officer, or other officer to whom such power and authority may be  
9 delegated by the CompSource Oklahoma President and Chief Executive  
10 Officer, as provided by this title, shall have full power and  
11 authority:

12 1. To enter into contracts of insurance, insuring employers  
13 against liability for compensation, and insuring to employees and  
14 other persons entitled thereto compensation as provided by the  
15 Workers' Compensation Act;

16 2. To decline to insure any risk in which the minimum  
17 requirements of the law with regard to construction, equipment and  
18 operation are not observed, or which is beyond the safe carrying of  
19 CompSource Oklahoma, but shall not have power or authority, except  
20 as otherwise provided in this act to refuse to insure any  
21 compensation risk tendered with the premium therefor;

22 3. To enter into contracts of insurance insuring persons, firms  
23 and corporations against loss, expense or liability by reason of  
24 bodily injury, death by accident, occupational disability, or

1 occupational disease suffered by employees for which the insured may  
2 be liable or have assumed liability, including, but not limited to,  
3 contracts of insurance or reinsurance for the purpose of insuring  
4 employers operating in this state and their employees who may work  
5 outside this state;

6 4. To purchase reinsurance for any risk or any portion of any  
7 risk of CompSource Oklahoma. The purchase of reinsurance may be  
8 made through intermediaries, exclusive of the provisions of The  
9 Oklahoma Central Purchasing Act;

10 5. To inspect and audit, cause to be inspected and audited, or  
11 require production of the records of employers insured with or  
12 applying for insurance with CompSource Oklahoma against liability  
13 for compensation;

14 6. To contract with physicians, surgeons and hospitals for  
15 medical and surgical treatment and the care and nursing of injured  
16 persons entitled to benefits from said fund;

17 7. To meet the reasonable expenses of conducting the business  
18 of CompSource Oklahoma;

19 8. To produce a reasonable surplus to cover catastrophe hazard;  
20 and

21 9. To administer a program in compliance with Section 924.3 of  
22 Title 36 of the Oklahoma Statutes, whereby employers may appeal  
23 rating classification decisions which are disputed. CompSource  
24 Oklahoma shall notify employers of the availability of the program.

1 B. CompSource Oklahoma must be funded through actuarially sound  
2 rates and premiums charged to its policyholders.

3 C. CompSource Oklahoma shall establish and use rates and rating  
4 plans to assure that it is self-funding while those rates are in  
5 effect.

6 D. No later than September 1 of each year, CompSource Oklahoma  
7 shall obtain an independent actuarial certification of the results  
8 of its operations for prior years.

9 E. Any premium or assessments collected by CompSource Oklahoma  
10 in excess of the amount necessary to fund its projected ultimate  
11 incurred losses and expenses and not paid to policyholders insured  
12 under CompSource Oklahoma in conjunction with dividend programs  
13 shall be retained by CompSource Oklahoma.

14 F. CompSource Oklahoma losses are the sole and exclusive  
15 responsibility of CompSource Oklahoma, and payment for such losses  
16 must be funded in accordance with this section and must not come,  
17 directly or indirectly, from insurers or any guaranty association  
18 for such insurers, except for reinsurance purchased by CompSource  
19 Oklahoma.

20 SECTION 74. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 374 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. All receipts of money, with the exception of investment  
24 income, shall be deposited in the CompSource Oklahoma fund in the

1 State Treasury. The CompSource Oklahoma President and Chief  
2 Executive Officer, subject to the direction of the Board of  
3 Managers, shall have the responsibility for the management of the  
4 CompSource Oklahoma fund, and may transfer monies used for  
5 investment purposes from the CompSource Oklahoma fund in the State  
6 Treasury to the custodian bank or trust company of CompSource  
7 Oklahoma.

8 B. All benefits payable pursuant to the provisions of the  
9 bylaws of CompSource Oklahoma, and refunds of premiums and  
10 overpayments, shall be paid from CompSource Oklahoma upon warrants  
11 or vouchers signed by two persons designated by the CompSource  
12 Oklahoma President and Chief Executive Officer.

13 C. Every check, draft, warrant, or other instrument drawn for  
14 the payment of temporary total disability benefits by CompSource  
15 Oklahoma shall contain on its face in a contrasting color of ink the  
16 following:

17 WARNING: It is a felony to knowingly receive money under false  
18 pretenses by accepting temporary total disability benefits while  
19 working at the same or a similar job. If you are employed or  
20 receiving wages, you should consult CompSource Oklahoma or if you  
21 are represented by an attorney you should consult your attorney  
22 BEFORE presenting this instrument to any other person for payment.

23 D. The CompSource Oklahoma President and Chief Executive  
24 Officer may transfer monies from the custodian bank or trust company

1 of CompSource Oklahoma to the CompSource Oklahoma fund in the State  
2 Treasury for the purposes specified in this subsection.

3 SECTION 75. 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 There is hereby created a petty cash fund within CompSource  
7 Oklahoma. The petty cash fund shall be in such amounts as are  
8 determined to be necessary by the Director of State Finance and the  
9 CompSource Oklahoma President and Chief Executive Officer. Petty  
10 cash funds may be expended for the payment of emergency purchases  
11 and bills. Such funds may be reimbursed by the Director of State  
12 Finance upon the filing of a claim with the proper receipts showing  
13 the disbursements therefrom, reimbursement to be made from the  
14 revolving fund. The Director of State Finance shall prescribe all  
15 forms, systems and procedures for administering the petty cash fund.

16 SECTION 76. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 376 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. The CompSource Oklahoma President and Chief Executive  
20 Officer shall appoint, with the approval of the Board of Managers of  
21 CompSource Oklahoma, such assistants, accountants, claim adjusters,  
22 and other employees as may be necessary to conduct the business and  
23 carry out the provisions of this title, or to perform the duties  
24 imposed upon him by this act; provided, that in no event shall the

1 salaries of such employees, together with all other expenses of said  
2 fund, exceed twenty percent (20%) of the earned premiums.

3 B. The chief attorney for the Board shall receive a salary  
4 equal to that paid to a judge of the Workers' Compensation Court.

5 SECTION 77. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 377 of Title 85, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. Ten percent (10%) of the premiums collected from all  
9 persons, firms or corporations insured in CompSource Oklahoma, shall  
10 be set aside by the CompSource Oklahoma President and Chief  
11 Executive Officer for the creation of surplus, until the surplus  
12 shall amount to the sum of Two Hundred Fifty Thousand Dollars  
13 (\$250,000.00), and thereafter five percent (5%) of such premiums  
14 shall be set aside until such time as in the judgment of the State  
15 Insurance Board such surplus shall be sufficiently large to cover  
16 the catastrophe hazard, and all other unanticipated losses.

17 B. If the ratio of net premium-to-surplus exceeds 1:2 on July 1  
18 of any year, the Board of Managers shall, within sixty (60) days,  
19 declare a dividend of sufficient size to reduce the ratio of net  
20 premium-to-surplus to no more than 1:2. The dividend may be  
21 declared in the form of cash, cash equivalents, negotiable  
22 instruments, or credits against past, present, or future premiums on  
23 or before October 15 next following declaration of the dividend and  
24

1 shall be payable to policyholders having policies in force when the  
2 dividend is declared.

3 C. The Board of Managers is hereby vested with authority, in  
4 its discretion, to transfer funds from such surplus to other funds  
5 of CompSource Oklahoma when deemed necessary or advisable; provided,  
6 that in no event shall such surplus be reduced to a sum less than  
7 One Hundred Fifty Thousand Dollars (\$150,000.00).

8 D. Reserves shall be established and maintained adequate to  
9 meet anticipated losses and to carry all claims and policies to  
10 maturity, which reserves shall be computed in accordance with rules  
11 adopted by the Board of Managers.

12 SECTION 78. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 378 of Title 85, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. The Board of Managers shall discharge their duties with  
16 respect to CompSource Oklahoma solely in the interest of CompSource  
17 Oklahoma and:

- 18 1. For the exclusive purpose of:
  - 19 a. providing benefit to CompSource Oklahoma, and
  - 20 b. defraying reasonable expenses of administering
  - 21 CompSource Oklahoma;
- 22 2. With the care, skill, prudence, and diligence under the  
23 circumstances then prevailing that a prudent person acting in a like  
24

1 capacity and familiar with such matters would use in the conduct of  
2 an enterprise of a like character and with like aims;

3 3. By diversifying the investments of CompSource Oklahoma so as  
4 to minimize the risk of large losses, unless under the circumstances  
5 it is clearly prudent not to do so; and

6 4. In accordance with the laws, documents and instruments  
7 governing CompSource Oklahoma.

8 B. The monies of CompSource Oklahoma shall be invested only in  
9 assets eligible for the investment of funds of a domestic property  
10 and casualty insurance company as provided for in the Oklahoma  
11 Insurance Code, Title 36 of the Oklahoma Statutes. The term  
12 admitted assets shall mean the amount of the monies of CompSource  
13 Oklahoma and the provisions relating to limitation of investments as  
14 a percentage of surplus as regards policyholders shall be  
15 inapplicable with respect to investment of the monies of CompSource  
16 Oklahoma. The monies of CompSource Oklahoma may be invested in  
17 certificates of indebtedness or such other enforceable evidences of  
18 obligation as may be utilized in the rights-of-way acquisitions by  
19 the Oklahoma Department of Transportation. The monies of CompSource  
20 Oklahoma may also be invested in bonds secured by first mortgages,  
21 pass-through securities and insured participation certificates  
22 representing interests in first mortgages or insured mortgage pass-  
23 through certificates on one- to four-family residences located  
24 within this state. CompSource Oklahoma may enter into agreements

1 with the Multiple Injury Trust Fund to fulfill any payment  
2 obligation of the Multiple Injury Trust Fund, including all court  
3 orders for material increases and the accrued interest thereon, and  
4 all orders for interest on previously paid awards.

5 C. 1. The CompSource Oklahoma President and Chief Executive  
6 Officer, with the approval of the Board of Managers, is authorized  
7 to acquire any real estate deemed necessary for the immediate and  
8 reasonably anticipated future administrative office space needs of  
9 CompSource Oklahoma. The CompSource Oklahoma President and Chief  
10 Executive Officer, with the approval of the Board of Managers, may  
11 sell, lease, rent or sublet any real estate holdings of CompSource  
12 Oklahoma. Any revenues of such transactions shall accrue to the  
13 surplus or reserve fund of CompSource Oklahoma.

14 2. In any lease, rental, sublease or other agreement for the  
15 use or occupation of real estate holdings of CompSource Oklahoma, no  
16 state agency may enter into an agreement which has a gross effective  
17 rental rate which is greater than the gross effective rental rate  
18 for which they can continue to occupy the premises which is  
19 currently rented at the time the agency proposes to move. For a  
20 period of two (2) years after the first use or occupation by the  
21 state agency, subsequent agreements, whether new agreements or  
22 continuations of a prior agreement, shall not contain a gross  
23 effective rental rate which is greater than that of the original  
24 agreement.

1 D. The Board of Managers may procure insurance indemnifying the  
2 members of CompSource Oklahoma from personal loss or accountability  
3 from liability resulting from a member's action or inaction as a  
4 member of the Board of Managers.

5 E. The Board of Managers may establish an investment committee.  
6 The investment committee shall be composed of not more than three  
7 (3) members of the Board of Managers appointed by the chairman of  
8 the Board of Managers. The committee shall make recommendations to  
9 the full Board on all matters related to the choice of custodians  
10 and managers of the assets of CompSource Oklahoma, on the  
11 establishment of investment and fund management guidelines, and in  
12 planning future investment policy. The committee shall have no  
13 authority to act on behalf of the Board of Managers or CompSource  
14 Oklahoma in any circumstances whatsoever. No recommendation of the  
15 committee shall have effect as an action of the Board of Managers  
16 nor take effect without the approval of the Board of Managers as  
17 provided by law.

18 F. The Board of Managers shall retain qualified investment  
19 managers to provide for the investment of the monies of CompSource  
20 Oklahoma. The investment managers shall be chosen by a solicitation  
21 of proposals on a competitive bid basis pursuant to standards set by  
22 the Board of Managers. Subject to the overall investment guidelines  
23 set by the Board of Managers, the investment managers shall have  
24 full discretion in the management of those monies of CompSource

1 Oklahoma allocated to the investment managers. The Board of  
2 Managers shall manage those monies not specifically allocated to the  
3 investment managers. The monies of CompSource Oklahoma allocated to  
4 the investment managers shall be actively managed by the investment  
5 managers, which may include selling investments and realizing losses  
6 if such action is considered advantageous to longer term return  
7 maximization. Because of the total return objective, no distinction  
8 shall be made for management and performance evaluation purposes  
9 between realized and unrealized capital gains and losses.

10 G. Funds and revenues for investment by the investment managers  
11 or the Board of Managers shall be placed with a custodian selected  
12 by the Board of Managers. The custodian shall be a bank or trust  
13 company offering master custodial services. The custodian shall be  
14 chosen by a solicitation of proposals on a competitive bid basis  
15 pursuant to standards set by the Board of Managers. In compliance  
16 with the investment policy guidelines of the Board of Managers, the  
17 custodian bank or trust company shall be contractually responsible  
18 for ensuring that all monies of CompSource Oklahoma are invested in  
19 income-producing investment vehicles at all times. If a custodian  
20 bank or trust company has not received direction from the investment  
21 managers of CompSource Oklahoma as to the investment of the monies  
22 of CompSource Oklahoma in specific investment vehicles, the  
23 custodian bank or trust company shall be contractually responsible

24

1 to the Board of Managers for investing the monies in appropriately  
2 collateralized short-term interest-bearing investment vehicles.

3 H. Prior to August 1 of each year, the Board of Managers shall  
4 develop and approve a written investment plan for CompSource  
5 Oklahoma.

6 I. The CompSource Oklahoma President and Chief Executive  
7 Officer shall compile a quarterly financial report of all the funds  
8 of CompSource Oklahoma. The report shall be compiled and filed  
9 pursuant to uniform reporting standards prescribed by the Insurance  
10 Commissioner for domestic property and casualty insurance companies.  
11 The report shall include several relevant measures of investment  
12 value, including acquisition cost and current fair market value with  
13 appropriate summaries of total holdings and returns. The report  
14 shall contain combined and individual rate of returns of the  
15 investment managers by category of investment, over periods of time.  
16 The report shall contain a list of all investments made by  
17 CompSource Oklahoma and a list of any commissions, fees or payments  
18 made for services regarding such investments for that reporting  
19 period. The report shall be distributed to the Governor, the  
20 Legislative Service Bureau and the Cash Management and Investment  
21 Oversight Commission.

22 J. CompSource Oklahoma, on behalf of the Multiple Injury Trust  
23 Fund, may enter into an agreement with any reinsurer licensed to  
24 sell reinsurance by the Insurance Commissioner selected pursuant to

1 a competitive process administered by the Director of Central  
2 Purchasing in the Department of Central Services.

3 SECTION 79. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 379 of Title 85, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. A fiduciary with respect to CompSource Oklahoma shall not  
7 cause CompSource Oklahoma to engage in a transaction if the  
8 fiduciary knows or should know that such transaction constitutes a  
9 direct or indirect:

10 1. Sale or exchange, or leasing of any property from CompSource  
11 Oklahoma to a party in interest for less than adequate consideration  
12 or from a party in interest to CompSource Oklahoma for more than  
13 adequate consideration;

14 2. Lending of money or other extension of credit from  
15 CompSource Oklahoma to a party in interest without the receipt of  
16 adequate security and a reasonable rate of interest, or from a party  
17 in interest to CompSource Oklahoma with provision of excessive  
18 security or an unreasonably high rate of interest;

19 3. Furnishing of goods, services or facilities from CompSource  
20 Oklahoma to a party in interest for less than adequate  
21 consideration, or from a party in interest to CompSource Oklahoma  
22 for more than adequate consideration; or

23

24

1           4. Transfer to, or use by or for the benefit of, a party in  
2 interest of any assets of CompSource Oklahoma for less than adequate  
3 consideration.

4           B. A fiduciary with respect to CompSource Oklahoma shall not:

5           1. Deal with the assets of CompSource Oklahoma in the  
6 fiduciary's own interest or for the fiduciary's own account;

7           2. In the fiduciary's individual or any other capacity act in  
8 any transaction involving CompSource Oklahoma on behalf of a party  
9 whose interests are adverse to the interests of CompSource Oklahoma  
10 or the interests of its participants or beneficiaries; or

11           3. Receive any consideration for the fiduciary's own personal  
12 account from any party dealing with CompSource Oklahoma in  
13 connection with a transaction involving the assets of CompSource  
14 Oklahoma.

15           C. A fiduciary with respect to CompSource Oklahoma may:

16           1. Invest all or part of the assets of CompSource Oklahoma in  
17 deposits which bear a reasonable interest rate in a bank or similar  
18 financial institution supervised by the United States or a state, if  
19 such bank or other institution is a fiduciary of such plan; or

20           2. Provide any ancillary service by a bank or similar financial  
21 institution supervised by the United States or a state, if such bank  
22 or other institution is a fiduciary of such plan.

1 D. A person or a financial institution is a fiduciary with  
2 respect to CompSource Oklahoma to the extent that the person or the  
3 financial institution:

4 1. Exercises any discretionary authority or discretionary  
5 control respecting management of CompSource Oklahoma or exercises  
6 any authority or control respecting management or disposition of the  
7 assets of CompSource Oklahoma;

8 2. Renders investment advice for a fee or other compensation,  
9 direct or indirect, with respect to any monies or other property of  
10 CompSource Oklahoma, or has any authority or responsibility to do  
11 so; or

12 3. Has any discretionary authority or discretionary  
13 responsibility in the administration of CompSource Oklahoma.

14 SECTION 80. 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 entire expenses of administering CompSource Oklahoma  
18 shall be paid out of such fund upon warrants issued by the State  
19 Treasurer against claims filed as prescribed by law with the  
20 Director of State Finance for approval and payment. On or before  
21 the first day of June of each year, or as soon thereafter as  
22 possible, there shall be submitted to the Board of Managers of  
23 CompSource Oklahoma, for approval, an estimated budget of expenses  
24 for the succeeding fiscal year. The CompSource Oklahoma President

1 and Chief Executive Officer may not expend from the funds belonging  
2 to CompSource Oklahoma for purposes of administering any sum in  
3 excess of the amount specified in such budget for any item of  
4 expense therein set forth unless such expenditure is authorized by  
5 the Board of Managers of CompSource Oklahoma. In no event shall the  
6 entire expenses of administration of CompSource Oklahoma, as  
7 authorized for the entire year, exceed twenty percent (20%) of the  
8 earned premiums of the year. The Board of Managers may use present  
9 value discounting at a rate of four percent (4%) for computing  
10 reserves. The Board of Managers shall cause to be made and  
11 completed within ninety (90) days after the end of each calendar  
12 year, an audit of the books of account and financial records of the  
13 fund for such calendar year, such audit to be made by an independent  
14 certified public accountant, a licensed public accountant, a firm of  
15 certified public accountants, or an accounting firm or individual  
16 holding a permit to practice accounting in this state. The audit  
17 shall be filed with the Director of State Finance in accordance with  
18 the requirements set forth for financial statement audits in Section  
19 212A of Title 74 of the Oklahoma Statutes.

20 B. CompSource Oklahoma shall submit to the Insurance  
21 Commissioner an annual financial statement in the same manner as a  
22 domestic insurance carrier. The Insurance Commissioner may audit  
23 CompSource Oklahoma in the same manner as a domestic insurance  
24 company if an audit does not conflict with any specific provision

1 contained herein. The CompSource Oklahoma President and Chief  
2 Executive Officer shall provide a copy of the annual financial  
3 statement to the Governor and CompSource Oklahoma Board of Managers.

4 SECTION 81. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 381 of Title 85, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. CompSource Oklahoma shall, annually, on or before the first  
8 day of March, report under oath of the President and Chief Executive  
9 Officer of CompSource Oklahoma to the State Treasurer, the total  
10 amount of direct written premiums and membership, application,  
11 policy and registration fees charged by CompSource Oklahoma during  
12 the preceding calendar year for insurance covering one or more of  
13 the following:

14 1. Insuring employers against liability for compensation under  
15 this title;

16 2. Assuring for the persons entitled thereto compensation  
17 provided by the Workers' Compensation Act;

18 3. Insuring persons, firms and corporations against loss,  
19 expense or liability by reason of bodily injury, death by accident,  
20 occupational disability, or occupational disease suffered by  
21 employees, for which the insured may be liable or have assumed  
22 liability; and

23 4. Insuring employers against liability incurred as the result  
24 of injuries sustained by employees engaged in employment subject to

1 the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C.,  
2 Section 901 et seq., or employees engaged in employment subject to  
3 Title IV of the Federal Coal Mine Health and Safety Act of 1969 as  
4 amended by the Black Lung Benefits Act of 1972, as enacted or as may  
5 be amended by the Congress of the United States.

6 B. CompSource Oklahoma, at the time the report required by  
7 subsection A of this section is filed, shall pay to the State  
8 Treasury to the credit of the General Revenue Fund, an annual market  
9 equalization assessment on all of the direct written premiums after  
10 all returned premiums are deducted, on all membership, application,  
11 policy and registration fees, and installment and finance fees or  
12 charges collected by CompSource Oklahoma, relating to written,  
13 continued and serviced insurance for purposes listed in paragraphs 1  
14 through 4 of subsection A of this section; provided, no deduction  
15 shall be made from premiums for dividends paid to policyholders.  
16 The rate of assessment shall be two and twenty-five-one-hundredths  
17 percent (2.25%). If CompSource Oklahoma fails to remit the  
18 assessments in a timely manner, it shall remain liable therefor  
19 together with interest thereon at an annual rate equal to the  
20 average United States Treasury Bill rate of the preceding calendar  
21 year as certified by the State Treasurer on the first regular  
22 business day in January of each year, plus four (4) percentage  
23 points.

24

1           SECTION 82.           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 CompSource Oklahoma President and Chief Executive Officer  
5 shall keep an account of the money paid in premiums by each  
6 classification of persons, firms, or corporations insured by  
7 CompSource Oklahoma, and the expense of administering CompSource  
8 Oklahoma and the disbursements on account of loss, expense or  
9 liability by reason of bodily injury, death by accident,  
10 occupational disability, or occupational disease suffered by  
11 employees, for which persons injured, CompSource Oklahoma were  
12 liable or had assumed liability, including the setting up of  
13 reserves adequate to meet unanticipated and unexpected losses and to  
14 carry the claims to maturity; and, also, an account of the money  
15 received from such individual insured; and of the amount disbursed  
16 from "CompSource Oklahoma", for expenses, and on account of  
17 injuries, death by accident, sickness or disease, and disability of  
18 persons to whom such insured was liable or had assumed liability,  
19 including the reserves set up.

20           SECTION 83.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 383 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23           A. Premiums for any policy period shall be paid into CompSource  
24 Oklahoma and adjusted according to the contract of insurance. If

1 such adjusted premium is more than the premium paid at the beginning  
2 of the period, the employer shall pay the difference immediately  
3 upon notification of the amount of premium due. If such adjusted  
4 premium is less than the premium paid at the beginning of the  
5 period, the employer shall at the employer's option receive either  
6 refund of the difference or a credit of the amount thereof on the  
7 employer's account with CompSource Oklahoma.

8 B. CompSource Oklahoma, in cooperation with the Department of  
9 Labor, shall develop and implement an insurance premium credit  
10 program for the insureds of CompSource Oklahoma which is consistent  
11 with the provisions of Section 924.2 of Title 36 of the Oklahoma  
12 Statutes.

13 SECTION 84. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 384 of Title 85, unless there is  
15 created a duplication in numbering, reads as follows:

16 If any person, firm or corporation insured by CompSource  
17 Oklahoma defaults on a required payment, after due notice, insurance  
18 in CompSource Oklahoma may be canceled and the amount due shall be  
19 collected by a civil action in the name of CompSource Oklahoma.

20 SECTION 85. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 385 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. Every person, firm, or corporation who is insured by  
24 CompSource Oklahoma shall keep a true and accurate record of the

1 number of employees and the wages paid and shall furnish upon demand  
2 a sworn statement of the same. The record shall be open to  
3 inspection at any time, and as often as may be necessary to verify  
4 the number of employees and the amount of the payroll. Any person,  
5 firm, or corporation who shall willfully fail to keep the required  
6 records or who shall willfully falsify any such record, shall be  
7 guilty of a felony.

8 B. Any person who willfully misrepresents any fact in order to  
9 obtain insurance from CompSource Oklahoma at less than the proper  
10 rate for such insurance, or in order to obtain payment out of such  
11 fund, shall be guilty of a felony.

12 SECTION 86. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 386 of Title 85, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. Information acquired by the CompSource Oklahoma President  
16 and Chief Executive Officer or the officers or employees of  
17 CompSource Oklahoma, from persons, firms or corporations insured by  
18 CompSource Oklahoma, or from employees of such persons, firms or  
19 corporations pursuant to this article shall not be open to public  
20 inspection, and any officer or employee of this state, who without  
21 authority of the Commissioner, or pursuant to the rules prescribed  
22 by the CompSource Oklahoma President and Chief Executive Officer, or  
23 as otherwise required by law, shall disclose the same, shall be  
24 guilty of a misdemeanor.

1 B. For the purpose of implementing Section 83 of this act, the  
2 CompSource Oklahoma President and Chief Executive Officer shall  
3 provide to the Commissioner of Labor annually, upon request, a  
4 listing of the insureds of CompSource Oklahoma with the name,  
5 address and nature of business or occupation of the insured.

6 SECTION 87. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 387 of Title 85, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. Every person, firm or corporation insuring in CompSource  
10 Oklahoma shall receive from CompSource Oklahoma a contract or policy  
11 of insurance to be approved by the State Insurance Board.

12 B. Except as otherwise provided in this act all premiums shall  
13 be paid by every person, firm, or corporation who elects to insure  
14 with CompSource Oklahoma to the CompSource Oklahoma President and  
15 Chief Executive Officer semiannually, or at such times as may be  
16 prescribed by general rule or regulation applicable to all insurers  
17 alike by the Insurance Commissioner. Receipts shall be given for  
18 such payment and the money shall be paid over to the credit of  
19 CompSource Oklahoma.

20 SECTION 88. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 388 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. The Workers' Compensation Court shall adopt rules permitting  
24 two or more employers to pool together liabilities under this act

1 for the purpose of qualifying as a group self-insurer and each such  
2 employer shall be classified as a self-insurer.

3 B. The Court shall approve the distribution of all  
4 undistributed policyholders' surplus of a Workers' Compensation  
5 Self-Insurance Program if the Program complies with the following  
6 criteria:

7 1. Has been in business for at least five (5) years;

8 2. Has its financial statements audited by a public accounting  
9 firm which audits at least one corporate client which has assets in  
10 excess of One Billion Dollars (\$1,000,000,000.00) and on which the  
11 accounting firm has issued an unqualified opinion as to the fair  
12 presentation of the financial position of the Program showing  
13 adequate solvency and reserves; and

14 3. Is in compliance with the provisions of this title and all  
15 other regulations as required by the Court.

16 C. A group self-insurer created pursuant to this section either  
17 prior to or after the effective date of this act shall not be  
18 subject to the provisions of the Oklahoma Securities Act.

19 D. The Court shall adopt rules permitting two or more group  
20 self-insurance associations to pool their liabilities under this act  
21 for the purpose of providing such group self-insurance associations  
22 specific and aggregate excess insurance.

23

24

1 SECTION 89. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 389 of Title 85, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. For the purposes of Sections 89 through 93 of this act, the  
5 term "physically impaired person" means a person who, as a result of  
6 accident, disease, birth, military action, or any other cause, has  
7 suffered:

8 1. The loss of the sight of one eye;

9 2. The loss by amputation of the whole or a part of a member of  
10 the body;

11 3. The loss of use or partial loss of use of a member such as  
12 is obvious and apparent from observation or examination by a person  
13 who is not skilled in the medical profession;

14 4. Any previous adjudications of disability adjudged and  
15 determined by the Workers' Compensation Court or any disability  
16 resulting from separately adjudicated injuries and adjudicated  
17 occupational diseases even though arising at the same time.

18 Provided, that any adjudication of preexisting disability to a part  
19 of the body shall not be combinable for purposes of the Multiple  
20 Injury Trust Fund unless that part of the body was deemed to have  
21 been injured in the claim being adjudicated.

22 SECTION 90. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 390 of Title 85, unless there is  
24 created a duplication in numbering, reads as follows:

1 A. There is hereby created, for the purposes herein declared,  
2 the "Multiple Injury Trust Fund" to be derived from the following  
3 sources:

4 1. As soon as practicable after January 1 of each year, the  
5 Administrator of the Workers' Compensation Court shall establish an  
6 assessment rate applicable to each mutual or interinsurance  
7 association, stock company, CompSource Oklahoma, or other insurance  
8 carrier writing workers' compensation insurance in this state, each  
9 employer carrying its own risk, and each group self-insurance  
10 association, for amounts for purposes of computing the assessment  
11 authorized by this section necessary to pay the annual obligations  
12 of the Multiple Injury Trust Fund determined on or before December  
13 31 of each year by the Board of Managers of CompSource Oklahoma to  
14 be outstanding for the next calendar year, and to pay the  
15 allocations provided for in subsection I of this section. The rate  
16 shall be equal for all parties required to pay the assessment;

17 2. The Oklahoma Tax Commission shall assess and collect from  
18 any uninsured employer a temporary assessment at the rate of five  
19 percent (5%) of the total compensation for permanent total  
20 disability awards, permanent partial impairment awards, and death  
21 benefits paid out during each quarter of the calendar year by the  
22 employers;

23 3. The assessments shall be paid to the Tax Commission.  
24 Insurance carriers, self-insurers, group self-insurance associations

1 and CompSource Oklahoma shall pay the assessment in four equal  
2 installments not later than the fifteenth day of the month following  
3 the close of each quarter of the calendar year of the assessment.  
4 Assessments shall be determined based upon gross direct written  
5 premiums, normal premiums or actual paid losses of the paying party,  
6 as applicable, during the calendar quarter for which the assessment  
7 is due. Uninsured employers shall pay the assessment not later than  
8 the fifteenth day of the month following the close of each quarter  
9 of the calendar year of the assessment. For purposes of this  
10 section, "uninsured employer" means an employer required by law to  
11 carry workers' compensation insurance but who has failed or  
12 neglected to do so. Only one-third (1/3) of assessments against  
13 insurance carriers and CompSource Oklahoma may be charged to  
14 policyholders and shall not be considered in determining whether any  
15 rate is excessive. The remaining two-thirds (2/3) of assessments  
16 against insurance carriers and CompSource Oklahoma may not be  
17 included in any rate, premium, charge, fee, assessment or other  
18 amount to be collected from a policyholder. Insurance carriers and  
19 CompSource Oklahoma shall not separately state the amount of the  
20 assessment on any invoice or billing assessment.

21       a. The assessment authorized in this section shall be  
22             determined using a rate equal to the proportion that  
23             the sum of the outstanding obligations of the Multiple  
24             Injury Trust Fund as determined pursuant to paragraph

1 of this subsection and the allocations provided for  
2 in subsection I of this section bear to the combined  
3 gross direct written premiums of all such insurers;  
4 all actual paid losses of all individual self-  
5 insureds; and the normal premium of all group self-  
6 insurance associations, for the year period from  
7 January 1 to December 31 preceding the assessment.

8 b. For purposes of this subsection:

9 (1) "actual paid losses" means all medical and  
10 indemnity payments, including temporary  
11 disability, permanent disability, and death  
12 benefits, and excluding loss adjustment expenses  
13 and reserves, and

14 (2) "normal premium" means a standard premium less  
15 any discounts;

16 4. By April 15 of each year, the Insurance Commissioner, Board  
17 of Managers of CompSource Oklahoma and each individual and group  
18 self-insured shall provide the Administrator with such information  
19 as the Administrator may determine is necessary to effectuate the  
20 purposes of this section;

21 5. Each mutual or interinsurance association, stock company,  
22 CompSource Oklahoma, or other insurance carrier writing workers'  
23 compensation insurance in this state, and each employer carrying its  
24 own risk, including each group self-insurance association, shall be

1 notified by the Administrator in writing of the rate for the  
2 assessment on or before May 1 of each year in which a rate is  
3 determined. The rate determined by the Administrator shall be in  
4 effect for four calendar quarters beginning July 1 following  
5 determination by the Administrator;

6       6.    a.    No mutual or interinsurance association, stock  
7                    company, CompSource Oklahoma, or other insurance  
8                    carrier writing workers' compensation insurance in  
9                    this state, may be assessed in any year an amount  
10                   greater than six percent (6%) of the gross direct  
11                   written premiums of that insurer.

12            b.    No employer carrying its own risk may be assessed in  
13                   any year an amount greater than six percent (6%) of  
14                   the total actual paid losses of that individual self-  
15                   insured.

16            c.    No group self-insurance association may be assessed in  
17                   any year an amount greater than six percent (6%) of  
18                   the normal premium of that group self-insurance  
19                   association.

20            d.    If the maximum assessment does not provide in any one  
21                   year an amount sufficient to make all necessary  
22                   payments for obligations of the Multiple Injury Trust  
23                   Fund and for the allocations provided for in  
24

1 subsection I of this section, the unpaid portion shall  
2 be paid as soon thereafter as funds become available.

3 B. The Multiple Injury Trust Fund is hereby authorized to  
4 receive and expend monies appropriated by the Legislature.

5 C. It shall be the duty of the Tax Commission to collect the  
6 payments provided for herein. The Tax Commission is hereby  
7 authorized to bring an action for the recovery of any delinquent or  
8 unpaid payments required in this section

9 D. Any mutual or interinsurance association, stock company, or  
10 other insurance company, which is subject to regulation by the  
11 Insurance Commissioner, or CompSource Oklahoma, failing to make  
12 payments required herein promptly and correctly, and failing to  
13 report payment of the same to the Insurance Commission within ten  
14 (10) days of payment shall be subject to administrative penalties as  
15 allowed by law, including but not limited to a fine in the amount of  
16 Five Hundred Dollars (\$500.00) or an amount equal to one percent  
17 (1%) of the unpaid amount, whichever is greater, to be paid to the  
18 Insurance Commissioner.

19 E. Any employer carrying its own risk, or group self-insurance  
20 association failing to make payments required herein promptly and  
21 correctly, and failing to report payment of the same to the  
22 Administrator within ten (10) days of payment shall be subject to  
23 administrative penalties as allowed by law, including but not  
24 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or

1 an amount equal to one percent (1%) of the unpaid amount, whichever  
2 is greater, to be paid to the Administrator.

3 F. On or before the first day of April of each year, the State  
4 Treasurer shall advise the Administrator, the Board of Managers of  
5 CompSource Oklahoma and the Tax Commission of the amount of money  
6 held as of March 1 of that year by the State Treasurer to the credit  
7 of the Multiple Injury Trust Fund. On or before the first day of  
8 November of each year, the State Treasurer shall advise the  
9 Administrator, the Board of Managers of CompSource Oklahoma and the  
10 Tax Commission of the amount of money held as of October 1 of that  
11 year by the State Treasurer to the credit of the Multiple Injury  
12 Trust Fund.

13 G. Eighty percent (80%) of all sums held by the State Treasurer  
14 to the credit of the Multiple Injury Trust Fund may by order of the  
15 CompSource Oklahoma President and Chief Executive Officer, with the  
16 approval of the Board of Managers of CompSource Oklahoma, be  
17 invested in or loaned on the pledge of any of the securities in  
18 which a state bank may invest the monies deposited therein by the  
19 State Treasurer; or may be deposited in state or national banks or  
20 trust companies upon insured time deposit bearing interest at a rate  
21 no less than currently being paid upon insured savings accounts in  
22 said institutions. As used in this section, "insured" means  
23 insurance as provided by an agency of the federal government. All  
24 such securities or evidence of indebtedness shall be placed in the

1 hands of the State Treasurer, who shall be the custodian thereof,  
2 who shall collect the principal and interest when due, and pay the  
3 same into the Multiple Injury Trust Fund. The State Treasurer shall  
4 pay by vouchers drawn on the Multiple Injury Trust Fund for the  
5 making of such investments, when signed by the CompSource Oklahoma  
6 President and Chief Executive Officer and approved by the Board of  
7 Managers of CompSource Oklahoma, upon delivery of such securities or  
8 evidence of indebtedness to the State Treasurer. The CompSource  
9 Oklahoma President and Chief Executive Officer may, upon like  
10 approval of the Board of Managers of CompSource Oklahoma, sell any  
11 of such securities, the proceeds thereof to be paid over to the  
12 State Treasurer for the Multiple Injury Trust Fund.

13 H. The refund provisions of Sections 227 through 229 of Title  
14 68 of the Oklahoma Statutes shall be applicable to any payments made  
15 to the Multiple Injury Trust Fund. Refunds shall be paid from and  
16 out of the Multiple Injury Trust Fund.

17 I. The Tax Commission shall pay, monthly, to the State  
18 Treasurer to the credit of the Multiple Injury Trust Fund all monies  
19 collected pursuant to the provisions of this section, less the  
20 annual sum of Two Million Five Hundred Fifty Thousand Dollars  
21 (\$2,550,000.00), of which One Million Two Hundred Seventy-five  
22 Thousand Dollars (\$1,275,000.00) shall be payable by the Oklahoma  
23 Tax Commission to the State Treasurer in equal monthly installments  
24 to the credit of the Department of Labor, Six Hundred Thirty-seven

1 Thousand Five Hundred Dollars (\$637,500.00) shall be payable in  
2 equal monthly installments to the credit of the Office of the  
3 Attorney General, and Six Hundred Thirty-seven Thousand Five Hundred  
4 Dollars (\$637,500.00) shall be payable in equal monthly installments  
5 to the credit of the Oklahoma Department of Career and Technology  
6 Education. Monies received by the Department of Labor under this  
7 section shall be used for safety consultation and the regulation of  
8 the safety of public employees through the Occupational Safety and  
9 Health Act of 1970. Monies received by the Office of the Attorney  
10 General shall be deposited to the credit of the Attorney General's  
11 Workers' Compensation Fraud Unit Revolving Fund created pursuant to  
12 Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received  
13 by the Oklahoma Department of Career and Technology Education shall  
14 supplement other funding to the Department for purposes of  
15 implementing the provisions of subsection B of Section 414 of Title  
16 40 of the Oklahoma Statutes. The State Treasurer shall pay out of  
17 the Multiple Injury Trust Fund only upon the order and direction of  
18 the Workers' Compensation Court acting under the provisions hereof.

19 J. The Administrator shall promulgate rules as the  
20 Administrator deems necessary to effectuate the provisions of this  
21 section.

22 K. The Insurance Commissioner shall promulgate rules relating  
23 to insurers as defined in Title 36 of the Oklahoma Statutes, as the  
24

1 Insurance Commissioner deems necessary to effectuate the provisions  
2 of this section.

3 L. The Multiple Injury Trust Fund may enter into any agreement  
4 with CompSource Oklahoma for the purpose of fulfilling all of its  
5 payment obligations.

6 M. The Multiple Injury Trust Fund may enter into an agreement  
7 with any reinsurer licensed to sell reinsurance by the Insurance  
8 Commissioner pursuant to a competitive process administered by the  
9 Director of Central Purchasing in the Department of Central  
10 Services.

11 N. CompSource Oklahoma shall be charged with the administration  
12 and protection of the Multiple Injury Trust Fund and shall be  
13 notified by the Administrator of all proceedings which may affect  
14 such fund.

15 O. CompSource Oklahoma shall have standing and the authority to  
16 appear in any case before the Court in which the Court is  
17 considering an award from the Multiple Injury Trust Fund.

18 P. Any party interested shall have a right to bring a  
19 proceeding in the Supreme Court to review an award of the Court  
20 affecting such Multiple Injury Trust Fund, in the same manner as is  
21 now provided by law with reference to other awards by the Court.

22 Q. The State Treasurer shall allocate to CompSource Oklahoma,  
23 out of the Multiple Injury Trust Fund, sufficient funds for  
24 administration expenses thereof in amounts to be fixed and approved

1 by the Administrator for the Multiple Injury Trust Fund, unless  
2 rejected by the Governor and Attorney General.

3 R. Any dividend, rebate, or other distribution, payable by  
4 CompSource Oklahoma or any other workers' compensation insurance  
5 carrier, to a state agency policyholder shall be paid to the State  
6 Treasurer, and shall be credited as follows:

7 1. In the event of failure of the Multiple Injury Trust Fund to  
8 meet all lawful obligations, the monies shall be credited to the  
9 Multiple Injury Trust Fund and shall be used by the Multiple Injury  
10 Trust Fund to meet all lawful obligations of the Multiple Injury  
11 Trust Fund; and

12 2. Otherwise, all future dividends made by CompSource Oklahoma  
13 or any workers' compensation insurance carrier, on behalf of state  
14 agencies, shall be deposited to the credit of the General Revenue  
15 Fund of the State Treasury.

16 SECTION 91. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 391 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. For actions in which the subsequent injury occurred on or  
20 after November 1, 2005, if such combined disabilities constitute  
21 permanent total disability, as defined in Section 8 of this act, the  
22 employee shall receive full compensation as provided by law for the  
23 disability resulting directly and specifically from the subsequent  
24 injury. In addition, the employee shall receive compensation for

1 permanent total disability if the combination of injuries renders  
2 the employee permanently and totally disabled. The employer shall  
3 be liable only for the degree of percent of disability which would  
4 have resulted from the subsequent injury if there had been no  
5 preexisting impairment. The compensation rate for permanent total  
6 disability awards from the Multiple Injury Trust Fund shall be the  
7 compensation rate for permanent partial impairment paid by the  
8 employer in the last combinable compensable injury.

9 B. Permanent total disability awards from the Multiple Injury  
10 Trust Fund shall be payable in periodic installments for a period of  
11 fifteen (15) years or until the employee reaches sixty-five (65)  
12 years of age, whichever period is longer.

13 C. Permanent total disability awards from the Multiple Injury  
14 Trust Fund shall accrue from the file date of the court order  
15 finding the claimant to be permanently and totally disabled.

16 D. Awards under this section shall abate upon the death, from  
17 any cause, of the employee.

18 E. Reopening any prior claim other than the last claim against  
19 the employer shall not give a claimant the right to additional  
20 Multiple Injury Trust Fund benefits.

21 F. The Multiple Injury Trust Fund shall have authority to  
22 compromise a claim for less than the indicated amount of permanent  
23 total disability. An order entered after the effective date of this  
24 act may be paid in periodic installments beginning on the date of

1 the award, or may be commuted to a lump-sum payment or payments, by  
2 agreement of the claimant and the Multiple Injury Trust Fund.

3 G. An attorney for a claimant against the Multiple Injury Trust  
4 Fund shall be entitled to a fee equal to twenty percent (20%) of  
5 permanent disability benefits awarded. For awards entered after the  
6 effective date of this act, the attorney fee shall be paid in  
7 periodic installments by the attorney receiving every fifth check.  
8 All benefits awarded to the attorney shall be vested.

9 H. In the event a claimant receiving benefits for permanent and  
10 total disability from the Multiple Injury Trust Fund dies as a  
11 result of his injury before the award has been fully paid, payments  
12 shall continue to the surviving spouse for five (5) years or upon  
13 remarriage, whichever occurs first. In no event shall payments to  
14 the surviving spouse extend beyond the period of benefits awarded to  
15 the claimant.

16 SECTION 92. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 392 of Title 85, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. The right to claim compensation for benefits from the  
20 Multiple Injury Trust Fund shall be forever barred unless a Notice  
21 of Claim, on a form prescribed by the Administrator of the Workers'  
22 Compensation Court, shall be filed with the Workers' Compensation  
23 Court within two (2) years of the date of the last order for  
24

1 permanent partial impairment from the latest claim against the  
2 employer.

3 B. When a claim for benefits from the Multiple Injury Trust  
4 Fund is filed, unless claimant shall in good faith request a hearing  
5 and final determination thereon within three (3) years of the filing  
6 thereof, the same shall be barred.

7 C. An attorney who represents a respondent or insurance carrier  
8 in a claim against the last employer shall not represent the  
9 employee in a subsequent claim against the Multiple Injury Trust  
10 Fund.

11 SECTION 93. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 393 of Title 85, unless there is  
13 created a duplication in numbering, reads as follows:

14 A. CompSource Oklahoma shall be charged with the administration  
15 and protection of the Multiple Injury Trust Fund and shall be  
16 notified by the Administrator of the Workers' Compensation Court of  
17 all proceedings which may affect such fund.

18 B. CompSource Oklahoma shall have standing and the authority to  
19 appear in any case before the Workers' Compensation Court in which  
20 the Court is considering an award from the Multiple Injury Trust  
21 Fund.

22 C. Any party interested shall have a right to bring a  
23 proceeding in the Supreme Court to review an award of the Court  
24

1 affecting such Multiple Injury Trust Fund, in the same manner as is  
2 now provided by law with reference to other awards by the Court.

3 D. The State Treasurer shall allocate to CompSource Oklahoma  
4 out of the Multiple Injury Trust Fund, sufficient funds for  
5 administration expenses thereof in amounts to be fixed and approved  
6 by the Administrator for the Multiple Injury Trust Fund, unless  
7 rejected by the Governor and Attorney General.

8 SECTION 94. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 394 of Title 85, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. There is hereby created in the State Treasury the "Workers'  
12 Compensation Administration Fund" to be used for the costs of  
13 administering the Workers' Compensation Act and for other purposes  
14 pursuant to legislative appropriation.

15 B. No money on deposit with the State Treasurer to the credit  
16 of the Workers' Compensation Administration Fund shall be expended  
17 except pursuant to legislative appropriation.

18 C. For the purpose of providing funds for the Workers'  
19 Compensation Administration Fund, each mutual or interinsurance  
20 association, stock company, CompSource Oklahoma or other insurance  
21 carrier writing workers' compensation insurance in this state shall  
22 pay to the Oklahoma Tax Commission a tax at a rate of one percent  
23 (1%) of all gross direct premiums written during each quarter of the  
24 calendar year for workers' compensation insurance on risks located

1 in this state after deducting from such gross direct premiums,  
2 return premiums, unabsorbed portions of any deposit premiums, policy  
3 dividends, safety refunds, savings and other similar returns paid or  
4 credited to policyholders. Such payments to the Tax Commission  
5 shall be made not later than the fifteenth day of the month  
6 following the close of each quarter of the calendar year in which  
7 such gross direct premium is collected or collectible.  
8 Contributions made by insurance carriers and CompSource Oklahoma,  
9 under the provisions of this section, shall be considered for the  
10 purpose of computing workers' compensation rates.

11 D. When an employer is authorized to become a self-insurer, the  
12 Administrator of the Workers' Compensation Court as directed by the  
13 Workers' Compensation Court shall so notify the Tax Commission,  
14 giving the effective date of such authorization. The Tax Commission  
15 shall then assess and collect from the employers carrying their own  
16 risk a tax at the rate of two percent (2%) of the total compensation  
17 for permanent total disability awards, permanent partial impairment  
18 awards and death benefits paid out during each quarter of the  
19 calendar year by the employers. Such tax shall be payable by the  
20 employers and collected by the Tax Commission according to the  
21 provisions of this section regarding payment and collection of the  
22 tax created in subsections C, E, F and G of this section.

23 E. It shall be the duty of the Tax Commission to collect the  
24 payments provided for herein. The Tax Commission is hereby

1 authorized to bring an action for the recovery of any delinquent or  
2 unpaid payments required in this section. The Tax Commission may  
3 also enforce payments by proceeding in accordance with the  
4 provisions of Section 46 of this act.

5 F. The Tax Commission shall pay monthly to the State Treasurer  
6 to the credit of the General Revenue Fund all monies collected under  
7 the provisions of this section.

8 G. The refund provisions of Sections 227 through 229 of Title  
9 68 of the Oklahoma Statutes shall be applicable to any payments made  
10 pursuant to this section.

11 SECTION 95. 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 Any form, claim, answer or report to be filed by any person with  
15 the Administrator of the Workers' Compensation Court under the  
16 Workers' Compensation Act shall contain or be verified by a written  
17 declaration that such form, claim, answer or report is true and made  
18 under the penalty of perjury.

19 SECTION 96. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 396 of Title 85, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. Whenever two or more carriers disagree as to which carrier  
23 shall be liable for benefits, including medical care and temporary  
24 total disability compensation, to an injured employee, the Workers'

1 Compensation Court may order one of the carriers to start paying  
2 benefits immediately. The decision of the Court to choose one  
3 carrier over another to pay benefits shall not be appealable until  
4 the Court's final order as to the disability of the employee.

5 B. The Court shall promulgate rules for expedited hearings in  
6 cases involving carrier disputes over the need for immediate medical  
7 care and temporary total disability compensation.

8 C. The carrier in the final order who is liable on the risk for  
9 the injury shall, upon proper proof of payment, promptly reimburse  
10 the other carrier for benefits paid.

11 D. The Court shall have authority to require an employer and an  
12 insurance carrier to reimburse other employers and insurance  
13 carriers for benefits paid pursuant to the Workers' Compensation Act  
14 in appropriate cases.

15 SECTION 97. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 397 of Title 85, unless there is  
17 created a duplication in numbering, reads as follows:

18 A. Every employer and every employee subject to the provisions  
19 of the Workers' Compensation Act, upon filing a notice of injury,  
20 accidental injury, death, occupational disease, or claim for  
21 benefits from the Multiple Injury Trust Fund, shall give written  
22 permission for the Administrator of the Workers' Compensation Court  
23 or a designee, the Insurance Commissioner or a designee, the  
24 Attorney General or a designee or a district attorney or a designee

1 to examine all records relating to the notice, any matter contained  
2 in the notice, and any matter relating to the notice.

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

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

15 D. Subpoenas ad testificandum or duces tecum requested by the  
16 Attorney General or designee pursuant to subsection C of this  
17 section shall be issued by the district court in the county of the  
18 residence of the person to whom the subpoena is directed, in the  
19 county where the records are located or in the county where a person  
20 is to produce records or appear and be sworn. Subpoenas issued  
21 pursuant to this section may be served by the Attorney General, any  
22 peace officer or any competent person over eighteen (18) years of  
23 age, and may require attendance or production at any place in this  
24 state. Service may be made by mail and may be accomplished by

1 mailing a copy thereof by certified mail with return receipt  
2 requested and delivery restricted to the person named in the  
3 subpoena. Proof of service shall be made upon affidavit, and if  
4 made by mail, a copy of the return receipt shall be attached. A  
5 refusal to obey such subpoena, or willful failure to appear, be  
6 sworn, testify or produce records at the place and time specified  
7 shall constitute contempt and shall be enforced by the district  
8 court of the county where issued.

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

11 F. The Workers' Compensation Court shall include a statement on  
12 forms for notices and instructions to employers and employees that  
13 the permission required by this section must be given at the time of  
14 filing a notice specified in subsection A of this section.

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

18 SECTION 98. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 398 of Title 85, unless there is  
20 created a duplication in numbering, reads as follows:

21 The provisions of Sections 1 through 97 of this act determined  
22 by a court of competent jurisdiction to be substantive and not  
23 procedural in nature shall be applicable only to injuries occurring  
24 on or after the effective date of this act.

1 SECTION 99. 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 A. 1. All unexpended funds, assets, property, records,  
5 personnel and any outstanding financial obligations and encumbrances  
6 of the Workers' Compensation Court before the effective date of this  
7 act are hereby transferred to the Workers' Compensation Court  
8 created in Section 3 of this act. The personnel transferred shall  
9 retain leave, sick and annual time earned and any retirement and  
10 longevity benefits which have accrued during their employment with  
11 the state. The salaries of employees who are transferred shall not  
12 be reduced as a direct and immediate result of the transfer. There  
13 shall be no reduction-in-force as a result of the transfer.

14 2. Any unexpended funds, including interest thereon, held by  
15 the State Treasurer in an interest bearing agency special account  
16 maintained by the Workers' Compensation Court before the effective  
17 date of this act from which a self-insured employer's workers'  
18 compensation obligations are paid following nonpayment by the self-  
19 insured employer for any reason, including insolvency, shall be  
20 transferred to the Workers' Compensation Court created by Section 3  
21 of this act. Such funds shall be expended by the Court only for the  
22 purpose of paying workers' compensation obligations of the self-  
23 insured employer, and costs related to the administration of such  
24 obligations, to the extent of the availability of such funds.

1 B. 1. All unexpended funds, assets, property, and records and  
2 any outstanding financial obligations and encumbrances of the  
3 Individual Self-Insured Guaranty Fund Board before the effective  
4 date of this act are hereby transferred to the Individual Self-  
5 Insured Guaranty Fund Board created in Section 58 of this act.

6 2. Any unexpended funds, including interest thereon, held by  
7 the State Treasurer in the Individual Self-Insured Guaranty Fund  
8 before the effective date of this act, shall be transferred to the  
9 Individual Self-Insured Guaranty Fund Board created by Section 58 of  
10 this act. Such funds shall be expended by the Board only as  
11 authorized in Section 58 of this act.

12 C. 1. All unexpended funds, assets, property, and records and  
13 any outstanding financial obligations and encumbrances of the Group  
14 Self-Insurance Association Board before the effective date of this  
15 act are hereby transferred to the Group Self-Insurance Association  
16 Guaranty Fund Board created in Section 59 of this act.

17 2. Any unexpended funds, including interest thereon, held by  
18 the State Treasurer in the Group Self-Insurance Association Guaranty  
19 Fund before the effective date of this act, shall be transferred to  
20 the Group Self-Insurance Association Guaranty Fund Board created by  
21 Section 59 of this act. Such funds shall be expended by the Board  
22 only as authorized in Section 59 of this act.

23

24

1 D. All property and records of the Physician Advisory Committee  
2 before the effective date of this act are hereby transferred to the  
3 Physician Advisory Committee created in Section 66 of this act.

4 E. All property and records of the Advisory Council on Workers'  
5 Compensation before the effective date of this act are hereby  
6 transferred to the Advisory Council on Workers' Compensation created  
7 in Section 67 of this act.

8 F. All unexpended funds, assets, property, records, personnel  
9 and any outstanding financial obligations and encumbrances of  
10 CompSource Oklahoma before the effective date of this act are hereby  
11 transferred to CompSource Oklahoma created in Section 68 of this  
12 act. The personnel transferred shall retain leave, sick and annual  
13 time earned and any retirement and longevity benefits which have  
14 accrued during their employment with the state. The salaries of  
15 employees who are transferred shall not be reduced as a direct and  
16 immediate result of the transfer. There shall be no reduction-in-  
17 force as a result of the transfer.

18 G. All unexpended funds, assets, property, records, personnel  
19 and any outstanding financial obligations and encumbrances of the  
20 Multiple Injury Trust Fund before the effective date of this act are  
21 hereby transferred to the Multiple Injury Trust Fund created in  
22 Section 90 of this act. The personnel transferred shall retain  
23 leave, sick and annual time earned and any retirement and longevity  
24 benefits which have accrued during their employment with the state.

1 The salaries of employees who are transferred shall not be reduced  
2 as a direct and immediate result of the transfer. There shall be no  
3 reduction-in-force as a result of the transfer.

4 H. The Director of State Finance is hereby directed to  
5 coordinate the transfer of funds, allotments, purchase orders,  
6 outstanding financial obligations or encumbrances provided for in  
7 subsections A, F and G of this section, and the transfer of funds,  
8 outstanding financial obligations or encumbrances provided for in  
9 subsections B and C of this section

10 SECTION 100. REPEALER 85 O.S. 2001, Sections 1, 1.1, as  
11 amended by Section 7, Chapter 1, 1st Extraordinary Session, O.S.L.  
12 2005, 1.2, as amended by Section 1, Chapter 453, O.S.L. 2010, 1.2A,  
13 1.3, as amended by Section 8, Chapter 1, 1st Extraordinary Session,  
14 O.S.L. 2005, 2b, 2e, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, as last amended  
15 by Section 1, Chapter 84, O.S.L. 2010, 2.7, 3, as last amended by  
16 Section 1, Chapter 452, O.S.L. 2010, 3.1, 3.4, 3.5, as amended by  
17 Section 10, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 3.6,  
18 as amended by Section 1, Chapter 403, O.S.L. 2010, 3.7, 3.8, 3.9, as  
19 last amended by Section 2, Chapter 403, O.S.L. 2010, 3.10, as last  
20 amended by Section 3, Chapter 403, O.S.L. 2010, 3.11, 4, 5, as  
21 amended by Section 13, Chapter 1, 1st Extraordinary Session, O.S.L.  
22 2005, 6, 6.1, 7, 9, 11, as last amended by Section 2, Chapter 452,  
23 O.S.L. 2010, 12, as last amended by Section 3, Chapter 452, O.S.L.  
24 2010, 13, 14, as last amended by Section 4, Chapter 452, O.S.L.

1 2010, 14.1, 14.2 and 14.3, as amended by Sections 16 and 17, Chapter  
2 1, 1st Extraordinary Session, O.S.L. 2005, 15, 16, as amended by  
3 Section 18, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 17,  
4 as last amended by Section 19, Chapter 1, 1st Extraordinary Session,  
5 O.S.L. 2005, 21, 22, as last amended by Section 5, Chapter 452,  
6 O.S.L. 2010, 22.1, 24.1, as amended by Section 21, Chapter 1, 1st  
7 Extraordinary Session, O.S.L. 2005, 24.2, 24.3, 25, 26, as amended  
8 by Section 22, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,  
9 27.1, 28, 30, as amended by Section 23, Chapter 1, 1st Extraordinary  
10 Session, O.S.L. 2005, 41, 41.1, 42, as amended by Section 1, Chapter  
11 236, O.S.L. 2010, 43 and 44, as amended by Sections 24 and 25,  
12 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 45, 46, 47, 47.1,  
13 48, as amended by Section 26, Chapter 1, 1st Extraordinary Session,  
14 O.S.L. 2005, 48.1, 49, 61, as amended by Section 78, Chapter 264,  
15 O.S.L. 2006, 61.1, 61.2, 63, 63.1, as amended by Section 3, Chapter  
16 414, O.S.L. 2010, 63.2, 63.3, 63.4, 64, as last amended by Section  
17 79, Chapter 264, O.S.L. 2006, 65, as amended by Section 80, Chapter  
18 264, O.S.L. 2006, 65.2, 65.3, 66.1, 66.2, 67.1, 69.5, 80, 81, 84,  
19 85, 92, 93, as amended by Section 4, Chapter 403, O.S.L. 2010, 93.2,  
20 as amended by Section 5, Chapter 403, O.S.L. 2010, 95, 101, 103,  
21 104, 106, 107, 109, 110, as amended by Section 1, Chapter 338,  
22 O.S.L. 2002, 112, 122, 171 and 172, as amended by Sections 27 and  
23 28, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 173, as last  
24 amended by Section 29, Chapter 1, 1st Extraordinary Session, O.S.L.

1 2005, 173.1, 173.2, 173.3, 174, 175, as last amended by Section 30,  
2 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 176, 177, 178,  
3 179, 180, 201, as amended by Section 6, Chapter 403, O.S.L. 2010,  
4 201.1, as last amended by Section 6, Chapter 452, O.S.L. 2010,  
5 201.2, 203 and 211 (85 O.S. Supp. 2010, Sections 1.1, 1.2, 1.3, 2.6,  
6 3, 3.5, 3.6, 3.9, 3.10, 5, 11, 12, 14, 14.2, 14.3, 16, 17, 22, 24.1,  
7 26, 30, 42, 43, 44, 48, 61, 63.1, 64, 65, 93, 93.2, 110, 171, 172,  
8 173, 175, 201 and 201.1), are hereby repealed.

9 SECTION 101. This act shall become effective November 1, 2011.

10 Passed the Senate the 10th day of March, 2011.

11  
12 \_\_\_\_\_  
13 Presiding Officer of the Senate

14 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
15 2011.

16  
17 \_\_\_\_\_  
18 Presiding Officer of the House  
19 of Representatives