

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2201

By: Grau of the House

and

Bingman of the Senate

7 An Act relating to workers' compensation; stating
8 legislative findings and purpose; creating the
CompSource Mutual Insurance Company Act; ***
9 providing duties, power and authority of the Board of
Directors; providing requirements for rates;
10 providing immunity from liability for certain
persons; providing duties, power and authority for
11 the Company; *** providing that the Company is a
continuation of CompSource Oklahoma and providing for
12 related duties and authority; providing for certain
causes of action; providing for continuation of
13 certain rates; providing for severability; providing
that CompSource Oklahoma employees employed on the
14 effective date of this act remain members of the
Oklahoma Public Employees Retirement System; ***
15 amending 36 O.S. 2011, Section 902.3, which relates
to calculation of workers' compensation premiums; ***
16 amending 36 O.S. 2011, Section 903.2, which relates
to workplace safety plans; *** transferring certain
17 duties to the Board of Directors of CompSource Mutual
Insurance Company; removing certain requirements
18 pertaining to CompSource Oklahoma; amending 36 O.S.
2011, Section 995, which relates to the Property and
19 Casualty Competitive Loss Cost Rating Act; ***
removing references to the State Insurance Fund and
20 its representatives; amending 36 O.S. 2011, Section
1442, which relates to the Third-party Administrator
21 Act; modifying definition; amending 36 O.S. 2011,
Section 6701, which relates to workplace safety
22 services; *** removing reference to the State
Insurance Fund; amending 74 O.S. 2011, Section 85.29,
23 as amended by Section 750, Chapter 304, O.S.L. 2012
(74 O.S. Supp. 2012, Section 85.29), which relates to
24 The Oklahoma Central Purchasing Act; *** amending 74

1 O.S. 2011, Section 902, which relates to the Oklahoma
2 Public Employees Retirement System; modifying
3 definition; including certain employees of the
4 CompSource Mutual Insurance Company; *** removing
5 reference to and salary of chief executive officer of
6 CompSource Oklahoma; amending 82 O.S. 2011, Section
7 1085.24, which relates to the purchase of certain
8 certificates; removing the State Insurance Fund as a
9 potential buyer; *** modifying requirements for
10 governmental entities for obtaining workers'
11 compensation insurance; changing references from the
12 State Insurance Fund to CompSource Mutual Insurance
13 Company; removing CompSource Oklahoma duties
14 regarding workplace medical plans; removing
15 references to CompSource Oklahoma; *** requiring the
16 State Treasurer to provide certain information to the
17 Chief Executive Officer of CompSource Mutual
18 Insurance Company; providing for a chief
19 administrative officer for the Multiple Injury Trust
20 Fund designated as the MITF Director; providing
21 duties and powers of the MITF Director; repealing 74
22 O.S. 2011, Section 840-5.10, which relates to the
23 designation of CompSource Oklahoma as a Merit System
24 agency; *** providing for noncodification; providing
for recodification; and providing an effective date.

16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

17
18 "An Act relating to CompSource; stating legislative
19 findings and purpose; creating the CompSource Mutual
20 Insurance Company Act; providing short title;
21 defining terms; establishing CompSource Oklahoma as a
22 mutual insurer; providing for organization of
23 CompSource Mutual Insurance Company; providing duties
24 and powers; providing statutory requirements and
exemptions; providing that Company is not a state
entity; providing for a Board of Directors; providing
for composition and terms of office; providing for
filling of vacancies; providing for initial Board;
providing duties, power and authority of the Board of
Directors; providing requirements for rates;
providing immunity from liability for certain

1 persons; providing duties, power and authority for
2 the Company; making Company subject to premium taxes;
3 requiring the Company to be a member of the Oklahoma
4 Property and Casualty Insurance Guaranty Association;
5 limiting liability of the Company for Guaranty
6 Association assessments; providing for certain
7 reports; providing for revenues, monies and assets of
8 the Company; providing that the state has no
9 liability or responsibility for the financial
10 obligations of the Company; providing that the
11 Company is a continuation of CompSource Oklahoma and
12 providing for related duties and authority; providing
13 for certain causes of action; providing for
14 continuation of certain rates; providing for
15 severability; providing that CompSource Oklahoma
16 employees employed on the effective date of this act
17 remain members of the Oklahoma Public Employees
18 Retirement System; requiring CompSource Mutual
19 Insurance Company to pay required employer
20 contributions for such employees; providing that
21 other employees are not allowed to be members of the
22 Oklahoma Public Employees Retirement System;
23 providing for annual leave and sick leave; providing
24 for service credit; amending 36 O.S. 2011, Section
902.3, which relates to calculation of workers'
compensation premiums; eliminating the Board of
Managers of CompSource Oklahoma from performance of
certain duties; providing that the Board of Directors
of CompSource Mutual Insurance Company shall perform
certain duties; removing reference to CompSource
Oklahoma from certain allocation; amending 36 O.S.
2011, Section 903.2, which relates to workplace
safety plans; removing references to CompSource
Oklahoma and its Board of Managers regarding certain
prohibitions and procedure; amending 36 O.S. 2011,
Section 924.2, which relates to workers' compensation
insurance plans; removing references to CompSource
Oklahoma and its officers; transferring certain
duties to the Board of Directors of CompSource Mutual
Insurance Company; removing certain requirements
pertaining to CompSource Oklahoma; amending 36 O.S.
2011, Section 995, which relates to the Property and
Casualty Competitive Loss Cost Rating Act; excluding
CompSource Mutual Insurance Company from certain
requirements relating to joint underwriting, joint
reinsurance pool and residual market activities;
amending 36 O.S. 2011, Sections 1250.2, 1250.4,

1 1250.9, 1250.10, 1250.11, 1250.13 and 1250.14, which
2 relate to the Unfair Claims Settlement Practices Act;
3 modifying definition; removing references to the
4 State Insurance Fund and its representatives;
5 amending 36 O.S. 2011, Section 1442, which relates to
6 the Third-party Administrator Act; modifying
7 definition; amending 36 O.S. 2011, Section 6701,
8 which relates to workplace safety services; removing
9 references to the State Insurance Fund; amending 40
10 O.S. 2011, Sections 417 and 418, which relate to the
11 Oklahoma Occupational Health and Safety Standards
12 Act; removing references to CompSource Oklahoma, its
13 officers and the State Insurance Fund; amending 47
14 O.S. 2011, Section 157.1, which relates to insurance
15 coverage for certain state vehicles; removing
16 reference to the State Insurance Fund; amending 74
17 O.S. 2011, Section 85.29, as amended by Section 750,
18 Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section
19 85.29), which relates to The Oklahoma Central
20 Purchasing Act; removing references to CompSource
21 Oklahoma officers; amending 74 O.S. 2011, Section
22 85.58A, as amended by Section 782, Chapter 304,
23 O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.58A),
24 which relates to the comprehensive professional risk
management program; removing reference to CompSource
Oklahoma; amending 74 O.S. 2011, Section 902, which
relates to the Oklahoma Public Employees Retirement
System; modifying definition; including certain
employees of the CompSource Mutual Insurance Company;
amending 74 O.S. 2011, Section 3601.1, which relates
to full-time-equivalent employees; eliminating
reference to Board of Managers of the State Insurance
Fund and maximum allowable full-time-equivalent
employees; amending 74 O.S. 2011, Section 3601.2, as
amended by Section 1007, Chapter 304, O.S.L. 2012 (74
O.S. Supp. 2012, Section 3601.2), which relates to
salaries of state chief executive officers; removing
reference to and salary of chief executive officer of
CompSource Oklahoma; amending 82 O.S. 2011, Section
1085.24, which relates to the purchase of certain
certificates; removing the State Insurance Fund as a
potential buyer; amending 85 O.S. 2011, Sections 308,
313, 328, 339, 352, 373, 375, 376, as amended by
Section 1078, Chapter 304, O.S.L. 2012, 380, 396,
403, as amended by Section 1082, Chapter 304, O.S.L.
2012, 406 and 407 (85 O.S. Supp. 2012, Sections 376
and 403), which relate to the Workers' Compensation

1 Code; modifying definitions; modifying requirements
2 for governmental entities for obtaining workers'
3 compensation insurance; changing references from the
4 State Insurance Fund to CompSource Mutual Insurance
5 Company; removing CompSource Oklahoma duties
6 regarding workplace medical plans; removing
7 references to CompSource Oklahoma; clarifying
8 references; exempting CompSource Oklahoma from
9 certain provisions; changing references from
10 CompSource Oklahoma to CompSource Mutual Insurance
11 Company; providing for determination of Multiple
12 Injury Trust Fund obligations by the Director;
13 granting the Board of Directors for CompSource Mutual
14 Insurance Company the power to disapprove certain
15 assessment rate; requiring the State Treasurer to
16 provide certain information to the Chief Executive
17 Officer of CompSource Mutual Insurance Company;
18 providing for a chief administrative officer for the
19 Multiple Injury Trust Fund designated as the MITF
20 Director; providing duties and powers of the MITF
21 Director; repealing 74 O.S. 2011, Section 840-5.10,
22 which relates to the designation of CompSource
23 Oklahoma as a Merit System agency; repealing 76 O.S.
24 2011, Section 22, which authorizes CompSource
Oklahoma to offer malpractice insurance and
reinsurance; repealing 85 O.S. 2011, Section 378,
which relates to the Task Force on Privatization of
CompSource Oklahoma; repealing 85 O.S. 2011, Sections
375, as amended by Section 43 of this act and as
recodified by Section 54 of this act, 376, as last
amended by Section 44 of this act and as recodified
by Section 54 of this act, 377, 379, 381, 382, 384,
as amended by Section 1079, Chapter 304, O.S.L. 2012,
385, 386, 387, as amended by Section 1080, Chapter
304, O.S.L. 2012, 388, 389, as amended by Section
1081, Chapter 304, O.S.L. 2012, 390, 391, 392, 393,
394, 395, 397, 400 and 401 (85 O.S. Supp. 2012,
Sections 384, 387 and 389), which relate to
CompSource Oklahoma; providing for codification;
providing for recodification; and providing an
effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.1 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "CompSource
5 Mutual Insurance Company Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 375.2 of Title 85, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in this act, the following words shall have the meanings
10 indicated:

11 1. "Act" shall mean the CompSource Mutual Insurance Company
12 Act;

13 2. "Chief Executive Officer" shall mean the President and Chief
14 Executive Officer of CompSource Mutual Insurance Company. Effective
15 January 1, 2015, all references in the Oklahoma Statutes to the
16 State Insurance Fund Commissioner, the Commissioner of the State
17 Insurance Fund, or the CompSource Oklahoma President and Chief
18 Executive Officer shall be deemed references to the President and
19 Chief Executive Officer of CompSource Mutual Insurance Company;

20 3. "Company" shall mean CompSource Mutual Insurance Company;
21 and

22 4. "Director" shall mean a member of the Board of Directors of
23 CompSource Mutual Insurance Company.

24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.3 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Effective January 1, 2015, CompSource Oklahoma shall operate
5 as, and exercise the powers of, a domestic mutual insurer without
6 capital stock or shares, in accordance with Title 36 of the Oklahoma
7 Statutes, and shall be called CompSource Mutual Insurance Company.
8 The Insurance Commissioner shall approve the Company's articles of
9 incorporation and issue a certificate of authority to the Company to
10 write workers' compensation insurance, as provided by Title 36 of
11 the Oklahoma Statutes, not later than August 1, 2014, which shall
12 become effective January 1, 2015. The Chief Executive Officer of
13 CompSource Oklahoma shall take any measure necessary to accomplish
14 the transition from CompSource Oklahoma to CompSource Mutual
15 Insurance Company.

16 B. The Company shall be organized as a corporation benefiting
17 the citizens of Oklahoma by providing workers' compensation and
18 related coverages which are competitively priced that generally
19 benefit the public, but remain a financially independent entity that
20 is neither more nor less than self-supporting.

21 C. The Company may provide related coverage which is incidental
22 to workers' compensation insurance, including but not limited to
23 coverage for risks under the Longshore and Harbor Workers'
24 Compensation Act (33 U.S.C. Section 901 et seq.) and Title IV of the

1 Federal Coal Mine Health and Safety Act of 1969 as amended by the
2 Black Lung Benefits Act of 1972, as enacted or as may be amended by
3 the Congress of the United States and other coverage related to
4 employee and employment risks.

5 D. The Company shall provide worker's compensation insurance
6 coverage for volunteer firefighters as provided in Section 380 of
7 Title 85 of the Oklahoma Statutes, as amended by this act.

8 E. The Company shall be an insurance carrier for purposes of
9 the Workers' Compensation Code.

10 F. Except as otherwise provided in this act, the Company shall
11 be subject to the requirements of Title 36 of the Oklahoma Statutes
12 and all regulatory authority granted to the Insurance Commissioner
13 as would any other domestic mutual insurance company.

14 G. The Company shall be exempt from the following provisions of
15 Title 36 of the Oklahoma Statutes until three (3) years after the
16 Company begins operating pursuant to subsection A of Section 3 of
17 this act:

18 1. Article 9;

19 2. Article 9A, other than Section 924.2 of Title 36 of the
20 Oklahoma Statutes; and

21 3. Article 9B.

22 H. CompSource Mutual Insurance Company shall not be considered
23 a state agency, public body, department, public trust, or any other
24 term used to describe an entity which is a part of the Executive

1 Branch of the State of Oklahoma under any state statute or
2 regulation, except as otherwise provided for in the CompSource
3 Mutual Insurance Company Act. As such, Oklahoma state statutes that
4 shall not apply to CompSource Mutual Insurance Company include, but
5 are not limited to:

6 1. Sections 301 through 314 of Title 25, Oklahoma Open Meeting
7 Act;

8 2. Sections 151 through 158.2 of Title 47, State-Owned
9 Automobiles;

10 3. Sections 24A.1 through 24A.29 of Title 51, Oklahoma Open
11 Records Act;

12 4. Sections 151 through 200 of Title 51, The Governmental Tort
13 Claims Act;

14 5. Title 61 of the Oklahoma Statutes, Public Buildings and
15 Public Works;

16 6. Title 62 of the Oklahoma Statutes, Public Finance;

17 7. Sections 3-101 through 3-115 of Title 65, Department of
18 Libraries;

19 8. Sections 201 through 217 of Title 67, Records Management
20 Act;

21 9. Sections 301 through 303 of Title 67, Reproduction of Public
22 Records;

23 10. Sections 305 through 317 of Title 67, Archives and Records
24 Commission;

1 11. Sections 82.1 through 97 of Title 73, Capitol Grounds and
2 Surroundings;

3 12. Chapters 4, 8, 10, 13, 17, 19, 27A, 30, 31, 37, 37A, 37B,
4 38A, 38B, 45, 45A, 48, 49, 50, 53, 56, 61, 81 and 110A of Title 74;
5 and

6 13. Section 34.2 of Title 80.

7 I. By enacting the CompSource Mutual Insurance Company Act, the
8 Legislature creates CompSource Mutual Insurance Company which,
9 subject to the provisions of this act:

10 1. Shall be organized and operated under Oklahoma law, but be
11 independent of the State of Oklahoma;

12 2. Shall provide worker's compensation insurance to any
13 employer in Oklahoma which seeks such insurance and meets other
14 reasonable requirements relating thereto;

15 3. Shall not be permitted to dissolve; and

16 4. Shall have a majority of the Board of Directors or oversight
17 body of such organization appointed by the Governor or legislative
18 officers as specified in Section 4 of this act.

19 J. Effective January 1, 2015, any references in the Oklahoma
20 Statutes to CompSource Oklahoma or The State Insurance Fund shall be
21 deemed references to CompSource Mutual insurance Company.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 375.4 of Title 85, unless there
24 is created a duplication in numbering, reads as follows:

1 A. CompSource Mutual Insurance Company shall be governed by a
2 Board of Directors composed of ten (10) members, all of whom shall
3 be citizens of the state. The Board of Directors shall be composed
4 of:

5 1. The Lieutenant Governor or a designee;

6 2. The State Auditor and Inspector or a designee;

7 3. One member appointed by the Governor;

8 4. One member appointed by the Speaker of the House of
9 Representatives;

10 5. One member appointed by the President Pro Tempore of the
11 Senate;

12 6. Four members shall be elected by the Company's
13 policyholders. Such members shall not be state agencies, but should
14 come from the private business sector; and

15 7. The Chief Executive Officer of the Company shall be an ex
16 officio, nonvoting member.

17 B. Other than the Chief Executive Officer of the Company, the
18 Lieutenant Governor or a designee, and the State Auditor and
19 Inspector or a designee, the members of the Board of Directors shall
20 serve staggered six-year terms expiring July 1. An appointed or
21 elected Director whose term has expired shall continue to serve
22 until the Director's replacement is elected by the policyholders or
23 appointed by the appointing authority, or until such time as the
24 Director is reelected or reappointed, as applicable. If the

1 Lieutenant Governor or State Auditor and Inspector selects a
2 designee, that designee shall continue to serve until the Lieutenant
3 Governor or State Auditor and Inspector replaces the designee or
4 assumes their position on the Company's Board of Directors.

5 C. If an appointed Director's position becomes vacant, the
6 officer who appointed the outgoing Director in subsection A of this
7 section shall appoint a new Director to the Board. A vacancy in the
8 elected Directors shall be filled as provided by the Company's
9 bylaws. If a vacancy occurs before the date on which the vacating
10 Director's term is set to expire, the successor Director shall be
11 elected or appointed for a term to expire on the same date as the
12 vacating Director's term.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 375.5 of Title 85, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The members of the Board of Managers of CompSource Oklahoma
17 who are serving on the effective date of this act shall serve as the
18 initial Board of Directors of CompSource Mutual Insurance Company.
19 The terms of the initial Board members shall be extended from
20 January 1, 2015, to July 1, 2015.

21 B. The Lieutenant Governor or a designee, State Auditor and
22 Inspector or a designee, one member appointed by the Governor, one
23 member appointed by the Speaker of the House, and one member
24 appointed by the President Pro Tempore of the Senate shall continue

1 to serve on the Board of Directors of CompSource Mutual Insurance
2 Company as provided in subsection D of this section. The other
3 initial Board positions shall be converted to elected positions as
4 provided in subsection C of this section.

5 C. On or before July 1, 2015, the Company shall hold its first
6 meeting of the policyholders. At that meeting the policyholders
7 shall elect four Directors. The method of election shall be
8 specified in the Company's bylaws.

9 D. The initial terms of the Board of Directors of CompSource
10 Mutual Insurance Company shall be as follows:

11 1. The terms of the Board member appointed by the Speaker of
12 the House and the fourth member elected pursuant to subsection C of
13 this section shall expire on July 1, 2018;

14 2. The terms of the Board member appointed by the President Pro
15 Tempore of the Senate and the third member elected pursuant to
16 subsection C of this section shall expire on July 1, 2020; and

17 3. The terms of the Board member appointed by the Governor and
18 the first and second member elected pursuant to subsection C of this
19 section shall expire on July 1, 2022.

20 After such initial terms, the terms of the Board members shall
21 be as provided in Section 4 of this act.

22 E. The bylaws and Board policies of CompSource Oklahoma on the
23 effective date of this act become the bylaws and Board policies of
24 the Company until amended or revised by the Company's Board.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.6 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 The Board of Directors of CompSource Mutual Insurance Company
5 shall have supervision over the administration and operation of the
6 Company. In this regard, the Board shall function in all aspects as
7 a governing body of a domestic mutual insurance company. The Board
8 shall:

9 1. Employ a Chief Executive Officer who is vested with full
10 power, authority and jurisdiction over the Company. The Chief
11 Executive Officer shall perform any duties which are necessary or
12 convenient in the exercise of any power, authority, or jurisdiction
13 over the Company;

14 2. Provide for the delivery in this state of workers'
15 compensation insurance and for the transaction of workers'
16 compensation insurance business to the same extent as any other
17 insurance carrier transacting workers' compensation insurance
18 business in this state; and

19 3. Establish a compensation committee to determine appropriate
20 compensation for the Chief Executive Officer and Directors of
21 CompSource Mutual Insurance Company, provided that compensation for
22 any Director who is a state officer does not conflict with Oklahoma
23 law.

24

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.7 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. The Board of Directors of CompSource Mutual Insurance
5 Company shall have full power and authority to set actuarially sound
6 rates to be charged by the Company for insurance until three years
7 after the Company begins operating pursuant to subsection A of
8 Section 3 of this act.

9 2. The Board shall engage the services of an independent
10 actuary who is a member of the Casualty Actuarial Society or the
11 American Academy of Actuaries who is qualified as described in the
12 U.S. Qualifications Standards promulgated by the American Academy of
13 Actuaries pursuant to the Code of Professional Conduct to develop
14 and recommend actuarially sound rates.

15 3. Rates shall be set in amounts sufficient, when invested, to:
16 a. carry all claims to maturity,
17 b. meet the reasonable expenses of conducting the
18 business of the Company, and
19 c. maintain a reasonable surplus.

20 B. Three (3) years after the Company begins operating pursuant
21 to subsection A of Section 3 of this act, the Company shall become
22 subject to Articles 9, 9A and 9B of Title 36 of the Oklahoma
23 Statutes.

24

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.8 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 Neither a member of the Board of Directors of CompSource Mutual
5 Insurance Company nor the Chief Executive Officer or any officer or
6 employee of the Company shall be personally liable in the person's
7 private capacity for any act performed or for any contract or other
8 obligation entered into or undertaken in an official capacity in
9 good faith and without intent to defraud, including, but not limited
10 to, the identification and referral of a person for investigation
11 and prosecution for a possible administrative violation or criminal
12 offense.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 375.9 of Title 85, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Company shall establish and maintain reserves for losses
17 on an actuarially sound basis in accordance with requirements as
18 provided in Title 36 of the Oklahoma Statutes.

19 B. Pursuant to Section 2123 of Title 36 of the Oklahoma
20 Statutes and in accordance with criteria approved by the Board,
21 which may consider the policyholder's safety record and performance,
22 the Company may pay cash dividends or allow a credit on renewal
23 premium for policyholders insured with the Company.

24 C. The Company shall have full power and authority:

1 1. To enter into contracts of insurance insuring persons, firms
2 and corporations against loss, expense or liability by reason of
3 bodily injury, death or accident, occupational disability, or
4 occupational disease suffered by employees for which the insured may
5 be liable or have assumed liability, including, but not limited to,
6 contracts of insurance or reinsurance for the purpose of insuring
7 employers operating in this state and their employees who may work
8 outside this state;

9 2. To purchase reinsurance for any risk or any portion of any
10 risk of the Company. The purchase of reinsurance may be made
11 through intermediaries;

12 3. To establish a multitiered premium or rating system to
13 provide workers' compensation insurance policies to insureds in the
14 state, which may allow premium adjustments based upon the Company's
15 evaluation of the underwriting characteristics on the individual
16 risk and the appropriate premium to be charged for the policy
17 coverages; and

18 4. To establish subsidiaries to provide the same coverages
19 allowed in subsections B and C of Section 3 of this act.

20 D. The Company may decline to insure any risk in which the
21 minimum requirements of the law with regard to construction,
22 equipment and operation are not observed, or which is beyond the
23 safe carrying of the Company, but as an I.R.C. § 501(c)(27)(B)
24 organization shall not have power or authority, except as otherwise

1 provided in this act, to refuse to insure any compensation risk
2 tendered with the premium therefor.

3 E. In addition to other rights of the Company under this act,
4 the Company has the legal rights of a mutual insurance company
5 operating under Title 36 of the Oklahoma Statutes, and of a private
6 person in this state, and has the power to sue and be sued in its
7 own name. No procedure is a prerequisite to the exercise of the
8 power by the Company to sue.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 375.10 of Title 85, unless there
11 is created a duplication in numbering, reads as follows:

12 A. CompSource Mutual Insurance Company shall be subject to
13 premium taxes in the same manner as a domestic mutual insurance
14 company authorized by the Insurance Department to write workers'
15 compensation insurance in this state as provided in Oklahoma
16 Statutes.

17 B. The Company shall be a member of and shall be protected by
18 the Oklahoma Property and Casualty Insurance Guaranty Association.

19 C. Notwithstanding subsection B of this section, the Oklahoma
20 Property and Casualty Insurance Guaranty Association, with respect
21 to an insolvency of the Company, is liable only for a claim with a
22 date of injury occurring on or after January 1, 2015.

23
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1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 375.11 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Company shall file with the Workers' Compensation Court
5 and the Insurance Department all financial reports required of other
6 workers' compensation insurers.

7 B. Any report the Company is required to file with any
8 authority shall be in conformity with statutory accounting practices
9 prescribed, or otherwise permitted, by the Insurance Department.

10 SECTION 12. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 375.12 of Title 85, unless there
12 is created a duplication in numbering, reads as follows:

13 A. All revenues, monies, and assets of CompSource Mutual
14 Insurance Company belong solely to the Company and shall be governed
15 by the laws applicable to domestic mutual insurance companies. The
16 state covenants with the policyholders of the Company, persons
17 receiving workers' compensation benefits, and the Company's
18 creditors that the state will not borrow, appropriate, or direct
19 payments from those revenues, monies, or assets for any purpose.
20 The state has no liability or responsibility to the policyholders,
21 persons receiving workers' compensation benefits, or the creditors
22 of the Company if the Company is placed in conservatorship or
23 receivership, or becomes insolvent.

24

1 B. CompSource Mutual Insurance Company may exercise all the
2 rights, privileges, powers, and authority of any other mutual
3 insurance company organized to transact workers' compensation
4 insurance business in this state, subject to the requirements of
5 Title 36 of the Oklahoma Statutes. Effective January 1, 2015:

6 1. The Company shall be considered to be a continuation of
7 CompSource Oklahoma as it existed prior to this act; and

8 2. As a continuation of CompSource Oklahoma, the Company is
9 vested with all property, tangible and intangible, real and
10 personal, of CompSource Oklahoma and control of the CompSource
11 Oklahoma fund.

12 C. Effective January 1, 2015:

13 1. CompSource Mutual Insurance Company may enforce all contract
14 and statutory rights of CompSource Oklahoma;

15 2. Each debt, claim, and cause of action of CompSource
16 Oklahoma, and each property right, privilege, franchise, or other
17 interest of CompSource Oklahoma, is the property of CompSource
18 Mutual Insurance Company;

19 3. The rights of all policyholders and creditors and the
20 standing of all claims under CompSource Oklahoma are preserved
21 unimpaired under CompSource Mutual Insurance Company; and

22 4. Each debt, liability, and duty of CompSource Oklahoma is a
23 debt, liability, or duty of CompSource Mutual Insurance Company and
24 may be enforced against CompSource Mutual Insurance Company.

1 D. A cause of action or similar proceeding to which CompSource
2 Oklahoma was a party pending on January 1, 2015:

3 1. Is not affected by this act;

4 2. May be continued to be prosecuted by or against the Company;
5 and

6 3. Continues to be governed by and conducted under the
7 requirements of the Oklahoma Statutes, as those requirements existed
8 before the effective date of this act, and the applicable bylaws,
9 rules, and regulations of CompSource Oklahoma.

10 E. The rates established by the Board of Directors of the
11 Company, or formerly established by the Board of Managers of
12 CompSource Oklahoma and in effect on the effective date of this act
13 for CompSource Oklahoma shall be the initial rates for CompSource
14 Mutual Insurance Company.

15 SECTION 13. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 375.13 of Title 85, unless there
17 is created a duplication in numbering, reads as follows:

18 If any section of the provisions of this act be decided by the
19 courts to be unconstitutional or invalid, the same shall not affect
20 the validity of this act as a whole, or any part thereof other than
21 the part so decided to be unconstitutional or invalid.

22 SECTION 14. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 913.9 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:

1 A. All persons employed by CompSource Oklahoma prior to the
2 effective date of this act shall remain members of the Oklahoma
3 Public Employees Retirement System until retirement or termination.

4 B. Effective January 1, 2015, for all employees who remain
5 members of the Oklahoma Public Employees Retirement System pursuant
6 to subsection A of this section, CompSource Mutual Insurance Company
7 shall pay the required employer contributions applicable to the
8 participating employers in the Oklahoma Public Employees Retirement
9 System pursuant to Section 920 of Title 74 of the Oklahoma Statutes
10 and the employee shall continue to pay employee contributions as
11 required by Section 919.1 of Title 74 of the Oklahoma Statutes.

12 C. All employees of CompSource Mutual Insurance Company who
13 remain members of the Oklahoma Public Employees Retirement System
14 pursuant to subsection A of this section shall continue to be
15 eligible employees for purposes of Sections 901 through 932 of Title
16 74 of the Oklahoma Statutes. CompSource Mutual Insurance Company
17 shall be considered a participating employer, as defined by
18 paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes
19 only for such employees.

20 D. No person initially employed by CompSource Mutual Insurance
21 Company after the effective date of this act shall be allowed to
22 participate in the Oklahoma Public Employees Retirement System
23 during the term of their employment with the Company, regardless of
24 whether that employee was previously employed by a participating

1 employer in the Oklahoma Public Employees Retirement System
2 including CompSource Oklahoma.

3 E. 1. All annual leave and sick leave accumulated prior to
4 January 1, 2015, by an employee who remains a member of the Oklahoma
5 Public Employees Retirement System pursuant to subsection A of this
6 section will be recognized by the CompSource Mutual Insurance
7 Company, subject to all accrual limitations in the Oklahoma
8 Statutes.

9 2. Effective January 1, 2015, employees of CompSource Mutual
10 Insurance Company shall not accrue annual leave and sick leave
11 pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes,
12 but may accrue annual leave and sick leave according to a policy
13 established by the Chief Executive Officer of CompSource Mutual
14 Insurance Company at a rate not to exceed that of state employees
15 under Title 74 of the Oklahoma Statutes.

16 3. The total participating service credit of a member who
17 retires or terminates employment and elects a vested benefit shall
18 include unused sick leave not to exceed the limitation imposed by
19 paragraph 7 of subsection B of Section 913 of Title 74 of the
20 Oklahoma Statutes. If unused sick leave entitles a member to an
21 additional year of service credit, the CompSource Mutual Insurance
22 Company shall reimburse the System for the cost of funding the
23 additional reserve. CompSource Mutual Insurance Company shall
24

1 provide the System with adequate and timely information necessary to
2 determine additional benefits and its cost under this paragraph.

3 SECTION 15. AMENDATORY 36 O.S. 2011, Section 902.3, is
4 amended to read as follows:

5 Section 902.3. A. Workers' compensation premiums shall be
6 calculated on a basis that, as nearly as is practicable, after the
7 effects of experience rating and other applicable rating plans have
8 been considered, the sum of expected losses and expected expenses as
9 a percentage of premium shall be the same for high- and low-wage-
10 paying employers in the same job classification.

11 B. The Insurance Commissioner and the Board of ~~Managers~~
12 Directors of CompSource Oklahoma Mutual Insurance Company shall:

13 1. Determine the extent to which high-wage-paying employers are
14 paying premiums higher than those which would produce the same ratio
15 of expected losses and expenses to premiums as for employers paying
16 lower wages;

17 2. Determine whether this effect is primarily seen in certain
18 types of job classifications;

19 3. Investigate alternatives and modifications to the current
20 method of computing workers' compensation premiums, including wage
21 rate recognition plans used in other states, split classifications,
22 wage rate caps, and hours worked;

23 4. Conduct a hearing or hearings on this matter, including
24 consideration of other alternatives; and

1 5. Adopt rules by January 1, 1996, to become effective on July
2 1, 1996, unless disapproved by the Legislature, to equalize, as
3 nearly as is practicable, expected losses and expenses as a
4 percentage of workers' compensation premiums for high- and low-wage-
5 paying employers in the same job classification. If the effect is
6 found to be primarily seen in certain types of job classifications,
7 the rules shall be adopted to apply only to such types of job
8 classifications. The adopted rules shall be subject to legislative
9 review and shall be promulgated as permanent rules pursuant to the
10 Administrative Procedures Act. The agency rule report required by
11 the Administrative Procedures Act shall include a rule impact
12 statement together with an actuarial analysis of the proposed rule
13 describing in detail the classes of persons who most likely will be
14 affected by the proposed rules; the classes of persons who will
15 benefit from the adopted rules; and the probable economic impact of
16 the proposed rules upon the affected classes of persons. The
17 actuarial analysis shall be prepared by an independent actuary who
18 is a member of the Casualty Actuarial Society or the American
19 Academy of Actuaries who is qualified as described in the U.S.
20 Qualifications Standards promulgated by the American Academy of
21 Actuaries pursuant to the Code of Professional Conduct to perform
22 such actuarial analysis selected by the Insurance Commissioner. The
23 rules shall not be invalidated on the ground that the contents of
24

1 the rule impact statement or the actuarial analysis are insufficient
2 or inaccurate.

3 C. The cost of the premium adjustment plan shall be allocated
4 among all employers purchasing workers' compensation insurance from
5 all carriers, ~~including CompSource Oklahoma.~~

6 SECTION 16. AMENDATORY 36 O.S. 2011, Section 903.2, is
7 amended to read as follows:

8 Section 903.2. ~~A.~~ No insurance company shall request and the
9 Insurance Commissioner shall not approve an increase for the expense
10 portion of insurance company rate filings based upon the
11 requirements of Section 6701 of this title, ~~Section 425 of Title 40~~
12 ~~of the Oklahoma Statutes,~~ and Section ~~61.2~~ 355 of Title 85 of the
13 Oklahoma Statutes.

14 ~~B. CompSource Oklahoma shall not request and its Board of~~
15 ~~Managers shall not approve reimbursement for expenses based upon the~~
16 ~~requirements of Section 6701 of this title, Section 425 of Title 40~~
17 ~~of the Oklahoma Statutes, and Section 61.2 of Title 85 of the~~
18 ~~Oklahoma Statutes above the limitation on expenses of administration~~
19 ~~of CompSource Oklahoma specified in Section 139 of Title 85 of the~~
20 ~~Oklahoma Statutes.~~

21 SECTION 17. AMENDATORY 36 O.S. 2011, Section 924.2, is
22 amended to read as follows:

23 Section 924.2. A. Any rate, schedule of rates or rating plan
24 for workers' compensation insurance submitted to or filed with the

1 Insurance Commissioner, or fixed by the Board of ~~Managers~~ Directors
2 of CompSource ~~Oklahoma~~ Mutual Insurance Company, and premiums, by
3 whatever name, for workers' compensation for self-insureds except
4 for group self-insured associations shall provide for an appropriate
5 reduction in premium charges, by whatever name, for those eligible
6 insured employers who have successfully participated in the
7 occupational safety and health consultation, education and training
8 program administered by the Commissioner of the Department of Labor
9 pursuant to Section 414 of Title 40 of the Oklahoma Statutes.

10 B. All insurance companies writing workers' compensation
11 insurance in this state, ~~including CompSource Oklahoma~~, and all
12 self-insureds providing workers' compensation insurance except for
13 group self-insured associations, shall allow an appropriate
14 reduction in premium charges to all eligible employers who qualify
15 for the reduction pursuant to the provisions of this section.

16 C. Eligible employers shall be those employers:

17 1. Who are insured by an insurance company writing workers'
18 compensation insurance in this state; or

19 2. Who are self-insured; ~~or~~

20 ~~3. Who are insured by CompSource Oklahoma.~~

21 D. In order to qualify for the reduction in workers'
22 compensation insurance premium, an employer shall successfully
23 participate annually in the occupational safety and health
24

1 consultation, education and training program administered by the
2 Department of Labor. Successful participation shall be defined as:

3 1. Undergoing a safety and health hazard survey of the
4 workplace, including an evaluation of the employer's safety and
5 health program and onsite interviews with employees by the
6 Department's consultant;

7 2. Correcting all hazards identified during the onsite visit
8 within a reasonable period of time as established by the Department;

9 3. Establishing an effective workplace safety and health
10 program and implementing program provisions within a reasonable
11 period of time as established by the Department. The program shall
12 include:

13 a. demonstration of management commitment to worker
14 safety and health,

15 b. procedures for identifying and controlling workplace
16 hazards,

17 c. development and communication of safety plans, rules
18 and work procedures, and

19 d. training for supervisors and employees in safe and
20 healthful work practices;

21 4. Reducing by one-third (1/3) or more the extent to which the
22 lost workday case rate, as measured by the Department of Labor, was
23 above the national average for the industry at the time the employer
24 elected to participate in the occupational safety and health

1 consultation, education and training program, or maintaining a rate
2 at or below the national average for the industry; and

3 5. Documenting a reduction in workers' compensation claims for
4 the preceding year by showing one of the following:

5 a. a ten percent (10%) reduction in the dollar amount of
6 claims,

7 b. a ten percent (10%) reduction in the severity of
8 claims, or

9 c. no reported claims,

10 as a result of attending the occupational safety and health
11 consultation, education and training program administered by the
12 Department of Labor.

13 E. 1. Upon successful participation in the occupational safety
14 and health consultation, education and training program as defined
15 in subsection D of this section, an employer shall be issued a
16 certificate by the Commissioner of the Department of Labor which
17 shall be the basis of qualification for the reduction in workers'
18 compensation insurance premium, by whatever name. The certificate
19 shall qualify the employer for a premium reduction for a one-year
20 period.

21 2. Upon issuance of a certificate to an employer, the
22 Commissioner of the Department of Labor shall mail a copy of the
23 certificate to the employer's insurer. Any insurer required by this
24 section to allow an appropriate reduction in premium charges to a

1 qualified employer which willfully fails to allow such reduction
2 after receiving a copy of the certificate shall be subject, after
3 notice and hearing, to an administrative fine, imposed by the
4 Insurance Commissioner, which shall be not less than Ten Thousand
5 Dollars (\$10,000.00) or three times the amount of the premium
6 reduction, whichever is greater. The Insurance Commissioner shall
7 promulgate rules necessary to carry out the provisions of this
8 paragraph.

9 F. The Insurance Commissioner, and the Administrator of the
10 Workers' Compensation Court ~~and the CompSource Oklahoma President~~
11 ~~and Chief Executive Officer~~ shall maintain records documenting
12 reductions in workers' compensation insurance premiums granted
13 pursuant to this section and shall make an annual report of such
14 reductions to the President Pro Tempore of the Senate and the
15 Speaker of the House of Representatives by May 1 of each year.
16 Insurers shall report such premium reductions in their annual
17 statement.

18 G. ~~CompSource Oklahoma shall instruct its actuary to~~
19 ~~continually review the insurance premium credit program, developed~~
20 ~~and implemented pursuant to Section 142a of Title 85 of the Oklahoma~~
21 ~~Statutes, to determine if the program is detrimental to the~~
22 ~~financial stability of CompSource Oklahoma. If the actuary~~
23 ~~determines that the program contributes detrimentally to the~~
24 ~~financial stability of CompSource Oklahoma, the actuary shall~~

1 ~~immediately recommend to the CompSource Oklahoma President and Chief~~
2 ~~Executive Officer that the safety premium reduction cease for a one-~~
3 ~~year period.~~

4 SECTION 18. AMENDATORY 36 O.S. 2011, Section 995, is
5 amended to read as follows:

6 Section 995. Joint Underwriting, Joint Reinsurance Pool and
7 Residual Market Activities.

8 A. This section shall not apply to transactions involving
9 CompSource ~~Oklahoma~~ Mutual Insurance Company.

10 B. Notwithstanding paragraph 3 of subsection A of Section 992
11 of this title, insurers participating in joint underwriting, joint
12 reinsurance pools or residual market mechanisms may in connection
13 with such activity act in cooperation with each other in the making
14 of rates, rating systems, policy forms, underwriting rules, surveys,
15 inspections and investigations, the furnishing of loss and expense
16 statistics or other information, or carrying on research. Joint
17 underwriting, joint reinsurance pools and residual market mechanisms
18 shall not be deemed an advisory organization.

19 C. Except to the extent modified by this section, joint
20 underwriting, joint reinsurance pool and residual market mechanism
21 activities are subject to the other provisions of the Property and
22 Casualty Competitive Loss Cost Rating Act.

23 D. If, after a hearing, the Commissioner finds that any
24 activity or practice of an insurer participating in joint

1 underwriting or a pool is unfair, is unreasonable, will tend to
2 lessen competition in any market or is otherwise inconsistent with
3 the provisions or purposes of the Property and Casualty Competitive
4 Loss Cost Rating Act, the Commissioner may issue a written order and
5 require the discontinuance of such activity or practice.

6 E. Every pool shall file with the Commissioner a copy of its
7 constitution, articles of incorporation, agreement or association,
8 bylaws, rules and regulations governing its activities, list of
9 members, the name and address of a resident of this state upon whom
10 notice, orders of the Commissioner, or process may be served, and
11 any changes in amendments or changes in the foregoing.

12 F. Any residual market mechanism, plan or agreement to
13 implement such a mechanism, and any changes or amendments thereto,
14 shall be submitted in writing to the Commissioner for consideration
15 and approval, together with such information as may be reasonably
16 required.

17 SECTION 19. AMENDATORY 36 O.S. 2011, Section 1250.2, is
18 amended to read as follows:

19 Section 1250.2. As used in the Unfair Claims Settlement
20 Practices Act:

21 1. "Agent" means any individual, corporation, association,
22 partnership, or other legal entity authorized to represent an
23 insurer with respect to a claim;

24

1 2. "Claimant" means either a first party claimant, a third
2 party claimant, or both, and includes such claimant's designated
3 legal representatives and includes a member of the claimant's
4 immediate family designated by the claimant;

5 3. "Commissioner" means the Insurance Commissioner;

6 4. "First-party claimant" means an individual, corporation,
7 association, partnership, or other legal entity, including a
8 subscriber under any plan providing health services, asserting a
9 right to payment pursuant to an insurance policy or insurance
10 contract for an occurrence of contingency or loss covered by such
11 policy or contract;

12 5. "Health benefit plan" means group hospital or medical
13 insurance coverage, a not-for-profit hospital or medical service or
14 indemnity plan, a prepaid health plan, a health maintenance
15 organization plan, a preferred provider organization plan, the State
16 and Education Employees Group Health Insurance Plan, and coverage
17 provided by a Multiple Employer Welfare Arrangement (MEWA) or
18 employee self-insured plan except as exempt under federal ERISA
19 provisions. The term shall not include short-term accident, fixed
20 indemnity, or specified disease policies, disability income
21 contracts, limited benefit or credit disability insurance, workers'
22 compensation insurance coverage, automobile medical payment
23 insurance, or insurance under which benefits are payable with or
24

1 without regard to fault and which is required by law to be contained
2 in any liability insurance policy or equivalent self-insurance;

3 6. "Insurance policy or insurance contract" means any contract
4 of insurance, certificate, indemnity, medical or hospital service,
5 suretyship, annuity, subscriber certificate or any evidence of
6 coverage of a health maintenance organization issued, proposed for
7 issuance, or intended for issuance by any entity subject to this
8 Code;

9 7. "Insurer" means a person licensed by the Commissioner to
10 issue or who issues any insurance policy or insurance contract in
11 this state, ~~including CompSource,~~ and also includes health
12 maintenance organizations. Provided that, for the purposes of
13 paragraphs 15 and 16 of Section 1250.5 of this title, "insurer"
14 shall include the State and Education Employees Group Insurance
15 Board;

16 8. "Investigation" means all activities of an insurer directly
17 or indirectly related to the determination of liabilities under
18 coverages afforded by an insurance policy or insurance contract;

19 9. "Notification of claim" means any notification, whether in
20 writing or other means acceptable under the terms of an insurance
21 policy or insurance contract, to an insurer or its agent, by a
22 claimant, which reasonably apprises the insurer of the facts
23 pertinent to a claim;

24

1 10. "Preauthorization/precertification" means a determination
2 by a health benefit plan, based on the information presented at the
3 time by the health care provider, that health care services proposed
4 by the health care provider are medically necessary. The term shall
5 include "authorization", "certification" and any other term that
6 would be a reliable determination by a health benefit plan. A
7 preauthorization/precertification from a previous health plan shall
8 not bind a succeeding health benefit plan;

9 11. "Third-party claimant" means any individual, corporation,
10 association, partnership, or other legal entity asserting a claim
11 against any individual, corporation, association, partnership, or
12 other legal entity insured under an insurance policy or insurance
13 contract; and

14 12. "Verification of eligibility" means a representation by a
15 health benefit plan to a health care provider that a claimant is
16 entitled to covered benefits under the policy. Such verification of
17 eligibility shall be valid for four (4) business days from the date
18 given by the health benefit plan.

19 SECTION 20. AMENDATORY 36 O.S. 2011, Section 1250.4, is
20 amended to read as follows:

21 Section 1250.4. A. An insurer's claim files, ~~other than the~~
22 ~~claim files of the State Insurance Fund,~~ shall be subject to
23 examination by the Insurance Commissioner or by duly appointed
24 designees. Such files shall contain all notes and work papers

1 pertaining to a claim in such detail that pertinent events and the
2 dates of such events can be reconstructed. In addition, the
3 Insurance Commissioner, authorized employees and examiners shall
4 have access to any of an insurer's files that may relate to a
5 particular complaint under investigation or to an inquiry or
6 examination by the Insurance Department.

7 B. Every agent, adjuster, administrator, insurance company
8 representative, or insurer, ~~other than the State Insurance Fund and~~
9 ~~its representatives,~~ upon receipt of any inquiry from the
10 Commissioner shall, within thirty (30) days from the date of the
11 inquiry, furnish the Commissioner with an adequate response to the
12 inquiry.

13 C. Every insurer, upon receipt of any pertinent written
14 communication including but not limited to e-mail or other forms of
15 written electronic communication, or documentation by the insurer of
16 a verbal communication from a claimant which reasonably suggests
17 that a response is expected, shall, within thirty (30) days after
18 receipt thereof, furnish the claimant with an adequate response to
19 the communication.

20 D. Any violation by an insurer of this section shall subject
21 the insurer to discipline including a civil penalty of not less than
22 One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
23 (\$5,000.00).
24

1 SECTION 21. AMENDATORY 36 O.S. 2011, Section 1250.9, is
2 amended to read as follows:

3 Section 1250.9. A. If the Insurance Commissioner determines,
4 based on an investigation of complaints of unfair claim settlement
5 practices, that an insurer, ~~other than the State Insurance Fund,~~ has
6 engaged in unfair claim settlement practices with such frequency as
7 to indicate a general business practice and that such insurer should
8 be subjected to closer supervision with respect to such practices,
9 the Commissioner may require the insurer to file a report at such
10 periodic intervals as the Commissioner deems necessary. The
11 Commissioner shall also devise a statistical plan for such periodic
12 reports, which shall contain but not be limited to the following
13 information:

14 1. The total number of written claims filed, including the
15 original amount filed for by the insured and the classification by
16 line of insurance of each individual written claim, for the past
17 twelve-month period or from the date of the insurer's last periodic
18 report, whichever time is shorter;

19 2. The total number of written claims denied, for the past
20 twelve-month period or from the date of the insurer's last periodic
21 report, whichever time is shorter;

22 3. The total number of written claims settled, including the
23 original amount filed for by the insured, the settled amount, and
24 the classification of line of insurance of each individual settled

1 claim, for the past twelve-month period or from the date of the
2 insurer's last periodic report, whichever time is shorter;

3 4. The total number of written claims for which lawsuits were
4 instituted against the insurer, including the original amount of the
5 claim filed for by the insured, the amount of final adjudication,
6 the reason for the lawsuit and the classification by line of
7 insurance of each individual written claim, for the past twelve-
8 month period or from the date of the insurer's last periodic report,
9 whichever time is shorter; and

10 5. All information required by paragraph 12 of Section 1250.5
11 of this title.

12 B. For the purposes of this section, "written claims" means
13 those claims reduced to writing and filed by a resident of this
14 state with an insurer.

15 SECTION 22. AMENDATORY 36 O.S. 2011, Section 1250.10, is
16 amended to read as follows:

17 Section 1250.10. A. The Insurance Commissioner may hire
18 additional employees and examiners as needed for the enforcement of
19 the provisions of the Unfair Claims Settlement Practices Act.

20 B. The Commissioner shall compile the information received from
21 an insurer pursuant to Section 1250.9 of this title in such a manner
22 as to enable him to compare it to a minimum standard of performance
23 which shall be promulgated by the Commissioner. If the
24 Commissioner, after such comparison is made, finds that the insurer

1 falls below the minimum standard of performance, he shall cause an
2 investigation to be made of said insurer as to the reason, if any,
3 for the substandard performance.

4 C. The Commissioner shall also provide for the receiving and
5 processing of individual complaints alleging violations of the
6 Unfair Claims Settlement Practices Act by both insurers who are
7 required to make periodic reports and those who are not required to
8 make such reports, ~~but not by the State Insurance Fund.~~ If the
9 Commissioner in his complaint experience determines that the number
10 and type of complaints against an insurer, ~~other than the State~~
11 ~~Insurance Fund,~~ do not meet the minimum standard of performance or
12 are out of proportion to those against other insurers writing
13 similar lines of insurance, the Commissioner shall cause an
14 investigation to be made of the insurer.

15 SECTION 23. AMENDATORY 36 O.S. 2011, Section 1250.11, is
16 amended to read as follows:

17 Section 1250.11. ~~A.~~ Upon the receipt of the results of an
18 investigation instituted pursuant to the provisions of Section
19 1250.10 of this title, the Insurance Commissioner shall review the
20 results and shall determine whether, by the standards set out in
21 Sections 1250.3 and 1250.5 of this title, further action is
22 required. If the Insurance Commissioner deems further action
23 necessary, the Commissioner shall issue and serve upon the insurer a
24 statement of the charges and a notice in accordance with the

1 Administrative Procedures Act. No insurer shall be deemed in
2 violation of the Unfair Claims Settlement Practices Act solely by
3 reason of the numbers and types of such complaints or claims.

4 ~~B. The Insurance Commissioner shall not assert enforcement~~
5 ~~jurisdiction pursuant to this section over the State Insurance Fund.~~

6 SECTION 24. AMENDATORY 36 O.S. 2011, Section 1250.13, is
7 amended to read as follows:

8 Section 1250.13. A. The Insurance Commissioner, upon finding
9 an insurer, ~~other than the State Insurance Fund,~~ in violation of any
10 provision of the Unfair Claims Settlement Practices Act, shall issue
11 a cease and desist order to said insurer directing it to stop such
12 unlawful practices. If the insurer refuses or fails to comply with
13 said order, the Commissioner shall have the authority to revoke or
14 suspend the insurer's certificate of authority. The Commissioner
15 shall also have the authority to limit, regulate, and control the
16 insurer's line of business, the insurer's writing of policy forms or
17 other particular forms, and the insurer's volume of its line of
18 business or its writing of policy forms or other particular forms.
19 The Commissioner shall use the above authority to the extent deemed
20 necessary to obtain the insurer's compliance with the order. The
21 Attorney General shall offer his assistance if requested by the
22 Commissioner to enforce the Commissioner's orders.

23 B. Reasonable ~~attorneys~~ attorney fees shall be awarded the
24 Commissioner if judicial action is necessary for the enforcement of

1 the orders. Such fees shall be based upon those prevailing in the
2 community. Fees collected by the Commissioner without the
3 assistance of the Attorney General shall be credited to the
4 Insurance Commissioner's Revolving Fund. Fees collected by the
5 Attorney General shall be credited to the Attorney General's
6 Revolving Fund.

7 SECTION 25. AMENDATORY 36 O.S. 2011, Section 1250.14, is
8 amended to read as follows:

9 Section 1250.14. For any violation of the Unfair Claims
10 Settlement Practices Act, the Insurance Commissioner may, after
11 notice and hearing, subject an insurer, ~~other than the State~~
12 ~~Insurance Fund,~~ to a civil penalty of not less than One Hundred
13 Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)
14 for each occurrence. Such civil penalty may be enforced in the same
15 manner in which civil judgments may be enforced.

16 SECTION 26. AMENDATORY 36 O.S. 2011, Section 1442, is
17 amended to read as follows:

18 Section 1442. As used in the Third-party Administrator Act,
19 Section 1441 et seq. of this title:

20 1. "Administrator" means any person who collects premiums for
21 an insurer or trust or who adjusts or settles claims for an insurer
22 or trust, in connection with life or health insurance coverage,
23 annuities or employee benefit stop loss in this state, but shall not
24

1 include any person who collects premiums or who adjusts or settles
2 claims under the following circumstances:

- 3 a. any employer on behalf of the employees of that
4 employer or the employees of one or more subsidiary or
5 affiliated corporations of that employer,
- 6 b. a union on behalf of its members,
- 7 c. an insurance company which is licensed to transact
8 insurance business in this state,
- 9 d. a wholly owned subsidiary of an entity which is
10 subject to the jurisdiction of the Insurance
11 Commissioner,
- 12 e. an insurance company acting as an insurer with respect
13 to a policy lawfully issued and delivered by said
14 company in and pursuant to the laws of this state,
- 15 f. a hospital, medical, dental, or optometric service
16 corporation or a health care service organization,
17 including their agents, authorized by the Commissioner
18 to issue contracts in this state pursuant to the
19 provisions of the Oklahoma Insurance Code when engaged
20 in the performance of their duties,
- 21 g. a life or disability agent or broker who is licensed
22 in this state and whose activities are limited
23 exclusively to the sale of insurance,

- 1 h. an adjuster licensed in this state for the kinds of
2 business for which he is acting as an adjuster,
3 i. a creditor insuring a debt between the creditor and
4 its debtors on behalf of said creditor's debtors,
5 j. a financial institution which is subject to
6 supervision or examination by federal or state banking
7 authorities,
8 k. a company which issues credit cards and advances
9 credit for and collects premiums or charges from its
10 credit card holders who have authorized said
11 collection, if the company does not adjust or settle
12 claims,
13 l. a person who adjusts or settles claims in the normal
14 course of practice or employment as an attorney-at-law
15 and who does not collect charges or premiums in
16 connection with life or health insurance coverage or
17 annuities,
18 m. ~~the State Insurance Fund,~~
19 ~~n.~~ any workers' compensation trust, or
20 ~~e.~~ n. a trust providing benefits to the employees of any
21 political subdivision of a city, county or the state;
22 and
23
24

1 2. "Trust" means any trust other than those exempted in
2 paragraph 1 of this section which engages in the business of making
3 contracts of insurance.

4 SECTION 27. AMENDATORY 36 O.S. 2011, Section 6701, is
5 amended to read as follows:

6 Section 6701. A. 1. ~~By January 1, 1996, each~~ Each insurance
7 company that provides workers' compensation insurance or an
8 equivalent insurance product in this state shall maintain or provide
9 workplace safety services for its policyholders as a condition for
10 approval by the Insurance Commissioner to write such insurance.
11 Such services shall be adequate to implement workplace safety plans
12 as required by the nature of its policyholders' operations and shall
13 include but not be limited to surveys, recommendations, training
14 programs, consultations, analyses of accident causes, industrial
15 hygiene, and industrial health services.

16 ~~2. The State Insurance Fund shall maintain or provide workplace~~
17 ~~safety services for its policyholders. Such safety services shall~~
18 ~~be adequate to implement workplace safety plans as required by the~~
19 ~~nature of its policyholders' operations and shall include but not be~~
20 ~~limited to surveys, recommendations, training programs,~~
21 ~~consultations, analyses of accident causes, industrial hygiene, and~~
22 ~~industrial health services.~~

23 B. Notice that workplace safety services are available to the
24 policyholder from the insurance company ~~and the State Insurance Fund~~

1 must appear in no less than ~~ten (10) point~~ ten-point bold type on
2 the front of each workers' compensation insurance or equivalent
3 insurance policy delivered or issued for delivery in this state.

4 SECTION 28. AMENDATORY 40 O.S. 2011, Section 417, is
5 amended to read as follows:

6 Section 417. (1) To assure the availability of accurate,
7 timely statistical data concerning occupational health and safety in
8 Oklahoma, all employers as defined in Section 402 of this title
9 shall submit reports, on a form and in a manner prescribed by the
10 Commissioner of Labor. Reports shall include only those injuries
11 arising from employment within the State of Oklahoma.

12 (2) The Department may exempt from this requirement those
13 classes of employers for whose operations adequate records of safety
14 experience are already available or the Department may exempt any
15 employer from this requirement when, in the judgment of the
16 Commissioner, the submission of annual reports by such employer is
17 not necessary to carry out the purposes of this act and would be an
18 undue burden upon such employer because of size, the nature of its
19 operation or other special circumstances.

20 (3) The Department shall publish each year a detailed summary
21 of the statistical data received from employers. A copy of such
22 summary shall be available on request to each reporting
23 establishment required to file reports of disabling work injuries
24

1 and shall be made available to anyone having a legitimate interest
2 in the subject matter of the report.

3 ~~(4) Upon publication of the annual summary, the Commissioner of~~
4 ~~Labor shall provide to the CompSource Oklahoma President and Chief~~
5 ~~Executive Officer, upon request, the reports of each employer~~
6 ~~subject to the provisions of this section, and any derivation,~~
7 ~~tables or analysis generated by the Department of Labor in the~~
8 ~~preparation of such summary.~~

9 SECTION 29. AMENDATORY 40 O.S. 2011, Section 418, is
10 amended to read as follows:

11 Section 418. (1) Each insurance carrier writing workers'
12 compensation insurance in this state, ~~the State Insurance Fund~~ and
13 each self-insured employer authorized to make workers' compensation
14 payments directly to employees shall pay to the Oklahoma Tax
15 Commission up to a sum equal to three-fourths of one percent (3/4 of
16 1%) of the total workers' compensation losses, excluding medical
17 payments and temporary total disability compensation, based on the
18 records of the Workers' Compensation Court, paid out or payable
19 during each quarter-year period of the calendar year, said
20 percentage to be fixed by the Commissioner and based upon his
21 certification that the proceeds thereof are reasonable and necessary
22 to accomplish the objectives of Section 401 et seq. of this title.
23 Such payments to the Oklahoma Tax Commission shall be made not later
24 than the fifteenth day of the month following the close of the

1 quarter-year in which compensation is paid or becomes payable.
2 Payments made, under the provisions of this section, shall be
3 considered losses for the purpose of computing workers' compensation
4 rates.

5 (2) The refund provisions of Sections 227 through 229 of Title
6 68 of the Oklahoma Statutes, ~~Sections 227 through 229~~, shall be
7 applicable to any payments made under the provisions of this act.

8 (3) In making and entering awards for compensation, the
9 Workers' Compensation Court shall determine and fix the amounts that
10 shall be paid to the Oklahoma Tax Commission under the provisions of
11 this section. The total amount so determined and fixed shall have
12 the same force and effect as an award of the Workers' Compensation
13 Court for compensation and all provisions relating to the collection
14 of awards of said court shall apply to such judgments.

15 (4) It shall be the duty of the Oklahoma Tax Commission to
16 collect the payments provided for herein, and said Commission is
17 hereby given authority to bring an action for the recovery of any
18 delinquent and unpaid payment or payments. In the alternative, the
19 Oklahoma Tax Commission may enforce payments by proceeding in
20 accordance with the provisions of Section ~~42~~ 346 of Title 85 of the
21 Oklahoma Statutes.

22 (5) The Oklahoma Tax Commission shall, monthly, as the same are
23 collected, pay to the State Treasurer of this state, to the credit
24 of the Special Occupational Health and Safety Fund, all monies

1 collected under the provisions of this section. Monies shall be
2 paid out of said Fund exclusively for the operation and
3 administration of Section 401 et seq. of this title and for other
4 necessary expenses of the Department of Labor pursuant to
5 appropriations by the Oklahoma Legislature.

6 (6) The Commissioner shall determine the needs of the program,
7 considering statistical data on disabling work injuries, depth and
8 scope of the program as evidenced by the needs and demands of
9 employers and the present, planned and anticipated budgetary needs
10 of the program, and submit same to the Legislature.

11 SECTION 30. AMENDATORY 47 O.S. 2011, Section 157.1, is
12 amended to read as follows:

13 Section 157.1. The Department of Transportation, the Board of
14 Agriculture, and the Department of Human Services of the state are
15 hereby authorized to carry insurance on vehicles, motorized
16 machinery, or equipment owned and operated by the Department of
17 Transportation, the Board of Agriculture, and the Department of
18 Human Services, such insurance to be of the following kinds and in
19 amounts not exceeding the following:

20 ~~(a) bodily~~ 1. Bodily injury liability, One Hundred Thousand
21 Dollars (\$100,000.00) each person, Three Hundred Thousand Dollars
22 (\$300,000.00) each accident;

23 ~~(b) property~~ 2. Property damage liability, Fifty Thousand
24 Dollars (\$50,000.00) each accident; and

1 ~~(c) medical~~ 3. Medical and hospital insurance, Five Thousand
2 Dollars (\$5,000.00).

3 Such insurance shall be on standard policy forms approved by the
4 State Insurance Commissioner and with companies authorized to do
5 business in Oklahoma, and shall be paid for out of administrative
6 funds of such departments. Such insurance may cover not only the
7 department or state agency purchasing the insurance but also the
8 personal liability of the operator. The ownership, maintenance,
9 operation and use of motor vehicles and motorized movable equipment
10 owned, leased, used or operated by such departments or state
11 agencies named in this section is hereby declared to be a public
12 governmental function. An action for damages may be brought against
13 such department or state agency, but the governmental immunity of
14 such department or state agency shall be waived only to the extent
15 of the amount of insurance purchased. Such department or state
16 agency shall be liable for negligence only while such insurance is
17 in force, but in no case in any amount exceeding the limits of
18 coverage of any such insurance policy. No attempt shall be made in
19 the trial of any action brought against any such department or state
20 agency to suggest the existence of any insurance which covers in
21 whole or in part any judgment or award which may be rendered in
22 favor of the plaintiff, and if the verdict rendered by the jury
23 exceeds the limits of the applicable insurance, the court shall
24 reduce the amount of said judgment or award to a sum equal to the

1 applicable limits stated in the policy. To the extent that the
2 insurer has provided indemnity in the contract of insurance to a
3 department or state agency described in this section, the said
4 insurer may not plead as a defense in any action involving insurance
5 purchased by the authority of this section, the governmental
6 immunity of either the state or of any department or agency thereof
7 purchasing insurance pursuant to this section. Venue of all actions
8 provided for herein shall be in the county of the residence of the
9 plaintiff or where the cause of action arose, but summons may be
10 served upon the director, head or governing board or body of the
11 department or state agency being sued and alleged to come within the
12 purview of this section, wherever ~~he~~ that person may be found. ~~If~~
13 ~~the State Insurance Fund is hereafter authorized to write such~~
14 ~~insurance, then the Department of Transportation, the Board of~~
15 ~~Agriculture, and the Department of Human Services shall obtain the~~
16 ~~insurance from the State Insurance Fund, if said State Insurance~~
17 ~~Fund is the lowest bid, after taking into account the premium tax~~
18 ~~being paid by any other bidder.~~ Such policies shall be filed in the
19 office of the Secretary of State as a public record.

20 SECTION 31. AMENDATORY 74 O.S. 2011, Section 85.29, as
21 amended by Section 750, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2012, Section 85.29), is amended to read as follows:
23
24

1 Section 85.29. The amount of surety required for each state
2 officer or employee pursuant to Sections 85.26 through 85.31 of this
3 title is as follows:

4 DEPARTMENT	AMOUNT OF BOND
5 Office of the State Treasurer	\$300,000.00
6 Oklahoma Employment Security	
7 Commission	\$150,000.00
8 Central Services Division of the	
9 Office of Management and Enterprise	
10 Services	100,000.00
11 Insurance Commission	100,000.00
12 Office of the State Auditor and	
13 Inspector	50,000.00
14 Finance Division of the Office of	
15 Management and Enterprise Services	50,000.00
16 Bank Commissioner	50,000.00
17 CompSource Oklahoma President and	
18 Chief Executive Officer	50,000.00
19 Commissioners of the Land Office	50,000.00
20 Oklahoma Securities Commission	50,000.00
21 Oklahoma Tax Commission	50,000.00
22 Department of Human Services	50,000.00
23 Oklahoma Public Employees Retirement	
24 System	50,000.00

1	Corporation Commission	50,000.00
2	State Board of Education	50,000.00
3	Finance Division	150,000.00
4	All Others	25,000.00
5	Department of Transportation	25,000.00
6	Boards of Regents of Oklahoma	
7	Universities and Colleges	50,000.00
8	Office of Attorney General	10,000.00
9	The University Hospitals	50,000.00
10	All Other State Departments, Agencies,	
11	Institutions, Commissions,	
12	Authorities, and other bodies of	
13	state government	10,000.00

14 Provided, however, that nothing in The Oklahoma Central
15 Purchasing Act shall prohibit any head of a department, institution,
16 agency, commission, authority or other body of state government from
17 requiring the Central Purchasing Division to purchase increased
18 amounts of blanket bond coverage for his or her employees up to a
19 total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when
20 the listed amount is deemed inadequate. The cost of increased
21 coverage shall be borne by the department, institution, agency,
22 commission, authority or other body of state government requesting
23 the increased coverage.

24

1 SECTION 32. AMENDATORY 74 O.S. 2011, Section 85.58A, as
2 amended by Section 782, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2012, Section 85.58A), is amended to read as follows:

4 Section 85.58A. A. The Office of Management and Enterprise
5 Services shall establish for all state agencies, whether or not
6 subject to The Central Purchasing Act, and other entities as
7 provided by law a comprehensive professional risk management program
8 which shall:

9 1. Identify and evaluate risks of loss and exposures to loss to
10 officers, employees and properties;

11 2. Minimize risks through loss-prevention and loss-control
12 programs;

13 3. Transfer risks, if economically advantageous to the state,
14 by acquiring commercial insurance, contractual pass through of
15 liability, or by other means;

16 4. Consolidate and administer risk management plans and
17 programs including self-insurance programs, except Workers'
18 Compensation Insurance and State Employees Group Insurance;

19 5. Determine feasibility of and, if feasible, establish self-
20 insurance programs, considering whether a program may be self-
21 supporting to remain financially and actuarially sound;

22 6. Provide a system to allocate insurance and program costs to
23 determine payment for insurance coverage and program expenses
24 provided by the Office of Management and Enterprise Services;

1 7. When requested by a state retirement system, ~~CompSource~~
2 ~~Oklahoma~~ or the State and Education Employees Group Insurance Board,
3 assist in obtaining insurance authorized by law. If requested by
4 the Oklahoma State Regents for Higher Education, assist trust funds
5 for which the State Regents serve as trustees in obtaining insurance
6 authorized by law;

7 8. Assist state agencies and officers, employees, and members
8 thereof, charged with licensing authority, in obtaining insurance
9 for liability for judgments, based on the licensing authority,
10 rendered by any court pursuant to federal law;

11 9. When requested by a public trust established pursuant to
12 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
13 the beneficiary, obtain, provide or assist the public trust in
14 obtaining insurance authorized by law or trust indenture covering
15 any board member, trustee, official, officer, employee or volunteer
16 for errors and omissions or liability risks arising from the
17 performance of official duties pursuant to law or trust indenture;
18 and

19 10. When requested by the Oklahoma State Regents for Higher
20 Education, for the purpose of insuring real property required
21 pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of
22 which the Oklahoma State Regents for Higher Education is the
23 beneficiary, obtain, provide or assist the Oklahoma State Regents
24

1 for Higher Education in obtaining insurance for the real property
2 pursuant to the provisions of this section.

3 B. The Director of the Office of Management and Enterprise
4 Services may hire or contract for the services of a Risk Management
5 Administrator to supervise the Comprehensive Professional Risk
6 Management Program established pursuant to this section. If
7 appointed by the Director as a state employee, the Risk Management
8 Administrator shall be in the unclassified service.

9 C. The Risk Management Administrator shall evaluate insurance
10 coverage needs and in force for state agencies, whether or not
11 subject to The Central Purchasing Act, and other entities as
12 provided by law. All entities shall submit to the Risk Management
13 Administrator all information which the Risk Management
14 Administrator deems necessary to perform this duty.

15 D. The Risk Management Administrator in conjunction with the
16 State Purchasing Director under the authority of the Director of the
17 Office of Management and Enterprise Services may negotiate insurance
18 coverage and insurance-related services, including, but not limited
19 to, insurance brokerage and consulting services. The State
20 Purchasing Director shall ensure open processes for solicitation and
21 qualification of insurance coverage and services providers. The
22 State Purchasing Director shall award contracts for insurance
23 coverage and services to the provider or providers which offer the
24 best and final terms and conditions. The State Purchasing Director

1 may authorize the Risk Management Administrator to bind for
2 insurance coverage with providers.

3 E. The school districts of this state may request the Risk
4 Management Administrator to advise for the purchase of insurance
5 coverage for the school districts.

6 F. A state agency, whether or not subject to The Central
7 Purchasing Act, that contemplates purchase of property and casualty
8 insurance, shall provide details of the proposed purchase to the
9 Risk Management Administrator for approval or disapproval prior to
10 the purchase.

11 G. The Director of the Office of Management and Enterprise
12 Services shall promulgate rules to effect the provisions of the
13 comprehensive professional risk management program.

14 H. 1. a. Any community action agency established pursuant to
15 Sections 5035 through 5040 of this title may
16 participate in the comprehensive professional risk
17 management program established pursuant to this
18 section for risks incurred as a result of operating a
19 Head Start program or providing transportation
20 services to the public. The Risk Management
21 Administrator shall obtain or provide for insurance
22 coverage for such community action agencies or bonding
23 for employees of such community action agencies. Any
24 liability insurance coverage obtained or provided

1 shall include expenses for administrative and legal
2 services obtained or provided by the Risk Management
3 Administrator.

4 b. The Risk Management Administrator shall determine
5 criteria for participation in the risk management
6 program by such community action agencies. In
7 addition, the Risk Management Administrator may
8 require each such community action agency to:

9 (1) provide adequate qualified personnel and suitable
10 facilities and equipment for operating a Head
11 Start program or providing transportation
12 services to the public, and

13 (2) comply with such standards as are necessary for
14 the protection of the clients it serves.

15 2. To receive coverage pursuant to this section, a community
16 action agency shall make payments for any insurance coverage and
17 shall otherwise comply with the provisions of this section and rules
18 promulgated by the Office pursuant to the provisions of this
19 section.

20 3. Requests for the insurance coverage provided pursuant to the
21 provisions of this subsection shall be submitted in writing to the
22 Risk Management Administrator by the community action agencies.

23 I. The Risk Management Administrator may provide or obtain for
24 any state agency, public trust with the state as a beneficiary and a

1 director, officer, employee or member thereof, insurance for
2 liability for loss, including judgments, awards, settlements, costs
3 and legal expenses, resulting from violations of rights or
4 privileges secured by the Constitution or laws of the United States
5 of America which occur while a director, officer, employee or member
6 is acting within the scope of service to the State of Oklahoma. The
7 insurance shall be for coverage in excess of the limits on liability
8 established by The Governmental Tort Claims Act but shall not limit
9 or waive any immunities now or hereafter available to the State of
10 Oklahoma or any state agency, any public trust with the state as a
11 beneficiary, or any director, officer, employee or member thereof,
12 including, but not limited to, any immunities under the Eleventh
13 Amendment to the Constitution of the United States, state sovereign
14 immunity, and any absolute or qualified immunity held by any
15 director, officer, employee or member.

16 SECTION 33. AMENDATORY 74 O.S. 2011, Section 902, is
17 amended to read as follows:

18 Section 902. As used in Section 901 et seq. of this title:

19 (1) "System" means the Oklahoma Public Employees Retirement
20 System as established by this act and as it may hereafter be
21 amended;

22 (2) "Accumulated contributions" means the sum of all
23 contributions by a member to the System which shall be credited to
24 the member's account;

1 (3) "Act" means Sections 901 to 932, inclusive, of this title;

2 (4) "Actuarial equivalent" means a deferred income benefit of
3 equal value to the accumulated deposits or benefits when computed
4 upon the basis of the actuarial tables in use by the System;

5 (5) "Actuarial tables" means the actuarial tables approved and
6 in use by the Board at any given time;

7 (6) "Actuary" means the actuary or firm of actuaries employed
8 by the Board at any given time;

9 (7) "Beneficiary" means any person named by a member to receive
10 any benefits as provided for by Section 901 et seq. of this title.
11 If there is no beneficiary living at time of member employee's
12 death, the member's estate shall be the beneficiary;

13 (8) "Board" means the Oklahoma Public Employees Retirement
14 System Board of Trustees;

15 (9) "Compensation" means all salary and wages, as defined by
16 the Board of Trustees, including amounts deferred under deferred
17 compensation agreements entered into between a member and a
18 participating employer, but exclusive of payment for overtime,
19 payable to a member of the System for personal services performed
20 for a participating employer but shall not include compensation or
21 reimbursement for traveling, or moving expenses, or any compensation
22 in excess of the maximum compensation level, provided:

1 (a) For compensation for service prior to January 1, 1988,
2 the maximum compensation level shall be Twenty-five
3 Thousand Dollars (\$25,000.00) per annum.

4 For compensation for service on or after January 1,
5 1988, through June 30, 1994, the maximum compensation
6 level shall be Forty Thousand Dollars (\$40,000.00) per
7 annum.

8 For compensation for service on or after July 1, 1994,
9 through June 30, 1995, the maximum compensation level
10 shall be Fifty Thousand Dollars (\$50,000.00) per
11 annum; for compensation for service on or after July
12 1, 1995, through June 30, 1996, the maximum

13 compensation level shall be Sixty Thousand Dollars
14 (\$60,000.00) per annum; for compensation for service

15 on or after July 1, 1996, through June 30, 1997, the
16 maximum compensation level shall be Seventy Thousand

17 Dollars (\$70,000.00) per annum; and for compensation

18 for service on or after July 1, 1997, through June 30,
19 1998, the maximum compensation level shall be Eighty

20 Thousand Dollars (\$80,000.00) per annum. For

21 compensation for services on or after July 1, 1998,

22 there shall be no maximum compensation level for

23 retirement purposes.
24

1 (b) Compensation for retirement purposes shall include any
2 amount of elective salary reduction under Section 457
3 of the Internal Revenue Code of 1986 and any amount of
4 nonelective salary reduction under Section 414(h) of
5 the Internal Revenue Code of 1986.

6 (c) Notwithstanding any provision to the contrary, the
7 compensation taken into account for any employee in
8 determining the contribution or benefit accruals for
9 any plan year is limited to the annual compensation
10 limit under Section 401(a)(17) of the federal Internal
11 Revenue Code.

12 (d) Current appointed members of the Oklahoma Tax
13 Commission whose salary is constitutionally limited
14 and is less than the highest salary allowed by law for
15 his or her position shall be allowed, within ninety
16 (90) days from the effective date of this act, to make
17 an election to use the highest salary allowed by law
18 for the position to which the member was appointed for
19 the purposes of making contributions and determination
20 of retirement benefits. Such election shall be
21 irrevocable and be in writing. Reappointment to the
22 same office shall not permit a new election. Members
23 appointed to the Oklahoma Tax Commission after the
24 effective date of this act shall make such election,

1 pursuant to this subparagraph, within ninety (90) days
2 of taking office;

3 (10) "Credited service" means the sum of participating service,
4 prior service and elected service;

5 (11) "Dependent" means a parent, child, or spouse of a member
6 who is dependent upon the member for at least one-half (1/2) of the
7 member's support;

8 (12) "Effective date" means the date upon which the System
9 becomes effective by operation of law;

10 (13) "Eligible employer" means the state and any county, county
11 hospital, city or town, conservation districts, circuit engineering
12 districts and any public or private trust in which a county, city or
13 town participates and is the primary beneficiary, is to be an
14 eligible employer for the purpose of this act only, whose employees
15 are covered by Social Security and are not covered by or eligible
16 for another retirement plan authorized under the laws of this state
17 which is in operation on the initial entry date. Emergency medical
18 service districts may join the System upon proper application to the
19 Board. Provided affiliation by a county hospital shall be in the
20 form of a resolution adopted by the board of control.

21 (a) If a class or several classes of employees of any
22 above-defined employers are covered by Social Security
23 and are not covered by or eligible for and will not
24 become eligible for another retirement plan authorized

1 under the laws of this state, which is in operation on
2 the effective date, such employer shall be deemed an
3 eligible employer, but only with respect to that class
4 or those classes of employees as defined in this
5 section.

6 (b) A class or several classes of employees who are
7 covered by Social Security and are not covered by or
8 eligible for and will not become eligible for another
9 retirement plan authorized under the laws of this
10 state, which is in operation on the effective date,
11 and when the qualifications for employment in such
12 class or classes are set by state law; and when such
13 class or classes of employees are employed by a county
14 or municipal government pursuant to such
15 qualifications; and when the services provided by such
16 employees are of such nature that they qualify for
17 matching by or contributions from state or federal
18 funds administered by an agency of state government
19 which qualifies as a participating employer, then the
20 agency of state government administering the state or
21 federal funds shall be deemed an eligible employer,
22 but only with respect to that class or those classes
23 of employees as defined in this subsection; provided,
24 that the required contributions to the retirement plan

1 may be withheld from the contributions of state or
2 federal funds administered by the state agency and
3 transmitted to the System on the same basis as the
4 employee and employer contributions are transmitted
5 for the direct employees of the state agency. The
6 retirement or eligibility for retirement under the
7 provisions of law providing pensions for service as a
8 volunteer firefighter shall not render any person
9 ineligible for participation in the benefits provided
10 for in Section 901 et seq. of this title. An employee
11 of any public or private trust in which a county, city
12 or town participates and is the primary beneficiary
13 shall be deemed to be an eligible employee for the
14 purpose of this act only.

15 (c) All employees of the George Nigh Rehabilitation
16 Institute who elected to retain membership in the
17 System, pursuant to Section 913.7 of this title, shall
18 continue to be eligible employees for the purposes of
19 this act. The George Nigh Rehabilitation Institute
20 shall be considered a participating employer only for
21 such employees.

22 (d) All employees of CompSource Mutual Insurance Company
23 who retain membership in the Oklahoma Public Employees
24 Retirement System pursuant to Section 14 of this act

1 shall continue to be eligible employees for the
2 purposes of the Oklahoma Public Employees Retirement
3 System. CompSource Mutual Insurance Company shall be
4 considered a participating employer only for such
5 employees.

6 (e) A participating employer of the Teachers' Retirement
7 System of Oklahoma, who has one or more employees who
8 have made an election pursuant to enabling legislation
9 to retain membership in the System as a result of
10 change in administration, shall be considered a
11 participating employer of the Oklahoma Public
12 Employees Retirement System only for such employees;

13 (14) "Employee" means any officer or employee of a
14 participating employer, whose employment is not seasonal or
15 temporary and whose employment requires at least one thousand
16 (1,000) hours of work per year and whose salary or wage is equal to
17 the hourly rate of the monthly minimum wage for state employees.
18 For those eligible employers outlined in Section 910 of this title,
19 the rate shall be equal to the hourly rate of the monthly minimum
20 wage for that employer. Each employer, whose minimum wage is less
21 than the state's minimum wage, shall inform the System of the
22 minimum wage for that employer. This notification shall be by
23 resolution of the governing body.

1 (a) Any employee of the county extension agents who is not
2 currently participating in the Teachers' Retirement
3 System of Oklahoma shall be a member of this System.

4 (b) Eligibility shall not include any employee who is a
5 contributing member of the United States Civil Service
6 Retirement System.

7 (c) It shall be mandatory for an officer, appointee or
8 employee of the office of district attorney to become
9 a member of this System if he or she is not currently
10 participating in a county retirement system. Provided
11 further, that if an officer, appointee or employee of
12 the office of district attorney is currently
13 participating in such county retirement system, he or
14 she is ineligible for this System as long as he or she
15 is eligible for such county retirement system. Any
16 eligible officer, appointee or employee of the office
17 of district attorney shall be given credit for prior
18 service as defined in this section. The provisions
19 outlined in Section 917 of this title shall apply to
20 those employees who have previously withdrawn their
21 contributions.

22 (d) Eligibility shall also not include any officer or
23 employee of the Oklahoma Employment Security
24 Commission, except for those officers and employees of

1 the Commission electing to transfer to this System
2 pursuant to the provisions of Section 910.1 of this
3 title or any other class of officers or employees
4 specifically exempted by the laws of this state,
5 unless there be a consolidation as provided by Section
6 912 of this title. Employees of the Oklahoma
7 Employment Security Commission who are ineligible for
8 enrollment in the Employment Security Commission
9 Retirement Plan, that was in effect on January 1,
10 1964, shall become members of this System.

11 (e) Any employee employed by the Legislative Service
12 Bureau, State Senate or House of Representatives for
13 the full duration of a regular legislative session
14 shall be eligible for membership in the System
15 regardless of classification as a temporary employee
16 and may participate in the System during the regular
17 legislative session at the option of the employee.
18 For purposes of this subparagraph, the determination
19 of whether an employee is employed for the full
20 duration of a regular legislative session shall be
21 made by the Legislative Service Bureau if such
22 employee is employed by the Legislative Service
23 Bureau, the State Senate if such employee is employed
24 by the State Senate, or by the House of

1 Representatives if such employee is employed by the
2 House of Representatives. Each regular legislative
3 session during which the legislative employee or an
4 employee of the Legislative Service Bureau
5 participates full time shall be counted as six (6)
6 months of full-time participating service.

7 (i) Except as otherwise provided by this
8 subparagraph, once a temporary session employee
9 makes a choice to participate or not, the choice
10 shall be binding for all future legislative
11 sessions during which the employee is employed.

12 (ii) Notwithstanding the provisions of division (i) of
13 this subparagraph, any employee, who is eligible
14 for membership in the System because of the
15 provisions of this subparagraph and who was
16 employed by the State Senate or House of
17 Representatives after January 1, 1989, may file
18 an election, in a manner specified by the Board,
19 to participate as a member of the System prior to
20 September 1, 1989.

21 (iii) Notwithstanding the provisions of division (i) of
22 this subparagraph, a temporary legislative
23 session employee who elected to become a member
24 of the System may withdraw from the System

1 effective the day said employee elected to
2 participate in the System upon written request to
3 the Board. Any such request must be received by
4 the Board prior to October 1, 1990. All employee
5 contributions made by the temporary legislative
6 session employee shall be returned to the
7 employee without interest within four (4) months
8 of receipt of the written request.

9 (iv) A member of the System who did not initially
10 elect to participate as a member of the System
11 pursuant to subparagraph (e) of this paragraph
12 shall be able to acquire service performed as a
13 temporary legislative session employee for
14 periods of service performed prior to the date
15 upon which the person became a member of the
16 System if:

- 17 a. the member files an election with the System
18 not later than December 31, 2000, to
19 purchase the prior service; and
20 b. the member makes payment to the System of
21 the actuarial cost of the service credit
22 pursuant to subsection A of Section 913.5 of
23 this title. The provisions of Section 913.5
24 of this title shall be applicable to the

1 purchase of the service credit, including
2 the provisions for determining service
3 credit in the event of incomplete payment
4 due to cessation of payments, death,
5 termination of employment or retirement, but
6 the payment may extend for a period not to
7 exceed ninety-six (96) months;

8 (15) "Entry date" means the date on which an eligible employer
9 joins the System. The first entry date pursuant to Section 901 et
10 seq. of this title shall be January 1, 1964;

11 (16) "Executive Director" means the managing officer of the
12 System employed by the Board under Section 901 et seq. of this
13 title;

14 (17) "Federal Internal Revenue Code" means the federal Internal
15 Revenue Code of 1954 or 1986, as amended and as applicable to a
16 governmental plan as in effect on July 1, 1999;

17 (18) "Final average compensation" means the average annual
18 compensation, including amounts deferred under deferred compensation
19 agreements entered into between a member and a participating
20 employer, up to, but not exceeding the maximum compensation levels
21 as provided in paragraph (9) of this section received during the
22 highest three (3) of the last ten (10) years of participating
23 service immediately preceding retirement or termination of
24 employment. Provided, no member shall retire with a final average

1 compensation unless the member has made the required contributions
2 on such compensation, as defined by the Board of Trustees;

3 (19) "Fiscal year" means the period commencing July 1 of any
4 year and ending June 30 of the next year. The fiscal year is the
5 plan year for purposes of the federal Internal Revenue Code;
6 however, the calendar year is the limitation year for purposes of
7 Section 415 of the federal Internal Revenue Code;

8 (20) "Fund" means the Oklahoma Public Employees Retirement Fund
9 as created by Section 901 et seq. of this title;

10 (21) "Leave of absence" means a period of absence from
11 employment without pay, authorized and approved by the employer and
12 acknowledged to the Board, and which after the effective date does
13 not exceed two (2) years;

14 (22) "Member" means an eligible employee or elected official
15 who is in the System and is making the required employee or elected
16 official contributions, or any former employee or elected official
17 who shall have made the required contributions to the System and
18 shall have not received a refund or withdrawal;

19 (23) "Military service" means service in the Armed Forces of
20 the United States by an honorably discharged person during the
21 following time periods, as reflected on such person's Defense
22 Department Form 214, not to exceed five (5) years for combined
23 participating and/or prior service, as follows:

24

1 (a) during the following periods, including the beginning
2 and ending dates, and only for the periods served,
3 from:

4 (i) April 6, 1917, to November 11, 1918, commonly
5 referred to as World War I,

6 (ii) September 16, 1940, to December 7, 1941, as a
7 member of the 45th Division,

8 (iii) December 7, 1941, to December 31, 1946, commonly
9 referred to as World War II,

10 (iv) June 27, 1950, to January 31, 1955, commonly
11 referred to as the Korean Conflict or the Korean
12 War,

13 (v) February 28, 1961, to May 7, 1975, commonly
14 referred to as the Vietnam era, except that:

15 a. for the period from February 28, 1961, to
16 August 4, 1964, military service shall only
17 include service in the Republic of Vietnam
18 during that period, and

19 b. for purposes of determining eligibility for
20 education and training benefits, such period
21 shall end on December 31, 1976, or

22 (vi) August 1, 1990, to December 31, 1991, commonly
23 referred to as the Gulf War, the Persian Gulf

24 War, or Operation Desert Storm, but excluding any

1 person who served on active duty for training
2 only, unless discharged from such active duty for
3 a service-connected disability;

4 (b) during a period of war or combat military operation
5 other than a conflict, war or era listed in
6 subparagraph (a) of this paragraph, beginning on the
7 date of Congressional authorization, Congressional
8 resolution, or Executive Order of the President of the
9 United States, for the use of the Armed Forces of the
10 United States in a war or combat military operation,
11 if such war or combat military operation lasted for a
12 period of ninety (90) days or more, for a person who
13 served, and only for the period served, in the area of
14 responsibility of the war or combat military
15 operation, but excluding a person who served on active
16 duty for training only, unless discharged from such
17 active duty for a service-connected disability, and
18 provided that the burden of proof of military service
19 during this period shall be with the member, who must
20 present appropriate documentation establishing such
21 service.

22 An eligible member under this paragraph shall include only those
23 persons who shall have served during the times or in the areas
24 prescribed in this paragraph, and only if such person provides

1 appropriate documentation in such time and manner as required by the
2 System to establish such military service prescribed in this
3 paragraph, or for service pursuant to subdivision a of division (v)
4 of subparagraph (a) of this paragraph those persons who were awarded
5 service medals, as authorized by the United States Department of
6 Defense as reflected in the veteran's Defense Department Form 214,
7 related to the Vietnam Conflict for service prior to August 5, 1964;

8 (24) "Normal retirement date" means the date on which a member
9 may retire with full retirement benefits as provided in Section 901
10 et seq. of this title, such date being whichever occurs first:

11 (a) the first day of the month coinciding with or
12 following a member's:

13 (1) sixty-second birthday with respect to members
14 whose first participating service occurs prior to
15 November 1, 2011, or

16 (2) sixty-fifth birthday with respect to members
17 whose first participating service occurs on or
18 after November 1, 2011, or with respect to
19 members whose first participating service occurs
20 on or after November 1, 2011, reaches a minimum
21 age of sixty (60) years and who also reaches a
22 normal retirement date pursuant to subparagraph e
23 (c) of this paragraph,
24

1 (b) for any person who initially became a member prior to
2 July 1, 1992, and who does not reach a normal
3 retirement date pursuant to division (1) of
4 subparagraph (a) of this paragraph, the first day of
5 the month coinciding with or following the date at
6 which the sum of a member's age and number of years of
7 credited service total eighty (80); such a normal
8 retirement date will also apply to any person who
9 became a member of the sending system as defined in
10 Section 901 et seq. of this title, prior to July 1,
11 1992, regardless of whether there were breaks in
12 service after July 1, 1992,

13 (c) for any person who became a member after June 30,
14 1992, but prior to November 1, 2011, and who does not
15 reach a normal retirement date pursuant to division
16 (1) of subparagraph (a) of this paragraph, the first
17 day of the month coinciding with or following the date
18 at which the sum of a member's age and number of years
19 of credited service total ninety (90),

20 (d) in addition to subparagraphs (a), (b) and (c) of this
21 paragraph, the first day of the month coinciding with
22 or following a member's completion of at least twenty
23 (20) years of full-time-equivalent employment as:
24

1 (i) a correctional or probation and parole officer
2 with the Department of Corrections and at the
3 time of retirement, the member was a correctional
4 or probation and parole officer with the
5 Department of Corrections, or

6 (ii) a correctional officer, probation and parole
7 officer or fugitive apprehension agent with the
8 Department of Corrections who is in such position
9 on June 30, 2004, or who is hired after June 30,
10 2004, and who receives a promotion or change in
11 job classification after June 30, 2004, to
12 another position in the Department of
13 Corrections, so long as such officer or agent has
14 at least five (5) years of service as a
15 correctional officer, probation and parole
16 officer or fugitive apprehension agent with the
17 Department, has twenty (20) years of full-time-
18 equivalent employment with the Department and was
19 employed by the Department at the time of
20 retirement, or

21 (iii) a firefighter with the Oklahoma Military
22 Department either employed for the first time on
23 or after July 1, 2002, or who was employed prior
24 to July 1, 2002, in such position and who makes

1 the election authorized by division (2) of
2 subparagraph b of paragraph (8) of subsection A
3 of Section 915 of this title and at the time of
4 retirement, the member was a firefighter with the
5 Oklahoma Military Department, and such member has
6 at least twenty (20) years of credited service
7 upon which the two and one-half percent (2 1/2%)
8 multiplier will be used in calculating the
9 retirement benefit,

10 (e) for those fugitive apprehension agents who retire on
11 or after July 1, 2002, the first day of the month
12 coinciding with or following a member's completion of
13 at least twenty (20) years of full-time-equivalent
14 employment as a fugitive apprehension agent with the
15 Department of Corrections and at the time of
16 retirement, the member was a fugitive apprehension
17 agent with the Department of Corrections, or

18 (f) for any member who was continuously employed by an
19 entity or institution within The Oklahoma State System
20 of Higher Education and whose initial employment with
21 such entity or institution was prior to July 1, 1992,
22 and who without a break in service of more than thirty
23 (30) days became employed by an employer participating
24 in the Oklahoma Public Employees Retirement System,

1 the first day of the month coinciding with or
2 following the date at which the sum of the member's
3 age and number of years of credited service total
4 eighty (80);

5 (25) "Participating employer" means an eligible employer who
6 has agreed to make contributions to the System on behalf of its
7 employees;

8 (26) "Participating service" means the period of employment
9 after the entry date for which credit is granted a member;

10 (27) "Prior service" means the period of employment of a member
11 by an eligible employer prior to the member's entry date for which
12 credit is granted a member under Section 901 et seq. of this title;

13 (28) "Retirant" or "retiree" means a member who has retired
14 under the System;

15 (29) "Retirement benefit" means a monthly income with benefits
16 accruing from the first day of the month coinciding with or
17 following retirement and ending on the last day of the month in
18 which death occurs or the actuarial equivalent thereof paid in such
19 manner as specified by the member pursuant to Section 901 et seq. of
20 this title or as otherwise allowed to be paid at the discretion of
21 the Board;

22 (30) "Retirement coordinator" means the individual designated
23 by each participating employer through whom System transactions and
24 communication shall be directed;

1 (31) "Social Security" means the old-age survivors and
2 disability section of the Federal Social Security Act;

3 (32) "Total disability" means a physical or mental disability
4 accepted for disability benefits by the Federal Social Security
5 System;

6 (33) "Service-connected disability benefits" means military
7 service benefits which are for a service-connected disability rated
8 at twenty percent (20%) or more by the Veterans Administration or
9 the Armed Forces of the United States;

10 (34) "Elected official" means a person elected to a state
11 office in the legislative or executive branch of state government or
12 a person elected to a county office for a definite number of years
13 and shall include an individual who is appointed to fill the
14 unexpired term of an elected state official;

15 (35) "Elected service" means the period of service as an
16 elected official; and

17 (36) "Limitation year" means the year used in applying the
18 limitations of Section 415 of the Internal Revenue Code of 1986,
19 which year shall be the calendar year.

20 SECTION 34. AMENDATORY 74 O.S. 2011, Section 3601.1, is
21 amended to read as follows:

22 Section 3601.1. A. For purposes of Sections 3601.1 through
23 3603 of this title, the term "employee" means a full-time employee
24 or any number of part-time employees whose combined weekly hours of

1 employment equal those of a full-time employee, but shall not
2 include temporary employees working on a seasonal basis between May
3 1 and October 31.

4 B. Beginning July 1, 2008, the maximum number of full-time-
5 equivalent employees for each of the following agencies, boards,
6 commissions, departments, or programs shall not exceed the numbers
7 specified in this section, except as may be authorized pursuant to
8 the provisions of Section 3603 of this title.

	MAXIMUM NUMBER OF FULL-TIME-EQUIVALENT EMPLOYEES
Board of Managers of the State Insurance Fund	591
Oklahoma Employment Security Commission	1150
Oklahoma Accountancy Board	11
Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma	4
Board of Chiropractic Examiners	3
State Board of Cosmetology	16
Board of Dentistry	5
Oklahoma State Board of Embalmers and Funeral Directors	5
State Board of Registration for Professional Engineers and Land Surveyors	10

1	State Board of Medical Licensure and Supervision/ Board of Podiatric Medical Examiners/State Board of Examiners of Perfusionists	29
4	Commission on Marginally Producing Oil and Gas Wells	5
6	Oklahoma Motor Vehicle Commission	6
7	Oklahoma Board of Nursing	30
8	Oklahoma State Board of Examiners for Nursing Home Administrators	4
10	Board of Examiners in Optometry	3
11	State Board of Osteopathic Examiners	7
12	Oklahoma Peanut Commission	2
13	Oklahoma State Board of Pharmacy	10
14	State Board of Examiners of Psychologists	2
15	Oklahoma Real Estate Commission	26
16	Board of Examiners for Speech-Language Pathology and Audiology	2
18	Oklahoma Used Motor Vehicle and Parts Commission	12
19	State Board of Veterinary Medical Examiners	6
20	Oklahoma Wheat Utilization, Research and Market Development Commission	7
22	Oklahoma Firefighters Pension and Retirement System	13
24	Oklahoma Police Pension and Retirement System	12

1	Teachers' Retirement System of Oklahoma	52
2	Oklahoma Public Employees Retirement System	63
3	Oklahoma Student Loan Authority	85
4	Oklahoma Industrial Finance Authority/Oklahoma	
5	Development Finance Authority	10
6	State and Education Employees Group Insurance	
7	Board	178
8	Oklahoma Capital Investment Board	4
9	State Board of Licensed Social Workers	1
10	Oklahoma State Employees Benefits Council	38
11	Oklahoma State Banking Department	46
12	Liquefied Petroleum Gas Administration	10

13 C. The duties and compensation of employees, not otherwise
14 prescribed by law, necessary to perform the duties imposed upon the
15 Oklahoma Public Employees Retirement System Board of Trustees by law
16 shall be set by the Board of Trustees.

17 D. Temporary employees of the Oklahoma Used Motor Vehicle and
18 Parts Commission between the dates of November 1 and January 31
19 annually shall not be counted toward the maximum number of full-
20 time-equivalent employees provided for in this section.

21 SECTION 35. AMENDATORY 74 O.S. 2011, Section 3601.2, as
22 amended by Section 1007, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
23 2012, Section 3601.2), is amended to read as follows:

24

1 Section 3601.2. A. Beginning January 1, 2010, the agency,
 2 board, commission, department or program shall establish the salary
 3 of each of the chief executive officers for which they have
 4 appointing authority. Such salary shall be set between the minimum
 5 and maximum of the range specified below, for full-time employees
 6 only, per annum, payable monthly, pursuant to the limitations
 7 outlined below:

8 1. If the chief executive officer's salary is below the minimum
 9 annual salary then it can not be raised to more than the minimum
 10 annual salary in one (1) fiscal year. If the chief executive
 11 officer's salary is at or above the minimum annual salary then the
 12 salary may not be increased above the midpoint in one (1) fiscal
 13 year;

14 2. Such increases shall not occur more than once in a fiscal
 15 year; and

16 3. The salary of the incumbent chief executive officer shall
 17 not be increased if the officer's salary exceeds the maximum of the
 18 range.

	MINIMUM	MIDPOINT	MAXIMUM
	ANNUAL	ANNUAL	ANNUAL
	SALARY	SALARY	SALARY
22 CompSource Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
23 Oklahoma Employment			
24 Security Commission	\$93,190.00	\$109,635.00	\$126,080.00

1	Board of Governors of the			
2	Licensed Architects,			
3	Landscape Architects and			
4	Interior Designers of			
5	Oklahoma	\$45,513.00	\$62,757.00	\$80,000.00
6	Board of Chiropractic			
7	Examiners	\$46,788.00	\$55,044.00	\$63,301.00
8	State Board of Cosmetology	\$46,788.00	\$55,044.00	\$63,301.00
9	Board of Dentistry	\$54,956.00	\$64,334.00	\$75,687.00
10	Oklahoma Funeral Board	\$46,788.00	\$55,044.00	\$63,301.00
11	State Board of Registration			
12	for Professional			
13	Engineers and Land			
14	Surveyors	\$55,748.00	\$65,585.00	\$75,424.00
15	State Board of Medical			
16	Licensure and			
17	Supervision, Board of			
18	Podiatric Medical			
19	Examiners/State Board of			
20	Examiners of			
21	Perfusionists	\$67,551.00	\$79,471.00	\$91,392.00
22	Commission on Marginally			
23	Producing Oil and Gas			
24	Wells	\$55,748.00	\$65,585.00	\$75,424.00

1	Oklahoma Motor Vehicle			
2	Commission	\$55,748.00	\$65,585.00	\$75,424.00
3	Oklahoma Board of Nursing	\$67,551.00	\$79,471.00	\$91,392.00
4	Oklahoma State Board of			
5	Examiners for Nursing			
6	Home Administrators	\$46,788.00	\$55,044.00	\$63,301.00
7	State Board of Osteopathic			
8	Examiners	\$54,956.00	\$64,334.00	\$75,687.00
9	Oklahoma Peanut Commission	\$45,513.00	\$55,044.00	\$63,300.00
10	State Board of Examiners of			
11	Psychologists	\$46,788.00	\$55,044.00	\$63,301.00
12	Oklahoma Real Estate			
13	Commission	\$67,551.00	\$79,471.00	\$91,392.00
14	Board of Examiners for			
15	Speech-Language Pathology			
16	and Audiology	\$38,001.00	\$44,706.00	\$51,412.00
17	Oklahoma Used Motor Vehicle			
18	and Parts Commission	\$55,748.00	\$65,585.00	\$75,424.00
19	State Board of Veterinary			
20	Medical Examiners	\$46,788.00	\$55,044.00	\$63,301.00
21	Oklahoma Wheat Utilization,			
22	Research and Market			
23	Development Commission	\$55,748.00	\$65,585.00	\$75,424.00
24				

1	Oklahoma Firefighters			
2	Pension and Retirement			
3	System	\$80,732.00	\$94,980.00	\$109,226.00
4	Oklahoma Police Pension and			
5	Retirement System	\$80,733.00	\$94,981.00	\$109,227.00
6	Teachers' Retirement System			
7	of Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
8	Oklahoma Public Employees			
9	Retirement System	\$86,136.00	\$101,337.00	\$116,536.00
10	Oklahoma Student Loan			
11	Authority	\$83,790.00	\$101,377.00	\$116,536.00
12	Oklahoma Industrial Finance			
13	Authority	\$80,731.00	\$94,979.00	\$109,225.00
14	Oklahoma Capital Investment			
15	Board	\$80,731.00	\$94,979.00	\$109,225.00
16	State Board of Licensed			
17	Social Workers	\$46,788.00	\$55,044.00	\$63,301.00
18	Grand River Dam Authority	\$101,437.00	\$119,339.00	\$137,239.00
19	Oklahoma State Banking			
20	Department	\$101,437.00	\$119,339.00	\$137,239.00
21	Liquefied Petroleum Gas			
22	Administration	\$55,748.00	\$65,585.00	\$75,424.00
23	Oklahoma Securities			
24	Commission	\$101,437.00	\$119,339.00	\$137,239.00

1 B. All increases require certification of the appointing
2 authority that said action can be implemented for the current fiscal
3 year and subsequent fiscal year without the need for additional
4 funding. The agency, board, commission, department or program shall
5 report increases granted under this section to the Office of
6 Management and Enterprise Services on an annual basis by August 1 of
7 each year. The Office of Management and Enterprise Services shall
8 forward a report of such increases to the Governor, President Pro
9 Tempore of the Senate, and Speaker of the House of Representatives
10 no later than September 1 of each year.

11 C. Every two (2) years starting FY-05, the Office of Management
12 and Enterprise Services shall review these salary ranges and report
13 on and make recommendations on proposed salary ranges in their
14 annual compensation reports mandated by paragraph 5 of Section 840-
15 1.6A of this title by no later than December 1.

16 D. Every three (3) years the Legislature shall review the
17 salary ranges specified in subsection A of this section.

18 SECTION 36. AMENDATORY 82 O.S. 2011, Section 1085.24, is
19 amended to read as follows:

20 Section 1085.24. A. The State Treasurer of the State of
21 Oklahoma is hereby authorized and required to purchase from the
22 Water Conservation Storage Commission at private sale not to exceed
23 at any one time One Million Five Hundred Thousand Dollars
24 (\$1,500,000.00) in said investment certificates, or interim

1 investment certificates, as an investment of the public monies in
2 his possession. It shall be the responsibility of the State
3 Treasurer to invest only that portion of such public monies as it
4 deems to be more than sufficient to meet current expenditures
5 payable from public monies. The State Treasurer is authorized and
6 required to buy, and the Commission is authorized and required to
7 sell to the State Treasurer at private sale, as provided in this
8 section, so many of the investment certificates authorized by this
9 act as may be safely purchased for investment of public monies by
10 the State Treasurer without handicapping the State of Oklahoma in
11 promptly meeting its obligations. In event of such sale or sales,
12 the Commission shall determine and fix the rate of interest and
13 investment certificates so sold shall bear such rate of interest.

14 B. In the event any or all of the investment certificates are
15 sold to the State Treasurer under the provisions of subsection A of
16 this section and thereafter the uninvested cash on hand and in
17 solvent banks should fall short of demand orders on the State
18 Treasury, it shall be the duty of the State Treasurer to sell such
19 part or all of the investment certificates as are necessary to be
20 converted into cash to meet such demands. The State Treasurer may
21 sell such part or all of the said investment certificates as ~~he~~ the
22 State Treasurer is so authorized to sell, at private sale, to ~~the~~
23 ~~State Insurance Fund,~~ the Teachers' Retirement Fund, or any other
24 state fund, department or agency which has available monies to

1 purchase the same, and all such state funds, departments and
2 agencies are hereby authorized and empowered to so purchase such
3 investment certificates.

4 SECTION 37. AMENDATORY 85 O.S. 2011, Section 308, is
5 amended to read as follows:

6 Section 308. As used in the Workers' Compensation Code:

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

10 2. "Administrator" means the Administrator of the Workers'
11 Compensation Court;

12 3. "Amount in dispute" means the dollar value of any permanent
13 disability award granted to the employee by the Court for a
14 disability claim which is greater than the dollar amount offered by
15 the employer that admits compensability within twenty (20) days of
16 the filing of the Employee's First Notice of Accidental Injury and
17 Claim for Compensation to the employee for such disability claim,
18 when the employer has made a written settlement offer within thirty
19 (30) days of the employee reaching maximum medical improvement;

20 4. "Brother" or "sister" means a sibling of the employee under
21 eighteen (18) years of age, eighteen (18) years of age or over and
22 physically or mentally incapable of self-support, eighteen (18)
23 years of age or over and actually dependent and brothers and sisters
24 by adoption;

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

11 6. "Case manager" means a person who is a registered nurse with
12 a current, active unencumbered license from the Oklahoma Board of
13 Nursing, or possesses one or more of the following certifications
14 which indicate the individual has a minimum number of years of case
15 management experience, has passed a national competency test and
16 regularly obtains continuing education hours to maintain
17 certification:

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

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

14 8. "Child" means a natural or adopted son or daughter of the
15 employee under eighteen (18) years of age; or a natural or adopted
16 son or daughter of an employee eighteen (18) years of age or over
17 who is physically or mentally incapable of self-support; or any
18 natural or adopted son or daughter of an employee eighteen (18)
19 years of age or over who is actually dependent; or any natural or
20 adopted son or daughter of an employee between eighteen (18) and
21 twenty-three (23) years of age who is enrolled as a full-time
22 student in any accredited educational institution. The term "child"
23 includes a posthumous child, a child legally adopted or one for whom
24 adoption proceedings are pending at the time of death, an actually

1 dependent stepchild or an actually dependent acknowledged child born
2 out of wedlock;

3 9. "Claimant" means a person who claims benefits for an injury
4 pursuant to the provisions of the Workers' Compensation Code;

5 10. a. "Compensable injury" means any injury or occupational
6 illness, causing internal or external harm to the
7 body, which arises out of and in the course of
8 employment if such employment was the major cause of
9 the specific injury or illness. An injury, other than
10 cumulative trauma, is compensable only if it is caused
11 by a specific incident and is identifiable by time,
12 place and occurrence unless it is otherwise defined as
13 compensable in this act. A compensable injury must be
14 established by objective medical evidence. The
15 employee has the burden of proof to establish by a
16 preponderance of the evidence that such unexpected or
17 unforeseen injury was in fact caused by the
18 employment. There is no presumption from the mere
19 occurrence of such unexpected or unforeseen injury
20 that the injury was in fact caused by the employment.

21 b. "Compensable injury" means a cardiovascular, coronary,
22 pulmonary, respiratory, or cerebrovascular accident or
23 myocardial infarction causing injury, illness, or
24 death, only if, in relation to other factors

1 contributing to the physical harm, a work-related
2 activity is the major cause of the physical harm.
3 Such injury shall not be deemed to be a compensable
4 injury unless it is shown that the exertion of the
5 work necessary to precipitate the disability or death
6 was extraordinary and unusual in comparison to the
7 usual work of the employee, or alternately, that some
8 unusual incident occurred which is found to have been
9 the major cause of the physical harm.

10 c. "Compensable injury" shall not include the ordinary,
11 gradual deterioration or progressive degeneration
12 caused by the aging process, unless the employment is
13 a major cause of the deterioration or degeneration and
14 is supported by objective medical evidence; nor shall
15 it include injury incurred while engaging in or
16 performing, or as the result of engaging in or
17 performing, any recreational or social activities.

18 d. "Compensable injury" includes personal property which
19 is established by objective medical evidence to be
20 medically necessary and which replaces or improves
21 normal physical function of the body, such as
22 artificial dentures, artificial limbs, glass eyes, eye
23 glasses and other prostheses which are placed in or on
24 the body and is damaged as a result of the injury.

1 e. "Compensable injury" shall not include an injury
2 resulting directly or indirectly from idiopathic
3 causes; any contagious or infectious disease unless it
4 arises out of and occurs in the scope and course of
5 employment; or death due to natural causes occurring
6 while the worker is at work.

7 f. "Compensable injury" shall not include mental injury
8 that does not arise directly as a result of a
9 compensable physical injury, except in the case of
10 rape or other crime of violence which arises out of
11 and in the course of employment;

12 11. "Compensation" means the money allowance payable to an
13 employee as provided for in the Workers' Compensation Code;

14 12. "Consequential injury" means injury or harm to a part of
15 the body that is a direct result of the injury or medical treatment
16 to the part of the body originally injured in the claim. The Court
17 shall not make a finding of a consequential injury unless it is
18 established by objective medical evidence that medical treatment for
19 such part of the body is required;

20 13. "Continuing medical maintenance" means medical treatment
21 that is reasonable and necessary to maintain claimant's condition
22 resulting from the compensable injury or illness after reaching
23 maximum medical improvement. Continuing medical maintenance shall
24 not include diagnostic tests, surgery, injections, counseling,

1 physical therapy, or pain management devices or equipment, unless
2 specifically authorized by the Workers' Compensation Court in
3 advance of such treatment;

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

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

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

14 17. "Employee" means any person engaged in the employment of an
15 employer covered by the terms of the Workers' Compensation Code
16 except for such persons as may be excluded elsewhere in this act.
17 Provided, any person excluded as an employee may, if otherwise
18 qualified, be eligible for benefits under the Workers' Compensation
19 Code if specifically covered by any policy of insurance covering
20 benefits under the Workers' Compensation Code. "Employee" shall
21 also include a member of the Oklahoma National Guard while in the
22 performance of duties only while in response to state orders and any
23 authorized voluntary or uncompensated worker, rendering services as
24 a firefighter, peace officer or emergency management worker.

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

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

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

18 20. "Evidence-based" means expert-based, literature-supported
19 and outcomes validated by well-designed randomized trials when such
20 information is available and which uses the best available evidence
21 to support medical decision making;

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

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

2 23. "Impaired self-insurer" means a private self-insurer or
3 group self-insurance association that fails to pay its workers'
4 compensation obligations, or is financially unable to do so and is
5 the subject of any proceeding under the Federal Bankruptcy Reform
6 Act of 1978, and any subsequent amendments or is the subject of any
7 proceeding in which a receiver, custodian, liquidator,
8 rehabilitator, trustee or similar officer has been appointed by a
9 court of competent jurisdiction to act in lieu of or on behalf of
10 the self-insurer;

11 24. "Incapacity" means inadequate strength or ability to
12 perform a work-related task;

13 25. "Independent medical examiner" means a licensed physician
14 authorized to serve as a medical examiner pursuant to this act;

15 26. "Insurance carrier" shall include ~~CompSource Oklahoma,~~
16 stock corporations, reciprocal or interinsurance associations, or
17 mutual associations with which employers have insured, including
18 CompSource Mutual Insurance Company, and employers permitted to pay
19 compensation directly under the provisions of Section ~~51~~ 351 of this
20 ~~act~~ title;

21 27. "Light duty" describes the status of an employee when a
22 physician has declared the employee available for work with specific
23 temporary physical restrictions;

1 28. "Major cause" means more than fifty percent (50%) of the
2 resulting injury, disease or illness. A finding of major cause
3 shall be established by a preponderance of the evidence. A finding
4 that the workplace was not a major cause of the injury, disease or
5 illness shall not adversely affect the exclusive remedy provisions
6 of this act and shall not create a separate cause of action outside
7 of this act;

8 29. "Maximum medical improvement" means that no further
9 material improvement would reasonably be expected from medical
10 treatment or the passage of time;

11 30. "Medical treatment" means such medical, diagnostic,
12 surgical or other attendance or treatment, nurse and hospital
13 service, medicine, crutches, and apparatus as may be reasonable and
14 necessary after the compensable injury for an injured employee;

15 31. "Nationally recognized" includes, but is not limited to,
16 syntheses of clinical issues that may take the form of published
17 reports in the scientific literature, national consensus documents,
18 formalized documents addressing standards of practice, practice
19 parameters from professional societies or commissions, and
20 technology assessments produced by independent evidence-based
21 practice centers;

22 32. "Objective medical evidence" means evidence which meets the
23 criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court
24 case law applicable thereto. Objective findings are those findings

1 | which cannot come under the voluntary control of the patient. When
2 | determining physical or anatomical impairment, neither a physician,
3 | any other medical provider, a judge of the Workers' Compensation
4 | Court, nor the courts may consider complaints of pain. For the
5 | purpose of making physical or anatomical impairment ratings to the
6 | spine, physicians shall use criteria established by the American
7 | Medical Association guides or modifications thereto as approved by
8 | the Legislature. Objective evidence necessary to prove physical or
9 | anatomical impairment in occupational hearing loss cases shall be
10 | established by medically recognized and accepted clinical diagnostic
11 | methodologies, including, but not limited to, audiological tests
12 | that measure air and bone conduction thresholds and speech
13 | discrimination ability. Medical opinions addressing compensability
14 | and permanent impairment must be stated within a reasonable degree
15 | of medical certainty;

16 | 33. "Occupational disease" means only that disease or illness
17 | which is due to causes and conditions characteristic of or peculiar
18 | to the particular trade, occupation, process or employment in which
19 | the employee is exposed to such disease. An occupational disease
20 | arises out of the employment only if the employment was the major
21 | cause of the resulting occupational disease and such is supported by
22 | objective medical evidence, as defined in this section;

23 |
24 |

1 34. "Peer review" means the process of subjecting submitted
2 manuscripts, guidelines, or other clinical or scholarly work to the
3 scrutiny of others who are experts in the same field;

4 35. "Permanent partial impairment" means any anatomical
5 abnormality or loss of use after maximum medical improvement has
6 been achieved which can be evaluated by a physician. Any examining
7 physician shall only evaluate impairment in accordance with the
8 method prescribed in Section ~~33~~ 333 of this ~~act~~ title. All
9 evaluations of permanent impairment must be supported by objective
10 medical evidence;

11 36. "Permanent total disability" means incapacity, because of
12 accidental injury or occupational disease, to earn wages in any
13 employment for which the employee may become physically suited and
14 reasonably fitted by education, training or experience, including
15 vocational rehabilitation. Loss of both hands, or both feet, or
16 both legs, or both eyes, or any two thereof, shall constitute
17 permanent total disability;

18 37. "Private self-insurer" means a private employer that has
19 been authorized to self-insure its workers' compensation obligations
20 pursuant to Section ~~51~~ 351 of this ~~act~~ title, but does not include
21 group self-insurance associations authorized under Section ~~51~~ 351 of
22 this ~~act~~ title or Section 398 of this title, or any public employer
23 that self-insures pursuant to Section ~~13~~ 313 of this ~~act~~ title;

1 38. "Prosthetic device" means an artificial device used to
2 replace a part or joint of the body that is lost or injured in an
3 accident or illness covered by this act;

4 39. "Qualified independent medical examiner" means a licensed
5 medical doctor or doctor of Osteopathy qualified to serve as an
6 independent medical examiner pursuant to this act;

7 40. "Scheduled member" or "member" means hands, fingers, arms,
8 legs, feet, toes, and eyes. In addition, for purposes of the
9 Multiple Injury Trust Fund only, "scheduled member" means hearing
10 impairment;

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

18 42. "State-developed" includes formalized treatment guidelines
19 developed and adopted by state governments, or by the Workers'
20 Compensation Court upon recommendation of the Physician Advisory
21 Committee;

22 43. "State's average weekly wage" means the average weekly wage
23 in this state determined by the Oklahoma Employment Security
24 Commission annually, which shall be used to establish maximum

1 benefits under the Workers' Compensation Code for injuries occurring
2 during a one-year period, which period shall begin on the first day
3 of November after publication by the Oklahoma Employment Security
4 Commission. For the purpose of computing benefits payable under the
5 Workers' Compensation Code, the state's average weekly wage shall be
6 rounded to the nearest dollar;

7 44. "Subcontractor" means a person, firm, corporation or other
8 legal entity hired by the general or prime contractor to perform a
9 specific task for the completion of a work-related activity;

10 45. "Surgery" does not include an injection, or the forcing of
11 fluids beneath the skin, for treatment or diagnosis;

12 46. "Surviving spouse" means the employee's spouse by reason of
13 a legal marriage recognized by any state or nation or by common law,
14 under the requirements of a common law marriage in this state, as
15 determined by the Workers' Compensation Court;

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

21 48. "Treating physician" means the licensed physician
22 authorized to provide active medical treatment for an injured
23 worker; and

24

1 49. "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 38. AMENDATORY 85 O.S. 2011, Section 313, is
6 amended to read as follows:

7 Section 313. A. 1. All public entities of this state, their
8 agencies and instrumentalities, authorities, and public trusts of
9 which they are beneficiaries shall provide workers' compensation to
10 their employees and elected officials engaged in either governmental
11 or proprietary functions in accordance with this section.
12 Compensation or indemnification for compensation shall be paid out
13 of the funds of the public entities.

14 2. Except as otherwise provided, the state and all its
15 institutions of higher education, departments, instrumentalities,
16 institutions, and public trusts of which it or they are
17 beneficiaries shall insure against liability for workers'
18 compensation ~~with the State Insurance Fund and shall not insure with~~
19 ~~any other insurance carrier unless:~~

- 20 a. ~~the State Insurance Fund refuses to accept the risk~~
- 21 ~~when the application for insurance is made,~~
- 22 b. ~~specifically authorized by law, or~~
- 23 c. ~~the state entity can obtain workers' compensation~~
- 24 ~~insurance coverage at the same cost or at a lower cost~~

1 ~~from another insurance carrier licensed in this state.~~
2 ~~Effective November 1, 1999, and for the next two~~
3 ~~fiscal years thereafter, not to exceed fifteen (15)~~
4 ~~state entities each fiscal year may obtain workers'~~
5 ~~compensation insurance coverage pursuant to this~~
6 ~~subparagraph from an insurer other than the State~~
7 ~~Insurance Fund. Beginning with the third fiscal year~~
8 ~~thereafter, all state entities may obtain workers'~~
9 ~~compensation insurance coverage pursuant to this~~
10 ~~subparagraph.~~

11 3. The state, all state institutions of higher education except
12 comprehensive universities, and all state departments,
13 instrumentalities, institutions, and public trusts of which the
14 state is a beneficiary, may self-insure ~~under rules promulgated by~~
15 ~~the State Insurance Fund. Self-insurance administration may only be~~
16 ~~obtained through the State Insurance Fund. The state, all state~~
17 ~~institutions of higher education except comprehensive universities,~~
18 ~~and all state departments, instrumentalities, institutions, and~~
19 ~~public trusts so electing to self-insure shall pay premiums set by~~
20 ~~the State Insurance Fund. The State Insurance Fund shall collect~~
21 ~~premiums, pay claims and provide for excess insurance. All~~
22 ~~dividends or profits accumulating from a self-insurance program~~
23 ~~shall be refunded to the participants on a formula devised by the~~
24 ~~State Insurance Fund.~~

1 B. All counties, cities and towns, their instrumentalities and
2 public trusts of which they are beneficiaries shall insure against
3 their liability for workers' compensation ~~with the State Insurance~~
4 ~~Fund or~~, through any combination of the following, ~~may~~:

5 1. Insure with an insurance carrier licensed in this state;

6 2. Self-insure and make any appropriation of funds to cover
7 their risk;

8 ~~2.~~ 3. Secure reinsurance or excess insurance over and above a
9 self-insurance retention in any manner authorized by subsections B
10 and C of Section 167 of Title 51 of the Oklahoma Statutes; or

11 ~~3.~~ 4. Secure compensation for their employees in the manner
12 provided in ~~the Political Subdivision~~ The Governmental Tort Claims
13 Act, subsection C of Section 167 of Title 51 of the Oklahoma
14 Statutes; ~~or~~

15 ~~4. Insure with other insurance carriers licensed in the State~~
16 ~~of Oklahoma.~~

17 C. Boards of education, their instrumentalities and public
18 trusts of which they are beneficiaries shall insure against their
19 liability for workers' compensation ~~with the State Insurance Fund~~
20 ~~or~~, through any combination of the following, ~~may~~:

21 1. Insure with an insurance carrier licensed in this state;

22 2. Self-insure and make any appropriation of funds to cover
23 their risk; or

24

1 ~~2.~~ 3. Secure reinsurance or excess insurance over and above a
2 self-insured retention in any manner authorized by ~~subsection B of~~
3 ~~Section 168 of Title 51 of the Oklahoma Statutes; or~~

4 ~~3.~~ Insure with other insurance carriers licensed in the State
5 of Oklahoma law.

6 D. Comprehensive universities shall insure against their
7 liability for workers' compensation ~~with the State Insurance Fund;~~
8 ~~or if it can be demonstrated to the Board of Regents of the~~
9 ~~comprehensive university prior to the inception date of a workers'~~
10 ~~compensation policy that the policy will result in a lower cost than~~
11 ~~one with the State Insurance Fund or, through any combination of the~~
12 following, ~~may:~~

13 1. Insure with an insurance carrier licensed in this state; or

14 2. Self-insure and make any appropriation of funds to cover
15 their risk; ~~or~~

16 ~~2.~~ Insure with other insurance carriers licensed in the State
17 of Oklahoma.

18 E. ~~In addition to any other provision of this section, city,~~
19 ~~county, city county, and public trust hospitals may insure with~~
20 ~~other insurance carriers licensed in this state if it can be~~
21 ~~demonstrated to the governing body of the hospital prior to the~~
22 ~~inception date of a workers' compensation policy each year that the~~
23 ~~policy will result in a lower cost than one with the State Insurance~~
24 ~~Fund.~~

1 ~~F.~~ For purposes of the Workers' Compensation ~~Act~~ Code, all
2 contracts of employment for state, county, municipal, and state
3 funded educational entities and public trusts will be considered to
4 have been entered into in this state regardless of where the work is
5 performed.

6 ~~G.~~ F. Where a person who is employed by the state, a
7 municipality, a county, or by any political subdivisions thereof,
8 and who, while off-duty from the employment, is employed by a
9 private employer, the private employer alone shall be liable for
10 compensation under the Workers' Compensation ~~Act~~ Code for any injury
11 or death of the person arising out of and in the course of
12 employment which occurs during the hours of actual employment by the
13 private employer. The provisions of this act shall be applicable to
14 private employers specified in this subsection. The provisions of
15 this subsection shall not relieve the state, a municipality or a
16 county, or any political subdivision thereof, from providing
17 disability benefits to which a person may be entitled pursuant to a
18 pension or retirement plan. The provisions of this subsection shall
19 not preclude an employee or group of employees so employed from
20 providing separate compensation coverage for off-duty employment by
21 a private employer.

22 SECTION 39. AMENDATORY 85 O.S. 2011, Section 328, is
23 amended to read as follows:

24

1 Section 328. A. If a self-insured employer, group self-
2 insurance association plan, an employer's workers' compensation
3 insurance carrier or an insured, which shall include any member of
4 an approved group self-insured association, policyholder or public
5 entity, has contracted with a workplace medical plan that is
6 certified by the State Commissioner of Health as provided in this
7 act, the employer shall select for the injured employee a treating
8 physician from the physicians listed within the network of the
9 certified workplace medical plan. The claimant may apply to the
10 certified workplace medical plan for a one-time change of physician
11 to another appropriate physician within the network of the certified
12 workplace medical plan by utilizing the dispute resolution process
13 set out in the certified workplace medical plan on file with the
14 State Department of Health. Notwithstanding any other provision of
15 law, those employees who are subject to such certified workplace
16 medical plan shall receive medical treatment in the manner
17 prescribed by the plan.

18 B. The provisions of this section shall not preclude an
19 employee, who has exhausted the dispute resolution process of the
20 certified workplace medical plan, from petitioning the Workers'
21 Compensation Court for a change of treating physician within the
22 certified workplace medical plan or, if a physician who is qualified
23 to treat the employee's injuries is not available within the plan,
24 for a change of physician outside the plan, if the physician agrees

1 to comply with all the rules, terms and conditions of the certified
2 workplace medical plan; or an employee from seeking emergency
3 medical treatment.

4 C. Any person or entity may make written application to the
5 State Commissioner of Health to have a workplace medical plan
6 certified that provides management of quality treatment to injured
7 employees for injuries and diseases compensable under the Workers'
8 Compensation Code. Each application for certification shall be
9 accompanied by a fee of One Thousand Five Hundred Dollars
10 (\$1,500.00). A workplace medical plan may be certified to provide
11 services to a limited geographic area. A certificate is valid for a
12 five-year period, unless revoked or suspended. Application for
13 certification shall be made in the form and manner and shall set
14 forth information regarding the proposed program for providing
15 services as the Commissioner may prescribe. The information shall
16 include, but not be limited to:

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

21 2. A description of the places and manner of providing services
22 under the plan.

23 D. 1. The Commissioner shall not certify a plan unless the
24 Commissioner finds that the plan:

1 a. proposes to provide quality services for all medical
2 services which:

3 (1) may be required by the Workers' Compensation Code
4 in a manner that is timely, effective and
5 convenient for the employee, and

6 (2) utilizes medical treatment guidelines and
7 protocols substantially similar to those
8 established for use by medical service providers
9 which have been recommended by the Physician
10 Advisory Committee and adopted by the
11 Administrator pursuant to this act. If the
12 Administrator has not adopted medical treatment
13 guidelines and protocols, the Commissioner may
14 certify a plan that utilizes medical guidelines
15 and protocols established by the plan if, at the
16 discretion of the Commissioner, the guidelines
17 and protocols are reasonable and will carry out
18 the intent of the Workers' Compensation Code.
19 Certified plans must utilize medical treatment
20 guidelines and protocols substantially similar to
21 those adopted by the Administrator pursuant to
22 this act, as such guidelines and protocols become
23 adopted,
24

- 1 b. is reasonably geographically convenient to residents
2 of the area for which it seeks certification,
- 3 c. provides appropriate financial incentives to reduce
4 service costs and utilization without sacrificing the
5 quality of service,
- 6 d. provides adequate methods of peer review, utilization
7 review and dispute resolution to prevent
8 inappropriate, excessive or medically unnecessary
9 treatment, and excludes participation in the plan by
10 those providers who violate these treatment standards,
- 11 e. requires the dispute resolution procedure of the plan
12 to include a requirement that disputes on an issue,
13 including a subsequent change of physician as
14 described in the provisions of this section, related
15 to medical care under the plan, be attempted to be
16 resolved within ten (10) days of the time the dispute
17 arises and if not resolved within ten (10) days, the
18 employee may pursue remedies in the Court~~-,~~
- 19 f. provides aggressive case management for injured
20 employees and a program for early return to work,
- 21 g. provides workplace health and safety consultative
22 services,
- 23 h. provides a timely and accurate method of reporting to
24 the Commissioner necessary information regarding

1 medical service costs and utilization to enable the
2 Commissioner to determine the effectiveness of the
3 plan,

- 4 i. authorizes necessary emergency medical treatment for
5 an injury provided by a provider of medical, surgical,
6 and hospital services who is not a part of the plan,
- 7 j. does not discriminate against or exclude from
8 participation in the plan any category of providers of
9 medical, surgical, or hospital services and includes
10 an adequate number of each category of providers of
11 medical, surgical, and hospital services to give
12 participants access to all categories of providers and
13 does not discriminate against ethnic minority
14 providers of medical services, and
- 15 k. complies with any other requirement the Commissioner
16 determines is necessary to provide quality medical
17 services and health care to injured employees.

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

21 E. If any insurer, ~~except CompSource Oklahoma,~~ fails to
22 contract with or provide access to a certified workplace medical
23 plan, an insured, after sixty (60) days' written notice to its
24 insurance carrier, shall be authorized to contract independently

1 with a plan of his or her choice for a period of one (1) year, to
2 provide medical care under the Workers' Compensation Code. The
3 insured shall be authorized to contract, after sixty (60) days'
4 written notice to its insurance carrier, for additional one-year
5 periods if his or her insurer has not contracted with or provided
6 access to a certified workplace medical plan.

7 ~~F. If CompSource Oklahoma fails to contract with at least three~~
8 ~~certified workplace medical plans, each covering at least fifty~~
9 ~~counties, then the insured, after sixty (60) days' written notice to~~
10 ~~CompSource Oklahoma, shall be authorized to contract independently~~
11 ~~with a plan of the insured's choice for a period of one (1) year to~~
12 ~~provide medical care under the Workers' Compensation Code. The~~
13 ~~insured shall be authorized to contract, after sixty (60) days'~~
14 ~~written notice to CompSource Oklahoma, for additional one-year~~
15 ~~periods if CompSource Oklahoma has not contracted with or fails to~~
16 ~~continue contracts with at least three certified workplace medical~~
17 ~~plans covering at least fifty counties. A workers' compensation~~
18 ~~insurance carrier, CompSource Oklahoma, or a group self-insurance~~
19 ~~association plan may grant a ten-percent premium reduction to an~~
20 ~~employer who is not experience rated when the employer participates~~
21 ~~in a certified workplace medical plan.~~

22 G. The Commissioner shall refuse to certify or shall revoke or
23 suspend the certification of a plan if the Commissioner finds that
24 the program for providing medical or health care services fails to

1 meet the requirements of this section, or service under the plan is
2 not being provided in accordance with the terms of the plan.

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

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

16 2. A site visit shall conclude with a determination that a
17 certified workplace medical plan is or is not operating in
18 accordance with its latest application to the State Department of
19 Health;

20 3. Compliant operations shall include, but not be limited to:
21 a. timely and effective medical services available with
22 reasonable geographic convenience,
23 b. appropriate treatment guidelines and protocols, and
24

1 c. effective programs for utilization review, case
2 management, grievances, and dispute resolution;

3 4. Performance of a site visit shall include:

4 a. inspection of organizational documentation,

5 b. inspection of systems documentation and processes,

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

8 d. random or systematic sampling, or a one-hundred-
9 percent inspection of all dispute resolution,
10 grievance, and Department of Health request for
11 assistance files,

12 e. workplace medical plan employee and management
13 interviews, as appropriate;

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

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

24

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

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

6 a. One Thousand Five Hundred Dollars (\$1,500.00) for an
7 initial, annual site visit,

8 b. One Thousand Dollars (\$1,000.00) if a follow-up visit
9 is performed,

10 c. separate from the once in five (5) years certification
11 application fee, and

12 d. charged only if less than two site visits occur in a
13 twelve-month period; and

14 9. In addition to the site visit fee, employees of the State
15 Department of Health may charge to the certified workplace medical
16 plan reasonable travel and travel-related expenses for the site
17 visit such as overnight lodging and meals. A certified workplace
18 medical plan shall reimburse travel expenses to the State Department
19 of Health at rates equal to the amounts then currently allowed under
20 the State Travel Reimbursement Act.

21 I. The State Board of Health shall adopt such rules as may be
22 necessary to implement the provisions of this act and this section.
23 Such rules shall authorize any person to petition the State
24 Commissioner of Health for decertification of a certified workplace

1 medical plan for material violation of any rules promulgated
2 pursuant to this section.

3 SECTION 40. AMENDATORY 85 O.S. 2011, Section 339, is
4 amended to read as follows:

5 Section 339. A. If the employee and employer shall reach an
6 agreement for the full, final and complete settlement of any issue
7 of a claim pursuant to the Workers' Compensation Code, a form
8 designated as "Compromise Settlement" shall be signed by both the
9 employer and employee, or representatives thereof, and shall be
10 approved by a judge of the Workers' Compensation Court or the
11 Administrator of the Workers' Compensation Court and filed with the
12 Administrator. In cases in which the employee is not represented by
13 legal counsel, a judge of the Court or the Administrator shall have
14 jurisdiction to approve a full, final and complete settlement of any
15 issue upon the filing of an Employer's First Notice of Injury.
16 There shall be no requirement for the filing of an Employee's First
17 Notice of Accidental Injury and Claim for Compensation to effect
18 such settlement in cases in which the employee is not represented by
19 legal counsel.

20 B. In the event all issues of a claim are not fully, finally
21 and completely settled by a Compromise Settlement, the issues not
22 settled by the parties and subject to the Court's continuing
23 jurisdiction must be noted by appendix to the Compromise Settlement
24 or on a form created for such purpose by the Administrator. The

1 appendix must be signed by the parties and approved by the Court as
2 set forth herein.

3 C. In the absence of fraud, a Compromise Settlement shall be
4 deemed binding upon the parties thereto and a final adjudication of
5 all rights pursuant to the Workers' Compensation Code. An official
6 record shall be made by a court reporter of the testimony taken to
7 effect the Compromise Settlement.

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

18 SECTION 41. AMENDATORY 85 O.S. 2011, Section 352, is
19 amended to read as follows:

20 Section 352. A. In addition to any other penalty prescribed by
21 law, any employer who fails to secure compensation required by
22 Section ~~51~~ 351 of this ~~act~~ title shall be liable for a civil
23 penalty, to be assessed by the Commissioner of Labor or designee, of
24 not more than Two Hundred Fifty Dollars (\$250.00) per employee for a

1 first offense, unless the employer secures workers' compensation
2 insurance within thirty (30) days after receiving notice of the
3 violation. If the employer secures workers' compensation insurance
4 within thirty (30) days after receiving notice of the violation, the
5 employer shall be liable for a civil penalty of not more than
6 Seventy-five Dollars (\$75.00) per employee. An employer shall be
7 liable for a civil penalty of not more than One Thousand Dollars
8 (\$1,000.00) per employee for a second or subsequent offense.
9 Provided, the maximum civil penalty shall not exceed Ten Thousand
10 Dollars (\$10,000.00) for all related series of violations. All
11 civil penalties collected shall be deposited in the Department of
12 Labor Revolving Fund and shall be used to enforce the provisions of
13 the Workers' Compensation Code.

14 B. After an employer is cited for two offenses of failing to
15 obtain workers' compensation insurance and fails to obtain coverage
16 within thirty (30) days of the second citation, the Commissioner of
17 Labor shall issue cease and desist orders, in accordance with the
18 Department of Labor administrative rules and procedures, against an
19 employer until the violating employer shall obtain workers'
20 compensation insurance for its employees. The Commissioner of Labor
21 shall have the authority to require the cessation of activities of
22 an employer whose employees are not covered by workers' compensation
23 insurance until the violating employer shall obtain workers'
24 compensation insurance for its employees; provided that an employer

1 who has made application for workers' compensation coverage with
2 ~~either CompSource Oklahoma or a private~~ an insurance carrier, and
3 who, through no fault of the employer, has not received notice that
4 such coverage has commenced, shall not be made to cease operations,
5 as provided for in this section, until a determination has been made
6 concerning the employee's application for workers' compensation
7 coverage. Any order to cease and desist issued by the Commissioner
8 may be enforced in district court. The district court may issue the
9 Commissioner an injunction without bond, for the purposes of
10 enforcing this section.

11 C. The Commissioner of Labor or designee shall assess and
12 collect any civil penalty incurred under subsection A of this
13 section and, in the Commissioner's discretion, may remit, mitigate
14 or negotiate the penalty. In determining the amount of the penalty
15 to be assessed, or the amount agreed upon in any negotiation,
16 consideration shall be given to the appropriateness of such penalty
17 in light of the life of the business of the employer charged, the
18 gravity of the violation, and the extent to which the employer
19 charged has complied with the provisions of Section ~~51~~ 351 of this
20 ~~act~~ title or has otherwise attempted to remedy the consequences of
21 the violation.

22 SECTION 42. AMENDATORY 85 O.S. 2011, Section 373, is
23 amended to read as follows:

24

1 Section 373. A. There is hereby created a Physician Advisory
2 Committee comprised of nine (9) members to be appointed as follows:

3 1. The Governor shall appoint three members, one of whom shall
4 be licensed in this state as a doctor of medicine and surgery, one
5 of whom shall be engaged in the practice of family medicine in a
6 rural community of the state, and one of whom shall be an
7 osteopathic physician;

8 2. The President Pro Tempore of the Senate shall appoint three
9 members, one of whom shall be licensed in this state as a doctor of
10 medicine and orthopedic surgery, one of whom shall be licensed in
11 this state either as a doctor of medicine or a doctor of osteopathy
12 and a neurosurgeon, and one of whom shall be licensed in this state
13 as a podiatric physician; and

14 3. The Speaker of the House of Representatives shall appoint
15 three members, one of whom shall be licensed in this state as an
16 osteopathic physician, one of whom shall be licensed in this state
17 either as a doctor of medicine or a doctor of osteopathy and shall
18 be engaged in the practice of occupational medicine, and one of whom
19 shall be licensed in this state as a chiropractic physician.

20 The terms of members serving on the effective date of this act
21 shall end on the effective date of this act. Thereafter, each
22 position will be filled by the appointing official for a term of
23 three (3) years. Members shall be subject to reappointment, with
24

1 any new appointee to serve out the remainder of the unexpired term
2 of the Committee member so replaced.

3 B. The Committee shall:

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

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

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

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 Oklahoma Treatment Guidelines
8 and protocols for medical treatment not addressed by the current
9 edition of the Official Disability Guidelines or addressed but not
10 recommended in the ODG section in regard to injuries to the
11 cervical, thoracic, and lumbar spine. The Oklahoma Treatment
12 Guidelines shall be adopted on or before March 1, 2012, and shall
13 remain in full force and effect until superseded.

14 a. The OTG shall be based upon evidence based medicine
15 and scientifically based and nationally peer reviewed
16 literature and shall include treatment for the top
17 fifteen (15) medically-recognized conditions (ICD-9 or
18 successor codes).

19 b. When completed, the OTG shall be submitted to the
20 Oklahoma Workers' Compensation Advisory Council for
21 review. After due notice and public hearing, the
22 Council shall issue a report to the Administrator
23 concerning the OTG submitted. After due notice and
24 public hearing, the Administrator shall adopt or

1 reject the proposal submitted. The OTG shall be
2 submitted by the Administrator to the Governor, the
3 Speaker of the House of Representatives and the
4 President Pro Tempore of the Senate within ten (10)
5 legislative days following adoption. The OTG
6 submitted shall be subject to disapproval by joint or
7 concurrent resolution of the Legislature during the
8 legislative session in which submitted. If
9 disapproved, the existing treatment guidelines shall
10 continue in effect. If the Legislature takes no
11 action on the OTG submitted by the Administrator, the
12 OTG shall become operative thirty (30) days following
13 the adjournment of the Legislature;

14 6. After public hearing, adopt Oklahoma Treatment Guidelines
15 for the prescription and dispensing of any controlled substance
16 included in Schedule II of the Uniform Controlled Dangerous
17 Substances Act if not addressed by the current edition of the
18 Official Disability Guidelines;

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;

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 treatment guidelines of the
11 latest edition of the Official Disability Guidelines or the Oklahoma
12 Treatment Guidelines.

13 D. Members of the Physician Advisory Committee shall receive no
14 compensation for serving on the Committee but shall be reimbursed by
15 the Court for their necessary travel expenses incurred in the
16 performance of their duties in accordance with the State Travel
17 Reimbursement Act.

18 E. Meetings of the Physician Advisory Committee shall be called
19 by the Administrator but held at least quarterly. The presence of a
20 simple majority of the members constitutes a quorum. No action
21 shall be taken by the Physician Advisory Committee without the
22 affirmative vote of at least a simple majority of the members.

23

24

1 F. The Administrator shall provide office supplies and
2 personnel of the Court to assist the Committee in the performance of
3 its duties.

4 G. Upon written request, the Insurance Commissioner, ~~CompSource~~
5 ~~Oklahoma~~, and every approved self-insured employer in Oklahoma shall
6 provide the Committee with data necessary to the performance of its
7 duties.

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

14 SECTION 43. AMENDATORY 85 O.S. 2011, Section 375, is
15 amended to read as follows:

16 Section 375. There is hereby created and established a fund to
17 be known as "CompSource Oklahoma", to be administered by a President
18 and Chief Executive Officer, without liability on the part of the
19 state beyond the amount of said fund, for the purpose of insuring
20 employers against liability for compensation under Sections ~~131~~
21 376.1 through ~~151~~ 400 of this title, and for assuring for the
22 persons entitled thereto compensation provided by the workers'
23 compensation law, and for the further purpose of insuring persons,
24 firms and corporations against loss, expense or liability by reason

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

12 ~~(a)~~ 1. CompSource Oklahoma shall be a revolving fund and shall
13 consist of all premiums received and paid into said fund for
14 insurance issued, all property and securities acquired by and
15 through the use of monies belonging to the fund and all interest
16 earned upon monies belonging to the fund and deposited or invested
17 as herein provided.

18 ~~(b)~~ 2. Said fund shall be applicable to the payment of losses
19 sustained on account of insurance and to the payment of expenses in
20 the manner provided in Sections ~~131~~ 376.1 through ~~151~~ 400 of this
21 title.

22 ~~(c)~~ 3. Said fund shall be fairly competitive with other
23 insurance carriers and it is the intent of the Legislature that said
24 fund shall become neither more nor less than self-supporting.

1 ~~(d)~~ 4. 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 ~~(e)~~ 5. CompSource Oklahoma shall not be subject to:

6 a. Sections 301 through 314 of Title 25, Oklahoma Open
7 Meeting Act,

8 b. Sections 151 through 158.2 of Title 47, State-Owned
9 Automobiles,

10 c. Sections 24A.1 through 24A.29 of Title 51, Oklahoma
11 Open Records Act,

12 d. Title 61 of the Oklahoma Statutes, Public Buildings
13 and Public Works,

14 e. Sections 3-101 through 3-115 of Title 65, Department
15 of Libraries,

16 f. Sections 201 through 217 of Title 67, Records
17 Management Act,

18 g. Sections 301 through 303 of Title 67, Reproduction of
19 Public Records,

20 h. Sections 305 through 317 of Title 67, Archives and
21 Records Commission,

22 i. Sections 81 through 97 of Title 73, Capitol Grounds
23 and Buildings,

- 1 j. Sections 3301 through 3305 of Title 74, State
2 Agencies,
3 k. Chapters 4, 8, 10, 13, 19, 30, 31, 48, 49, 53, 56, 81
4 and 110A of Title 74,
5 l. Section 34.2 of Title 80, and
6 m. all provisions from which CompSource Oklahoma was
7 permanently exempted pursuant to Sections 3316 and
8 3317 of Title 74.

9 6. To facilitate the transition from operating as CompSource
10 Oklahoma to CompSource Mutual Insurance Company, CompSource Oklahoma
11 may, but is not required to, comply with:

- 12 a. Title 62 of the Oklahoma Statutes, Public Finance,
13 b. Chapters 16, 17, 27A, 37, 37A, 37B, 38A, 38B, 45, 45A
14 and 61 of Title 74 of the Oklahoma Statutes, and
15 c. any other provision in the Oklahoma Statutes as is
16 necessary to facilitate the transition from
17 CompSource Oklahoma to CompSource Mutual Insurance
18 Company.

19 7. The official name of the fund which is known as "The State
20 Insurance Fund" shall be designated in all future references as
21 "CompSource Oklahoma". Any references in the Oklahoma Statutes to
22 The State Insurance Fund shall be deemed references to CompSource
23 Oklahoma.

1 SECTION 44. AMENDATORY 85 O.S. 2011, Section 376, as
2 amended by Section 1078, Chapter 304, O.S.L. 2012 (85 O.S. Supp.
3 2012, Section 376), is amended to read as follows:

4 Section 376. A. There is hereby created a Board to be known as
5 the "Board of Managers of CompSource Oklahoma", which ~~Board~~ shall
6 have supervision over the administration and operation of CompSource
7 Oklahoma, and shall be composed of eight (8) members as follows:

8 1. The Director of the Office of Management and Enterprise
9 Services or a designee;

10 2. The Lieutenant Governor or a designee;

11 3. The State Auditor and Inspector or a designee;

12 4. One member appointed by the Governor;

13 5. Two members appointed by the Speaker of the House of
14 Representatives, one of whom shall be representative of employers;
15 and

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

18 The appointed members of the Board shall serve at the pleasure of
19 the appointing authority.

20 B. The members of the Board shall elect annually from their
21 number a Chair and a Secretary. The Secretary shall keep true and
22 complete records of all proceedings of the Board. The Board shall
23 meet quarterly, and at all other times when a meeting is called by
24 the Chair, and at such meetings the Board may consider the condition

1 of CompSource Oklahoma and quarterly shall make a detailed
2 examination into the condition of its reserves and investments and
3 at each meeting may examine all other matters relating to the
4 administration of such fund. The time and place of the regular
5 meetings and the manner in which special meetings may be called
6 shall be set forth in the bylaws of the said Fund. Except as
7 otherwise provided in this act or in the bylaws, all actions shall
8 be taken by the affirmative vote of a majority of the Board members
9 present at a meeting, except that no investment policy and no
10 amendment of bylaws shall be valid unless authorized or ratified by
11 the affirmative vote of at least four Board members.

12 C. Appointed members of the Board shall be reimbursed for
13 expenses as provided in the State Travel Reimbursement Act. Said
14 reimbursement, not to exceed thirty (30) days in any calendar year,
15 shall be paid only when the Board is transacting official business.
16 Any reimbursement in excess of thirty (30) days shall be approved by
17 a majority of the Board. The Board shall have access to all records
18 and books of account and shall have power to require the presence or
19 appearance of any officer or employee of CompSource Oklahoma. All
20 information obtained by the members of the Board shall be
21 confidential unless disclosed by order of the Board.

22 D. No person or organization in a position to influence
23 official action of members of the Board of Managers of CompSource
24 Oklahoma, the President and Chief Executive Officer, and the

1 employees of CompSource Oklahoma shall furnish presents, gratuities,
2 transportation, lodging, educational seminars, conferences,
3 meetings, or similar functions to the Board of Managers of
4 CompSource Oklahoma, the President and Chief Executive Officer, and
5 the employees of CompSource Oklahoma other than as provided by law
6 and the rules of the Ethics Commission.

7 E. The official name of the Board of Managers which is known as
8 the "Board of Managers of the State Insurance Fund" shall be
9 designated in all future references as the "Board of Managers of
10 CompSource Oklahoma". Any references in the Oklahoma Statutes to
11 the Board of Managers of the State Insurance Fund shall be deemed
12 references to the Board of Managers of CompSource Oklahoma.

13 SECTION 45. AMENDATORY 85 O.S. 2011, Section 380, is
14 amended to read as follows:

15 Section 380. A. 1. Volunteer fire departments organized
16 pursuant to state law may obtain workers' compensation insurance for
17 volunteer firefighters through the Volunteer Firefighter Group
18 Insurance Pool pursuant to requirements established by CompSource
19 ~~Oklahoma~~ Mutual Insurance Company which shall administer the Pool.
20 For the premium set by CompSource ~~Oklahoma~~ Mutual Insurance Company,
21 the state shall provide Fifty-five Dollars (\$55.00) per firefighter
22 per year. Except as otherwise provided by subsection D of this
23 section, the total amount paid by the state shall not exceed Three
24 Hundred Twenty Thousand Three Hundred Thirty-eight Dollars

1 (\$320,338.00) per year or so much thereof as may be necessary to
2 fund the Volunteer Firefighter Group Insurance Pool.

3 2. CompSource ~~Oklahoma~~ Mutual Insurance Company shall collect
4 the premium from state agencies, public trusts and other
5 instrumentalities of the state. Any funds received by CompSource
6 ~~Oklahoma~~ Mutual Insurance Company from any state agency, public
7 trust, or other instrumentality for purposes of workers'
8 compensation insurance pursuant to this section shall be deposited
9 to the credit of the Volunteer Firefighter Group Insurance Pool.
10 CompSource ~~Oklahoma~~ Mutual Insurance Company shall collect premiums,
11 pay claims, and provide for excess insurance as needed.

12 B. CompSource ~~Oklahoma~~ Mutual Insurance Company shall report,
13 annually, to the Governor, the Speaker of the Oklahoma House of
14 Representatives, and the President Pro Tempore of the State Senate
15 the number of enrollees in the Volunteer Firefighter Group Insurance
16 Pool, and the amount of any anticipated surplus or deficiency of the
17 Pool; and shall also provide to the Governor, the Speaker of the
18 Oklahoma House of Representatives and the President Pro Tempore of
19 the State Senate sixty (60) days advance notice of any proposed
20 change in rates for the Volunteer Firefighter Group Insurance Pool.

21 C. The amount of claims paid, claim expenses, underwriting
22 losses, loss ratio, or any other financial aspect of the Volunteer
23 Firefighter Group Insurance Pool shall not be considered when
24 determining or considering bids for the amount of any premiums,

1 rates, or expenses owed by, or any discounts, rebates, dividends, or
2 other financial benefits owed to any other policyholder of
3 CompSource ~~Oklahoma~~ Mutual Insurance Company.

4 D. Except as otherwise provided by law, any increase in the
5 state payment rate for volunteer firefighters under the Volunteer
6 Firefighter Group Insurance Pool shall not exceed five percent (5%)
7 per annum. Any proposed change in rates for the Volunteer
8 Firefighter Group Insurance Pool must be approved by the Board of
9 ~~Managers~~ Directors of CompSource ~~Oklahoma~~ Mutual Insurance Company
10 with notice provided pursuant to subsection B of this section.

11 CompSource ~~Oklahoma~~ Mutual Insurance Company shall not increase
12 premiums for the Volunteer Firefighter Group Insurance Pool more
13 than once per annum.

14 E. For purposes of this section, the term "volunteer fire
15 departments" includes those volunteer fire departments which have
16 authorized voluntary or uncompensated workers rendering services as
17 firefighters and are created by statute pursuant to Section 592 of
18 Title 18 of the Oklahoma Statutes, Sections 29-201 through ~~29-205~~
19 29-204 of Title 11 of the Oklahoma Statutes, and those defined by
20 Section 351 of Title 19 of the Oklahoma Statutes.

21 SECTION 46. AMENDATORY 85 O.S. 2011, Section 396, is
22 amended to read as follows:

23 Section 396. ~~A-~~ Information acquired by the CompSource
24 Oklahoma President and Chief Executive Officer or the officers or

1 employees of CompSource Oklahoma, from persons, firms or
2 corporations insured by CompSource Oklahoma, or from employees of
3 such persons, firms or corporations pursuant to this article shall
4 not be open to public inspection, and any officer or employee of the
5 State of Oklahoma, who without authority of the Commissioner, or
6 pursuant to the rules prescribed by the CompSource Oklahoma
7 President and Chief Executive Officer, or as otherwise required by
8 law, shall disclose the same, shall be guilty of a misdemeanor.

9 ~~B. For the purpose of implementing Section 142a of this title,~~
10 ~~the CompSource Oklahoma President and Chief Executive Officer shall~~
11 ~~provide to the Commissioner of Labor annually, upon request, a~~
12 ~~listing of the insureds of CompSource Oklahoma with the name,~~
13 ~~address and nature of business or occupation of the insured.~~

14 SECTION 47. AMENDATORY 85 O.S. 2011, Section 403, as
15 amended by Section 1082, Chapter 304, O.S.L. 2012 (85 O.S. Supp.
16 2012, Section 403), is amended to read as follows:

17 Section 403. A. There is hereby created, for the purposes
18 declared in this act, the "Multiple Injury Trust Fund" to be derived
19 from the following sources:

20 1. As soon as practicable after January 1 of each year, the
21 Administrator of the Workers' Compensation Court shall establish an
22 assessment rate applicable to each mutual or interinsurance
23 association, stock company, ~~CompSource Oklahoma,~~ or other insurance
24 carrier writing workers' compensation insurance in this state, each

1 employer carrying its own risk, and each group self-insurance
2 association, for amounts for purposes of computing the assessment
3 authorized by this section necessary to pay the annual obligations
4 of the Multiple Injury Trust Fund determined on or before December
5 31 of each year by the ~~Board of Managers of CompSource Oklahoma~~ MITF
6 Director to be outstanding for the next calendar year, and to pay
7 the allocations provided for in subsection I of this section. The
8 rate shall be equal for all parties required to pay the assessment.
9 The Board of Directors for CompSource Mutual Insurance Company shall
10 have the power to disapprove the rate established by the MITF
11 Director until the Multiple Injury Trust Fund repays in full the
12 amount due on any loan from CompSource Mutual Insurance Company or
13 its predecessor CompSource Oklahoma. If the MITF Director and
14 CompSource Mutual Insurance Company have not agreed on the
15 assessment rate within thirty (30) days, the Administrator of the
16 Workers' Compensation Court shall set an assessment rate sufficient
17 to cover all foreseeable obligations of the Multiple Injury Trust
18 Fund, including interest and principal owed by the Fund on any loan.
19 The rate in effect on the effective date of this act shall remain
20 effective through June 30, 2012;

21 2. The Oklahoma Tax Commission shall assess and collect from
22 any uninsured employer a temporary assessment at the rate of five
23 percent (5%) of the total compensation for permanent total
24 disability awards, permanent partial impairment awards, and death

1 benefits paid out during each quarter of the calendar year by the
2 employers;

3 3. The assessments shall be paid to the Tax Commission.
4 Insurance carriers, self-insurers, and group self-insurance
5 associations ~~and CompSource Oklahoma~~ shall pay the assessment in
6 four equal installments not later than the fifteenth day of the
7 month following the close of each quarter of the calendar year of
8 the assessment. Assessments shall be determined based upon gross
9 direct written premiums, normal premiums or actual paid losses of
10 the paying party, as applicable, during the calendar quarter for
11 which the assessment is due. Uninsured employers shall pay the
12 assessment not later than the fifteenth day of the month following
13 the close of each quarter of the calendar year of the assessment.
14 For purposes of this section, "uninsured employer" means an employer
15 required by law to carry workers' compensation insurance but who has
16 failed or neglected to do so. Only one-third (1/3) of assessments
17 against insurance carriers ~~and CompSource Oklahoma~~ may be charged to
18 policyholders and shall not be considered in determining whether any
19 rate is excessive. The remaining two-thirds (2/3) of assessments
20 against insurance carriers ~~and CompSource Oklahoma~~ may not be
21 included in any rate, premium, charge, fee, assessment or other
22 amount to be collected from a policyholder. Insurance carriers ~~and~~
23 ~~CompSource Oklahoma~~ shall not separately state the amount of the
24 assessment on any invoice or billing assessment.

1 a. The assessment authorized in this section shall be
2 determined using a rate equal to the proportion that
3 the sum of the outstanding obligations of the Multiple
4 Injury Trust Fund as determined pursuant to paragraph
5 1 of this subsection and the allocations provided for
6 in subsection I of this section bear to the combined
7 gross direct written premiums of all such insurers;
8 all actual paid losses of all individual self-
9 insureds; and the normal premium of all group self-
10 insurance associations, for the year period from
11 January 1 to December 31 preceding the assessment.

12 b. For purposes of this subsection:

13 (1) "actual paid losses" means all medical and
14 indemnity payments, including temporary
15 disability, permanent disability, and death
16 benefits, and excluding loss adjustment expenses
17 and reserves, and

18 (2) "normal premium" means a standard premium less
19 any discounts;

20 4. By April 15 of each year, the Insurance Commissioner, ~~Board~~
21 ~~of Managers of CompSource Oklahoma~~ the MITF Director, and each
22 individual and group self-insured shall provide the Administrator
23 with such information as the Administrator may determine is
24 necessary to effectuate the purposes of this section;

1 5. Each mutual or interinsurance association, stock company,
2 ~~CompSource Oklahoma~~, or other insurance carrier writing workers'
3 compensation insurance in this state, and each employer carrying its
4 own risk, including each group self-insurance association, shall be
5 notified by the Administrator in writing of the rate for the
6 assessment on or before May 1 of each year in which a rate is
7 determined. The rate determined by the Administrator shall be in
8 effect for four calendar quarters beginning July 1 following
9 determination by the Administrator;

10 6. a. No mutual or interinsurance association, stock
11 company, ~~CompSource Oklahoma~~, or other insurance
12 carrier writing workers' compensation insurance in
13 this state, may be assessed in any year an amount
14 greater than six percent (6%) of the gross direct
15 written premiums of that insurer.

16 b. No employer carrying its own risk may be assessed in
17 any year an amount greater than six percent (6%) of
18 the total actual paid losses of that individual self-
19 insured.

20 c. No group self-insurance association may be assessed in
21 any year an amount greater than six percent (6%) of
22 the normal premium of that group self-insurance
23 association.

24

1 d. If the maximum assessment does not provide in any one
2 year an amount sufficient to make all necessary
3 payments for obligations of the Multiple Injury Trust
4 Fund and for the allocations provided for in
5 subsection I of this section, the unpaid portion shall
6 be paid as soon thereafter as funds become available.

7 B. The Multiple Injury Trust Fund is hereby authorized to
8 receive and expend monies appropriated by the Legislature.

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

13 D. Any mutual or interinsurance association, stock company, or
14 other insurance company, which is subject to regulation by the
15 Insurance Commissioner, ~~or CompSource Oklahoma,~~ failing to make
16 payments required in this act promptly and correctly, and failing to
17 report payment of the same to the Insurance Commission within ten
18 (10) days of payment shall be subject to administrative penalties as
19 allowed by law, including but not limited to a fine in the amount of
20 Five Hundred Dollars (\$500.00) or an amount equal to one percent
21 (1%) of the unpaid amount, whichever is greater, to be paid to the
22 Insurance Commissioner.

23 E. Any employer carrying its own risk, or group self-insurance
24 association failing to make payments required in this act promptly

1 and correctly, and failing to report payment of the same to the
2 Administrator within ten (10) days of payment shall be subject to
3 administrative penalties as allowed by law, including but not
4 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or
5 an amount equal to one percent (1%) of the unpaid amount, whichever
6 is greater, to be paid to the Administrator.

7 F. 1. On or before the first day of April of each year, the
8 State Treasurer shall advise the Administrator, the ~~Board of~~
9 ~~Managers of CompSource Oklahoma~~ MITF Director and the Tax Commission
10 of the amount of money held as of March 1 of that year by the State
11 Treasurer to the credit of the Multiple Injury Trust Fund. On or
12 before the first day of November of each year, the State Treasurer
13 shall advise the Administrator, the Board of Managers of CompSource
14 Oklahoma and the Tax Commission of the amount of money held as of
15 October 1 of that year by the State Treasurer to the credit of the
16 Multiple Injury Trust Fund.

17 2. Until such time as the Multiple Injury Trust Fund fully
18 satisfies any loan obligation payable to CompSource Mutual Insurance
19 Company or its predecessor CompSource Oklahoma, the State Treasurer
20 shall:

21 a. advise the Chief Executive Officer of CompSource
22 Mutual Insurance Company on or before the first day of
23 April of the money held as of March 1 of that year by
24

1 the State Treasurer to the credit of the Multiple
2 Injury Trust Fund, and

3 b. advise the Chief Executive Officer of CompSource
4 Mutual Insurance Company on or before the first day of
5 November of the money held as of October 1 of that
6 year by the State Treasurer to the credit of the
7 Multiple Injury Trust Fund.

8 G. Eighty percent (80%) of all sums held by the State Treasurer
9 to the credit of the Multiple Injury Trust Fund may by order of the
10 ~~CompSource Oklahoma President and Chief Executive Officer~~ MITF
11 Director, with the approval of the ~~Board of Managers of CompSource~~
12 ~~Oklahoma~~ Insurance Commissioner, be invested in or loaned on the
13 pledge of any of the securities in which a state bank may invest the
14 monies deposited therein by the State Treasurer; or may be deposited
15 in state or national banks or trust companies upon insured time
16 deposit bearing interest at a rate no less than currently being paid
17 upon insured savings accounts in the institutions. As used in this
18 section, "insured" means insurance as provided by an agency of the
19 federal government. All such securities or evidence of indebtedness
20 shall be placed in the hands of the State Treasurer, who shall be
21 the custodian thereof, who shall collect the principal and interest
22 when due, and pay the same into the Multiple Injury Trust Fund. The
23 State Treasurer shall pay by vouchers drawn on the Multiple Injury
24 Trust Fund for the making of such investments, when signed by the

1 ~~CompSource Oklahoma President and Chief Executive Officer and~~
2 ~~approved by the Board of Managers of CompSource Oklahoma~~ MITF
3 Director, upon delivery of such securities or evidence of
4 indebtedness to the State Treasurer. The ~~CompSource Oklahoma~~
5 ~~President and Chief Executive Officer~~ MITF Director may, ~~upon like~~
6 ~~approval of the Board of Managers of CompSource Oklahoma~~, sell any
7 of such securities, the proceeds thereof to be paid over to the
8 State Treasurer for the Multiple Injury Trust Fund.

9 H. The refund provisions of Sections 227 through 229 of Title
10 68 of the Oklahoma Statutes shall be applicable to any payments made
11 to the Multiple Injury Trust Fund. Refunds shall be paid from and
12 out of the Multiple Injury Trust Fund.

13 I. The Tax Commission shall pay, monthly, to the State
14 Treasurer to the credit of the Multiple Injury Trust Fund all monies
15 collected pursuant to the provisions of this section, less the
16 annual sum of Two Million Five Hundred Fifty Thousand Dollars
17 (\$2,550,000.00), of which One Million Two Hundred Seventy-five
18 Thousand Dollars (\$1,275,000.00) shall be payable by the Oklahoma
19 Tax Commission to the State Treasurer in equal monthly installments
20 to the credit of the Department of Labor, Six Hundred Thirty-seven
21 Thousand Five Hundred Dollars (\$637,500.00) shall be payable in
22 equal monthly installments to the credit of the Office of the
23 Attorney General, and Six Hundred Thirty-seven Thousand Five Hundred
24 Dollars (\$637,500.00) shall be payable in equal monthly installments

1 to the credit of the Oklahoma Department of Career and Technology
2 Education. Monies received by the Department of Labor under this
3 section shall be used for safety consultation and the regulation of
4 the safety of public employees through the Occupational Safety and
5 Health Act of 1970. Monies received by the Office of the Attorney
6 General shall be deposited to the credit of the Attorney General's
7 Workers' Compensation Fraud Unit Revolving Fund created pursuant to
8 Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received
9 by the Oklahoma Department of Career and Technology Education shall
10 supplement other funding to the Department for purposes of
11 implementing the provisions of subsection B of Section 414 of Title
12 40 of the Oklahoma Statutes. The State Treasurer shall pay out of
13 the Multiple Injury Trust Fund only upon the order and direction of
14 the Workers' Compensation Court acting under the provisions hereof.

15 J. The Administrator shall promulgate rules as the
16 Administrator deems necessary to effectuate the provisions of this
17 section.

18 K. The Insurance Commissioner shall promulgate rules relating
19 to insurers as defined in Title 36 of the Oklahoma Statutes, as the
20 Insurance Commissioner deems necessary to effectuate the provisions
21 of this section.

22 ~~L. The Multiple Injury Trust Fund may enter into any agreement~~
23 ~~with CompSource Oklahoma for the purpose of fulfilling all of its~~
24 ~~payment obligations.~~

1 ~~M.~~ The Multiple Injury Trust Fund may enter into an agreement
2 with any reinsurer licensed to sell reinsurance by the Insurance
3 Commissioner pursuant to a competitive process administered by the
4 Director of Central Purchasing in the Office of Management and
5 Enterprise Services.

6 ~~N.~~ M. Any dividend, rebate, or other distribution, payable by
7 ~~CompSource Oklahoma~~ or any other workers' compensation insurance
8 carrier, to a state agency policyholder shall be paid to the State
9 Treasurer, and shall be credited as follows:

10 1. In the event of failure of the Multiple Injury Trust Fund to
11 meet all lawful obligations, the monies shall be credited to the
12 Multiple Injury Trust Fund and shall be used by the Multiple Injury
13 Trust Fund to meet all lawful obligations of the Multiple Injury
14 Trust Fund; and

15 2. Otherwise, all future dividends made by ~~CompSource Oklahoma~~
16 ~~or~~ any workers' compensation insurance carrier, on behalf of state
17 agencies, shall be deposited to the credit of the General Revenue
18 Fund of the State Treasury.

19 SECTION 48. AMENDATORY 85 O.S. 2011, Section 406, is
20 amended to read as follows:

21 Section 406. A. ~~CompSource Oklahoma shall be charged with~~ The
22 chief administrative officer of the Multiple Injury Trust Fund shall
23 be the MITF Director, who shall have supervision over the
24 administration and protection of the Multiple Injury Trust Fund and

1 shall be notified by the Administrator of the Workers' Compensation
2 Court of all proceedings which may affect such fund.

3 1. The person serving as the Administrator of the Multiple
4 Injury Trust Fund on the date of passage and approval of this act
5 shall serve as the initial MITF Director, provided such person is
6 serving as the Administrator of the Multiple Injury Trust Fund on
7 the effective date of this act.

8 2. Except as provided in paragraph 1 of this subsection, the
9 MITF Director shall be appointed by and serve at the pleasure of the
10 Governor.

11 B. ~~CompSource Oklahoma~~ The MITF Director shall have standing
12 and the authority to appear in any case before the Workers'
13 Compensation Court in which the Court is considering an award from
14 the Multiple Injury Trust Fund.

15 C. Any party interested shall have a right to bring a
16 proceeding in the Supreme Court to review an award of the Court
17 affecting such Multiple Injury Trust Fund, in the same manner as is
18 now provided by law with reference to other awards by the Court.

19 D. The State Treasurer shall allocate ~~to CompSource Oklahoma~~
20 sufficient funds out of the Multiple Injury Trust Fund, ~~sufficient~~
21 ~~funds~~ for administration expenses thereof in amounts to be fixed and
22 approved by the ~~Administrator for the Multiple Injury Trust Fund~~
23 MITF Director, unless rejected by the Governor and Attorney General.

24

1 E. The MITF Director shall make reports regarding financial and
2 claims data to the Governor, Workers' Compensation Court, and the
3 Insurance Commissioner, upon request.

4 SECTION 49. AMENDATORY 85 O.S. 2011, Section 407, is
5 amended to read as follows:

6 Section 407. A. There is hereby created in the State Treasury
7 the "Workers' Compensation Administration Fund" to be used for the
8 costs of administering the Workers' Compensation Code and for other
9 purposes pursuant to legislative appropriation.

10 B. No money on deposit with the State Treasurer to the credit
11 of the Workers' Compensation Administration Fund shall be expended
12 except pursuant to legislative appropriation.

13 C. For the purpose of providing funds for the Workers'
14 Compensation Administration Fund, each mutual or interinsurance
15 association, stock company, ~~CompSource Oklahoma~~ or other insurance
16 carrier writing workers' compensation insurance in this state shall
17 pay to the Oklahoma Tax Commission a tax at a rate of one percent
18 (1%) of all gross direct premiums written during each quarter of the
19 calendar year for workers' compensation insurance on risks located
20 in this state after deducting from such gross direct premiums,
21 return premiums, unabsorbed portions of any deposit premiums, policy
22 dividends, safety refunds, savings and other similar returns paid or
23 credited to policyholders. Such payments to the Tax Commission
24 shall be made not later than the fifteenth day of the month

1 following the close of each quarter of the calendar year in which
2 such gross direct premium is collected or collectible.
3 Contributions made by insurance carriers ~~and CompSource Oklahoma,~~
4 under the provisions of this section, shall be considered for the
5 purpose of computing workers' compensation rates.

6 D. When an employer is authorized to become a self-insurer, the
7 Administrator of the Workers' Compensation Court as directed by the
8 Workers' Compensation Court shall so notify the Tax Commission,
9 giving the effective date of such authorization. The Tax Commission
10 shall then assess and collect from the employers carrying their own
11 risk a tax at the rate of two percent (2%) of the total compensation
12 for permanent total disability awards, permanent partial impairment
13 awards and death benefits paid out during each quarter of the
14 calendar year by the employers. Such tax shall be payable by the
15 employers and collected by the Tax Commission according to the
16 provisions of this section regarding payment and collection of the
17 tax created in subsections C, E, F and G of this section.

18 E. It shall be the duty of the Tax Commission to collect the
19 payments provided for in this act. The Tax Commission is hereby
20 authorized to bring an action for the recovery of any delinquent or
21 unpaid payments required in this section. The Tax Commission may
22 also enforce payments by proceeding in accordance with the
23 provisions of Section ~~46~~ 346 of this ~~act~~ title.

24

1 F. The Tax Commission shall pay monthly to the State Treasurer
2 to the credit of the General Revenue Fund all monies collected under
3 the provisions of this section.

4 G. The refund provisions of Sections 227 through 229 of Title
5 68 of the Oklahoma Statutes shall be applicable to any payments made
6 pursuant to this section.

7 SECTION 50. REPEALER 74 O.S. 2011, Section 840-5.10, is
8 hereby repealed.

9 SECTION 51. REPEALER 76 O.S. 2011, Section 22, is hereby
10 repealed.

11 SECTION 52. REPEALER 85 O.S. 2011, Section 378, is
12 hereby repealed.

13 SECTION 53. REPEALER 85 O.S. 2011, Sections 375, as
14 amended by Section 43 of this act and as recodified by Section 54 of
15 this act, 376, as last amended by Section 44 of this act and as
16 recodified by Section 54 of this act, 377, 379, 381, 382, 384, as
17 amended by Section 1079, Chapter 304, O.S.L. 2012, 385, 386, 387, as
18 amended by Section 1080, Chapter 304, O.S.L. 2012, 388, 389, as
19 amended by Section 1081, Chapter 304, O.S.L. 2012, 390, 391, 392,
20 393, 394, 395, 397, 400 and 401 (85 O.S. Supp. 2012, Sections 384,
21 387 and 389), are hereby repealed.

22 SECTION 54. RECODIFICATION 85 O.S. 2011, Sections 375,
23 as amended by Section 43 of this act, and 376, as last amended by
24 Section 44 of this act, shall be recodified as Sections 376.1 and

1 376.2, respectively, of Title 85 of the Oklahoma Statutes, unless
2 there is created a duplication in numbering.

3 SECTION 55. Sections 15, 17, 18, 19, 20, 21, 22, 23, 24, 25,
4 26, 27, 28, 29, 30, 31, 32, 37, 38, 39, 40, 41, 45, 49 and 53 of
5 this act shall become effective January 1, 2015."

6 Passed the Senate the 18th day of April, 2013.

7

8

Presiding Officer of the Senate

9

10 Passed the House of Representatives the ____ day of _____,
11 2013.

12

13

Presiding Officer of the House
of Representatives

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1 ENGROSSED HOUSE
2 BILL NO. 2201

By: Grau of the House

and

Bingman of the Senate

3
4
5
6
7 An Act relating to workers' compensation; stating
8 legislative findings and purpose; creating the
9 CompSource Mutual Insurance Company Act; providing
10 short title; defining terms; establishing CompSource
11 Oklahoma as a mutual insurer; providing for
12 organization of CompSource Mutual Insurance Company;
13 providing duties and powers; providing statutory
14 requirements and exemptions; providing that Company
15 is not a state entity; providing for a Board of
16 Directors; providing for composition and terms of
17 office; providing for filling of vacancies; providing
18 for initial Board; providing duties, power and
19 authority of the Board of Directors; providing
20 requirements for rates; providing immunity from
21 liability for certain persons; providing duties,
22 power and authority for the Company; making Company
23 subject to premium taxes; requiring the Company to be
24 a member of the Oklahoma Property and Casualty
Insurance Guaranty Association; limiting liability of
the Company for Guaranty Association assessments;
providing for certain reports; providing for
revenues, monies and assets of the Company; providing
that the state has no liability or responsibility for
the financial obligations of the Company; providing
that the Company is a continuation of CompSource
Oklahoma and providing for related duties and
authority; providing for certain causes of action;
providing for continuation of certain rates;
providing for severability; providing that CompSource
Oklahoma employees employed on the effective date of
this act remain members of the Oklahoma Public
Employees Retirement System; requiring CompSource
Mutual Insurance Company to pay required employer
contributions for such employees; providing that
other employees are not allowed to be members of the

1 Oklahoma Public Employees Retirement System;
2 providing for annual leave and sick leave; providing
3 for service credit; amending 36 O.S. 2011, Section
4 902.3, which relates to calculation of workers'
5 compensation premiums; eliminating the Board of
6 Managers of CompSource Oklahoma from performance of
7 certain duties; providing that the Board of Directors
8 of CompSource Mutual Insurance Company shall perform
9 certain duties; removing reference to CompSource
10 Oklahoma from certain allocation; amending 36 O.S.
11 2011, Section 903.2, which relates to workplace
12 safety plans; removing references to CompSource
13 Oklahoma and its Board of Managers regarding certain
14 prohibitions and procedure; amending 36 O.S. 2011,
15 Section 924.2, which relates to workers' compensation
16 insurance plans; removing references to CompSource
17 Oklahoma and its officers; transferring certain
18 duties to the Board of Directors of CompSource Mutual
19 Insurance Company; removing certain requirements
20 pertaining to CompSource Oklahoma; amending 36 O.S.
21 2011, Section 995, which relates to the Property and
22 Casualty Competitive Loss Cost Rating Act; excluding
23 CompSource Mutual Insurance Company from certain
24 requirements relating to joint underwriting, joint
reinsurance pool and residual market activities;
amending 36 O.S. 2011, Sections 1250.2, 1250.4,
1250.9, 1250.10, 1250.11, 1250.13 and 1250.14, which
relate to the Unfair Claims Settlement Practices Act;
modifying definition; removing references to the
State Insurance Fund and its representatives;
amending 36 O.S. 2011, Section 1442, which relates to
the Third-party Administrator Act; modifying
definition; amending 36 O.S. 2011, Section 6701,
which relates to workplace safety services; removing
references to the State Insurance Fund; amending 40
O.S. 2011, Sections 417 and 418, which relate to the
Oklahoma Occupational Health and Safety Standards
Act; removing references to CompSource Oklahoma, its
officers and the State Insurance Fund; amending 47
O.S. 2011, Section 157.1, which relates to insurance
coverage for certain state vehicles; removing
reference to the State Insurance Fund; amending 74
O.S. 2011, Section 85.29, as amended by Section 750,
Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section
85.29), which relates to The Oklahoma Central
Purchasing Act; removing references to CompSource
Oklahoma officers; amending 74 O.S. 2011, Section

1 85.58A, as amended by Section 782, Chapter 304,
2 O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.58A),
3 which relates to the comprehensive professional risk
4 management program; removing reference to CompSource
5 Oklahoma; amending 74 O.S. 2011, Section 902, which
6 relates to the Oklahoma Public Employees Retirement
7 System; modifying definition; including certain
8 employees of the CompSource Mutual Insurance Company;
9 amending 74 O.S. 2011, Section 3601.1, which relates
10 to full-time-equivalent employees; eliminating
11 reference to Board of Managers of the State Insurance
12 Fund and maximum allowable full-time-equivalent
13 employees; amending 74 O.S. 2011, Section 3601.2, as
14 amended by Section 1007, Chapter 304, O.S.L. 2012 (74
15 O.S. Supp. 2012, Section 3601.2), which relates to
16 salaries of state chief executive officers; removing
17 reference to and salary of chief executive officer of
18 CompSource Oklahoma; amending 82 O.S. 2011, Section
19 1085.24, which relates to the purchase of certain
20 certificates; removing the State Insurance Fund as a
21 potential buyer; amending 85 O.S. 2011, Sections 308,
22 313, 328, 339, 352, 373, 375, 376, as amended by
23 Section 1078, Chapter 304, O.S.L. 2012, 380, 396,
24 403, as amended by Section 1082, Chapter 304, O.S.L.
2012, 406 and 407 (85 O.S. Supp. 2012, Sections 376
and 403), which relate to the Workers' Compensation
Code; modifying definitions; modifying requirements
for governmental entities for obtaining workers'
compensation insurance; changing references from the
State Insurance Fund to CompSource Mutual Insurance
Company; removing CompSource Oklahoma duties
regarding workplace medical plans; removing
references to CompSource Oklahoma; clarifying
references; exempting CompSource Oklahoma from
certain provisions; changing references from
CompSource Oklahoma to CompSource Mutual Insurance
Company; providing for determination of Multiple
Injury Trust Fund obligations by the Director;
granting the Board of Directors for CompSource Mutual
Insurance Company the power to disapprove certain
assessment rate; requiring the State Treasurer to
provide certain information to the Chief Executive
Officer of CompSource Mutual Insurance Company;
providing for a chief administrative officer for the
Multiple Injury Trust Fund designated as the MITF
Director; providing duties and powers of the MITF
Director; repealing 74 O.S. 2011, Section 840-5.10,

1 which relates to the designation of CompSource
2 Oklahoma as a Merit System agency; repealing 76 O.S.
3 2011, Section 22, which authorizes CompSource
4 Oklahoma to offer malpractice insurance and
5 reinsurance; repealing 85 O.S. 2011, Section 378,
6 which relates to the Task Force on Privatization of
7 CompSource Oklahoma; repealing 85 O.S. 2011, Sections
8 375, as amended by Section 43 of this act and as
9 recodified by Section 54 of this act, 376, as last
10 amended by Section 44 of this act and as recodified
11 by Section 54 of this act, 377, 379, 381, 382, 384,
12 as amended by Section 1079, Chapter 304, O.S.L. 2012,
13 385, 386, 387, as amended by Section 1080, Chapter
14 304, O.S.L. 2012, 388, 389, as amended by Section
15 1081, Chapter 304, O.S.L. 2012, 390, 391, 392, 393,
16 394, 395, 397, 400 and 401 (85 O.S. Supp. 2012,
17 Sections 384, 387 and 389), which relate to
18 CompSource Oklahoma; providing for codification;
19 providing for noncodification; providing for
20 recodification; and providing an effective date.
21
22
23
24

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

15 SECTION 56. NEW LAW A new section of law not to be
16 codified in the Oklahoma Statutes reads as follows:

17 A. The Legislature finds that employers in Oklahoma would
18 benefit from the privatization of CompSource Oklahoma in the form of
19 mutualization. A primary purpose of the CompSource Mutual Insurance
20 Company Act is to create a domestic mutual insurer that will
21 provide, consistent with sound underwriting practices, assistance
22 and competitively priced workers' compensation insurance and any
23 related coverages.
24

1 B. A primary purpose of the CompSource Mutual Insurance Company
2 Act is to modernize state government by transitioning the Company
3 into a nongovernmental entity which continues to write and provide
4 workers' compensation and related coverages and can perform that
5 service without relying on any funding from the taxpayers.

6 C. The interests of the state and the Oklahoma business
7 community would be protected if CompSource Oklahoma's role as the
8 guaranteed provider of workers' compensation insurance is preserved
9 and the state retains the right to appoint a majority of the members
10 of the Board of Directors of CompSource Mutual Insurance Company.

11 D. The interests of the residents of the state, both employers
12 and employees, will be best met by converting CompSource Oklahoma
13 into a domestic mutual insurer.

14 SECTION 57. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 375.1 of Title 85, unless there
16 is created a duplication in numbering, reads as follows:

17 This act shall be known and may be cited as the "CompSource
18 Mutual Insurance Company Act".

19 SECTION 58. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 375.2 of Title 85, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in this act, the following words shall have the meanings
23 indicated:

24

1 1. "Act" shall mean the CompSource Mutual Insurance Company
2 Act;

3 2. "Chief Executive Officer" shall mean the President and Chief
4 Executive Officer of CompSource Mutual Insurance Company. Effective
5 January 1, 2015, all references in the Oklahoma Statutes to the
6 State Insurance Fund Commissioner, the Commissioner of the State
7 Insurance Fund, or the CompSource Oklahoma President and Chief
8 Executive Officer shall be deemed references to the President and
9 Chief Executive Officer of CompSource Mutual Insurance Company;

10 3. "Company" shall mean CompSource Mutual Insurance Company;
11 and

12 4. "Director" shall mean a member of the Board of Directors of
13 CompSource Mutual Insurance Company.

14 SECTION 59. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 375.3 of Title 85, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Effective January 1, 2015, CompSource Oklahoma shall operate
18 as, and exercise the powers of, a domestic mutual insurer without
19 capital stock or shares, in accordance with Title 36 of the Oklahoma
20 Statutes, and shall be called CompSource Mutual Insurance Company.
21 The Insurance Commissioner shall approve the Company's articles of
22 incorporation and issue a certificate of authority to the Company to
23 write workers' compensation insurance, as provided by Title 36 of
24 the Oklahoma Statutes, not later than August 1, 2014, which shall

1 become effective January 1, 2015. The Chief Executive Officer of
2 CompSource Oklahoma shall take any measure necessary to accomplish
3 the transition from CompSource Oklahoma to CompSource Mutual
4 Insurance Company.

5 B. The Company shall be organized as a corporation benefiting
6 the citizens of Oklahoma by providing workers' compensation and
7 related coverages which are competitively priced that generally
8 benefit the public, but remain a financially independent entity that
9 is neither more nor less than self-supporting.

10 C. The Company may provide related coverage which is incidental
11 to workers' compensation insurance, including but not limited to
12 coverage for risks under the Longshore and Harbor Workers'
13 Compensation Act (33 U.S.C. Section 901 et seq.) and Title IV of the
14 Federal Coal Mine Health and Safety Act of 1969 as amended by the
15 Black Lung Benefits Act of 1972, as enacted or as may be amended by
16 the Congress of the United States and other coverage related to
17 employee and employment risks.

18 D. The Company shall provide worker's compensation insurance
19 coverage for volunteer firefighters as provided in Section 380 of
20 Title 85 of the Oklahoma Statutes, as amended by this act.

21 E. The Company shall be an insurance carrier for purposes of
22 the Workers' Compensation Code.

23 F. Except as otherwise provided in this act, the Company shall
24 be subject to the requirements of Title 36 of the Oklahoma Statutes

1 and all regulatory authority granted to the Insurance Commissioner
2 as would any other domestic mutual insurance company.

3 G. The Company shall be exempt from the following provisions of
4 Title 36 of the Oklahoma Statutes:

5 1. Article 9;

6 2. Article 9A, other than Section 924.2 of Title 36 of the
7 Oklahoma Statutes; and

8 3. Article 9B.

9 H. CompSource Mutual Insurance Company shall not be considered
10 a state agency, public body, department, public trust, or any other
11 term used to describe an entity which is a part of the Executive
12 Branch of the State of Oklahoma under any state statute or
13 regulation, except as otherwise provided for in the CompSource
14 Mutual Insurance Company Act. As such, Oklahoma state statutes that
15 shall not apply to CompSource Mutual Insurance Company include, but
16 are not limited to:

17 1. Sections 301 through 314 of Title 25, Oklahoma Open Meeting
18 Act;

19 2. Sections 151 through 158.2 of Title 47, State-Owned
20 Automobiles;

21 3. Sections 24A.1 through 24A.29 of Title 51, Oklahoma Open
22 Records Act;

23 4. Sections 151 through 200 of Title 51, The Governmental Tort
24 Claims Act;

1 5. Title 61 of the Oklahoma Statutes, Public Buildings and
2 Public Works;

3 6. Title 62 of the Oklahoma Statutes, Public Finance;

4 7. Sections 3-101 through 3-115 of Title 65, Department of
5 Libraries;

6 8. Sections 201 through 217 of Title 67, Records Management
7 Act;

8 9. Sections 301 through 303 of Title 67, Reproduction of Public
9 Records;

10 10. Sections 305 through 317 of Title 67, Archives and Records
11 Commission;

12 11. Sections 82.1 through 97 of Title 73, Capitol Grounds and
13 Surroundings;

14 12. Chapters 4, 8, 10, 13, 17, 19, 27A, 30, 31, 37, 37A, 37B,
15 38A, 38B, 45, 45A, 48, 49, 50, 53, 56, 61, 81 and 110A of Title 74;
16 and

17 13. Section 34.2 of Title 80.

18 I. By enacting the CompSource Mutual Insurance Company Act, the
19 Legislature creates CompSource Mutual Insurance Company which,
20 subject to the provisions of this act:

21 1. Shall be organized and operated under Oklahoma law, but be
22 independent of the State of Oklahoma;

23

24

1 2. Shall provide worker's compensation insurance to any
2 employer in Oklahoma which seeks such insurance and meets other
3 reasonable requirements relating thereto;

4 3. Shall not be permitted to dissolve; and

5 4. Shall have a majority of the Board of Directors or oversight
6 body of such organization appointed by the Governor or legislative
7 officers as specified in Section 5 of this act.

8 J. Effective January 1, 2015, any references in the Oklahoma
9 Statutes to CompSource Oklahoma or The State Insurance Fund shall be
10 deemed references to CompSource Mutual insurance Company.

11 SECTION 60. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 375.4 of Title 85, unless there
13 is created a duplication in numbering, reads as follows:

14 A. CompSource Mutual Insurance Company shall be governed by a
15 Board of Directors composed of ten (10) members, all of whom shall
16 be citizens of the state. The Board of Directors shall be composed
17 of:

18 1. The Lieutenant Governor or a designee;

19 2. The State Auditor and Inspector or a designee;

20 3. One member appointed by the Governor;

21 4. One member appointed by the Speaker of the House of
22 Representatives;

23 5. One member appointed by the President Pro Tempore of the
24 Senate;

1 6. Four members shall be elected by the Company's
2 policyholders. Such members shall not be state agencies, but should
3 come from the private business sector; and

4 7. The Chief Executive Officer of the Company shall be an ex
5 officio, nonvoting member.

6 B. Other than the Chief Executive Officer of the Company, the
7 Lieutenant Governor or a designee, and the Secretary of Finance and
8 Revenue or a designee, the members of the Board of Directors shall
9 serve staggered six-year terms expiring July 1. An appointed or
10 elected Director whose term has expired shall continue to serve
11 until the Director's replacement is elected by the policyholders or
12 appointed by the appointing authority, or until such time as the
13 Director is reelected or reappointed, as applicable. If the
14 Lieutenant Governor or Secretary of Finance and Revenue selects a
15 designee, that designee shall continue to serve until the Lieutenant
16 Governor or Secretary of Finance and Revenue replaces the designee
17 or assumes their position on the Company's Board of Directors.

18 C. If an appointed Director's position becomes vacant, the
19 officer who appointed the outgoing Director in subsection A of this
20 section shall appoint a new Director to the Board. A vacancy in the
21 elected Directors shall be filled as provided by the Company's
22 bylaws. If a vacancy occurs before the date on which the vacating
23 Director's term is set to expire, the successor Director shall be
24

1 | elected or appointed for a term to expire on the same date as the
2 | vacating Director's term.

3 | SECTION 61. NEW LAW A new section of law to be codified
4 | in the Oklahoma Statutes as Section 375.5 of Title 85, unless there
5 | is created a duplication in numbering, reads as follows:

6 | A. The members of the Board of Managers of CompSource Oklahoma
7 | who are serving on the effective date of this act shall serve as the
8 | initial Board of Directors of CompSource Mutual Insurance Company.
9 | The terms of the initial Board members shall be extended from
10 | January 1, 2015, to July 1, 2015.

11 | B. The Lieutenant Governor or a designee, Secretary of Finance
12 | and Revenue or a designee, one member appointed by the Governor, one
13 | member appointed by the Speaker of the House, and one member
14 | appointed by the President Pro Tempore of the Senate shall continue
15 | to serve on the Board of Directors of CompSource Mutual Insurance
16 | Company as provided in subsection D of this section. The other
17 | initial Board positions shall be converted to elected positions as
18 | provided in subsection C of this section.

19 | C. On or before July 1, 2015, the Company shall hold its first
20 | meeting of the policyholders. At that meeting the policyholders
21 | shall elect four Directors. The method of election shall be
22 | specified in the Company's bylaws.

23 | D. The initial terms of the Board of Directors of CompSource
24 | Mutual Insurance Company shall be as follows:

1 1. The terms of the Board member appointed by the Speaker of
2 the House and the fourth member elected pursuant to subsection C of
3 this section shall expire on July 1, 2018;

4 2. The terms of the Board member appointed by the President Pro
5 Tempore of the Senate and the third member elected pursuant to
6 subsection C of this section shall expire on July 1, 2020; and

7 3. The terms of the Board member appointed by the Governor and
8 the first and second member elected pursuant to subsection C of this
9 section shall expire on July 1, 2022.

10 After such initial terms, the terms of the Board members shall
11 be as provided in Section 5 of this act.

12 E. The bylaws and Board policies of CompSource Oklahoma on the
13 effective date of this act become the bylaws and Board policies of
14 the Company until amended or revised by the Company's Board.

15 SECTION 62. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 375.6 of Title 85, unless there
17 is created a duplication in numbering, reads as follows:

18 The Board of Directors of CompSource Mutual Insurance Company
19 shall have supervision over the administration and operation of the
20 Company. In this regard, the Board shall function in all aspects as
21 a governing body of a domestic mutual insurance company. The Board
22 shall:

23 1. Employ a Chief Executive Officer who is vested with full
24 power, authority and jurisdiction over the Company. The Chief

1 Executive Officer shall perform any duties which are necessary or
2 convenient in the exercise of any power, authority, or jurisdiction
3 over the Company;

4 2. Provide for the delivery in this state of workers'
5 compensation insurance and for the transaction of workers'
6 compensation insurance business to the same extent as any other
7 insurance carrier transacting workers' compensation insurance
8 business in this state; and

9 3. Establish a compensation committee to determine appropriate
10 compensation for the Chief Executive Officer and Directors of
11 CompSource Mutual Insurance Company, provided that compensation for
12 any Director who is a state officer does not conflict with Oklahoma
13 law.

14 SECTION 63. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 375.7 of Title 85, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The Board of Directors of CompSource Mutual Insurance
18 Company shall have full power and authority to set actuarially sound
19 rates to be charged by the Company for insurance. The Board shall
20 engage the services of an independent actuary who is a member in
21 good standing with the Casualty Actuarial Society or the American
22 Academy of Actuaries to develop and recommend actuarially sound
23 rates.

24 B. Rates shall be set in amounts sufficient, when invested, to:

- 1 1. Carry all claims to maturity;
- 2 2. Meet the reasonable expenses of conducting the business of
- 3 the Company; and
- 4 3. Maintain a reasonable surplus.

5 SECTION 64. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 375.8 of Title 85, unless there
7 is created a duplication in numbering, reads as follows:

8 Neither a member of the Board of Directors of CompSource Mutual
9 Insurance Company nor the Chief Executive Officer or any officer or
10 employee of the Company shall be personally liable in the person's
11 private capacity for any act performed or for any contract or other
12 obligation entered into or undertaken in an official capacity in
13 good faith and without intent to defraud, including, but not limited
14 to, the identification and referral of a person for investigation
15 and prosecution for a possible administrative violation or criminal
16 offense.

17 SECTION 65. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 375.9 of Title 85, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The Company shall establish and maintain reserves for losses
21 on an actuarially sound basis in accordance with requirements as
22 provided in Title 36 of the Oklahoma Statutes.

23 B. Pursuant to Section 2123 of Title 36 of the Oklahoma
24 Statutes and in accordance with criteria approved by the Board,

1 which may consider the policyholder's safety record and performance,
2 the Company may pay cash dividends or allow a credit on renewal
3 premium for policyholders insured with the Company.

4 C. The Company shall have full power and authority:

5 1. To enter into contracts of insurance insuring persons, firms
6 and corporations against loss, expense or liability by reason of
7 bodily injury, death or accident, occupational disability, or
8 occupational disease suffered by employees for which the insured may
9 be liable or have assumed liability, including, but not limited to,
10 contracts of insurance or reinsurance for the purpose of insuring
11 employers operating in this state and their employees who may work
12 outside this state;

13 2. To purchase reinsurance for any risk or any portion of any
14 risk of the Company. The purchase of reinsurance may be made
15 through intermediaries;

16 3. To establish a multitiered premium or rating system to
17 provide workers' compensation insurance policies to insureds in the
18 state, which may allow premium adjustments based upon the Company's
19 evaluation of the underwriting characteristics on the individual
20 risk and the appropriate premium to be charged for the policy
21 coverages; and

22 4. To establish subsidiaries.

23 D. The Company may decline to insure any risk in which the
24 minimum requirements of the law with regard to construction,

1 equipment and operation are not observed, or which is beyond the
2 safe carrying of the Company, but as an I.R.C. § 501(c)(27)(B)
3 organization shall not have power or authority, except as otherwise
4 provided in this act, to refuse to insure any compensation risk
5 tendered with the premium therefor.

6 E. In addition to other rights of the Company under this act,
7 the Company has the legal rights of a mutual insurance company
8 operating under Title 36 of the Oklahoma Statutes, and of a private
9 person in this state, and has the power to sue and be sued in its
10 own name. No procedure is a prerequisite to the exercise of the
11 power by the Company to sue.

12 SECTION 66. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 375.10 of Title 85, unless there
14 is created a duplication in numbering, reads as follows:

15 A. CompSource Mutual Insurance Company shall be subject to
16 premium taxes in the same manner as a domestic mutual insurance
17 company authorized by the Insurance Department to write workers'
18 compensation insurance in this state as provided in Oklahoma
19 Statutes.

20 B. The Company shall be a member of and shall be protected by
21 the Oklahoma Property and Casualty Insurance Guaranty Association.

22 C. Notwithstanding subsection B of this section, the Oklahoma
23 Property and Casualty Insurance Guaranty Association, with respect
24

1 to an insolvency of the Company, is liable only for a claim with a
2 date of injury occurring on or after January 1, 2015.

3 SECTION 67. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 375.11 of Title 85, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Company shall file with the Workers' Compensation Court
7 and the Insurance Department all financial reports required of other
8 workers' compensation insurers.

9 B. Any report the Company is required to file with any
10 authority shall be in conformity with statutory accounting practices
11 prescribed, or otherwise permitted, by the Insurance Department.

12 SECTION 68. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 375.12 of Title 85, unless there
14 is created a duplication in numbering, reads as follows:

15 A. All revenues, monies, and assets of CompSource Mutual
16 Insurance Company belong solely to the Company and shall be governed
17 by the laws applicable to domestic mutual insurance companies. The
18 state covenants with the policyholders of the Company, persons
19 receiving workers' compensation benefits, and the Company's
20 creditors that the state will not borrow, appropriate, or direct
21 payments from those revenues, monies, or assets for any purpose.
22 The state has no liability or responsibility to the policyholders,
23 persons receiving workers' compensation benefits, or the creditors

24

1 of the Company if the Company is placed in conservatorship or
2 receivership, or becomes insolvent.

3 B. CompSource Mutual Insurance Company may exercise all the
4 rights, privileges, powers, and authority of any other mutual
5 insurance company organized to transact workers' compensation
6 insurance business in this state, subject to the requirements of
7 Title 36 of the Oklahoma Statutes. Effective January 1, 2015:

8 1. The Company shall be considered to be a continuation of
9 CompSource Oklahoma as it existed prior to this act; and

10 2. As a continuation of CompSource Oklahoma, the Company is
11 vested with all property, tangible and intangible, real and
12 personal, of CompSource Oklahoma and control of the CompSource
13 Oklahoma fund.

14 C. Effective January 1, 2015:

15 1. CompSource Mutual Insurance Company may enforce all contract
16 and statutory rights of CompSource Oklahoma;

17 2. Each debt, claim, and cause of action of CompSource
18 Oklahoma, and each property right, privilege, franchise, or other
19 interest of CompSource Oklahoma, is the property of CompSource
20 Mutual Insurance Company;

21 3. The rights of all policyholders and creditors and the
22 standing of all claims under CompSource Oklahoma are preserved
23 unimpaired under CompSource Mutual Insurance Company; and

24

1 4. Each debt, liability, and duty of CompSource Oklahoma is a
2 debt, liability, or duty of CompSource Mutual Insurance Company and
3 may be enforced against CompSource Mutual Insurance Company.

4 D. A cause of action or similar proceeding to which CompSource
5 Oklahoma was a party pending on January 1, 2015:

6 1. Is not affected by this act;

7 2. May be continued to be prosecuted by or against the Company;

8 and

9 3. Continues to be governed by and conducted under the
10 requirements of the Oklahoma Statutes, as those requirements existed
11 before the effective date of this act, and the applicable bylaws,
12 rules, and regulations of CompSource Oklahoma.

13 E. The rates established by the Board of Directors of the
14 Company, or formerly established by the Board of Managers of
15 CompSource Oklahoma and in effect on the effective date of this act
16 for CompSource Oklahoma shall be the initial rates for CompSource
17 Mutual Insurance Company.

18 SECTION 69. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 375.13 of Title 85, unless there
20 is created a duplication in numbering, reads as follows:

21 If any section of the provisions of this act be decided by the
22 courts to be unconstitutional or invalid, the same shall not affect
23 the validity of this act as a whole, or any part thereof other than
24 the part so decided to be unconstitutional or invalid.

1 SECTION 70. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 913.9 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. All persons employed by CompSource Oklahoma prior to the
5 effective date of this act shall remain members of the Oklahoma
6 Public Employees Retirement System until retirement or termination.

7 B. Effective January 1, 2015, for all employees who remain
8 members of the Oklahoma Public Employees Retirement System pursuant
9 to subsection A of this section, CompSource Mutual Insurance Company
10 shall pay the required employer contributions applicable to the
11 participating employers in the Oklahoma Public Employees Retirement
12 System pursuant to Section 920 of Title 74 of the Oklahoma Statutes
13 and the employee shall continue to pay employee contributions as
14 required by Section 919.1 of Title 74 of the Oklahoma Statutes.

15 C. All employees of CompSource Mutual Insurance Company who
16 remain members of the Oklahoma Public Employees Retirement System
17 pursuant to subsection A of this section shall continue to be
18 eligible employees for purposes of Sections 901 through 932 of Title
19 74 of the Oklahoma Statutes. CompSource Mutual Insurance Company
20 shall be considered a participating employer, as defined by
21 paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes
22 only for such employees.

23 D. No person initially employed by CompSource Mutual Insurance
24 Company after the effective date of this act shall be allowed to

1 participate in the Oklahoma Public Employees Retirement System
2 during the term of their employment with the Company, regardless of
3 whether that employee was previously employed by a participating
4 employer in the Oklahoma Public Employees Retirement System
5 including CompSource Oklahoma.

6 E. 1. All annual leave and sick leave accumulated prior to
7 January 1, 2015, by an employee who remains a member of the Oklahoma
8 Public Employees Retirement System pursuant to subsection A of this
9 section will be recognized by the CompSource Mutual Insurance
10 Company, subject to all accrual limitations in the Oklahoma
11 Statutes.

12 2. Effective January 1, 2015, employees of CompSource Mutual
13 Insurance Company shall not accrue annual leave and sick leave
14 pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes,
15 but may accrue annual leave and sick leave according to a policy
16 established by the Chief Executive Officer of CompSource Mutual
17 Insurance Company at a rate not to exceed that of state employees
18 under Title 74 of the Oklahoma Statutes.

19 3. The total participating service credit of a member who
20 retires or terminates employment and elects a vested benefit shall
21 include unused sick leave not to exceed the limitation imposed by
22 paragraph 7 of subsection B of Section 913 of Title 74 of the
23 Oklahoma Statutes. If unused sick leave entitles a member to an
24 additional year of service credit, the CompSource Mutual Insurance

1 Company shall reimburse the System for the cost of funding the
2 additional reserve. CompSource Mutual Insurance Company shall
3 provide the System with adequate and timely information necessary to
4 determine additional benefits and its cost under this paragraph.

5 SECTION 71. AMENDATORY 36 O.S. 2011, Section 902.3, is
6 amended to read as follows:

7 Section 902.3 A. Workers' compensation premiums shall be
8 calculated on a basis that, as nearly as is practicable, after the
9 effects of experience rating and other applicable rating plans have
10 been considered, the sum of expected losses and expected expenses as
11 a percentage of premium shall be the same for high- and low-wage-
12 paying employers in the same job classification.

13 B. The Insurance Commissioner and the Board of ~~Managers~~
14 Directors of CompSource ~~Oklahoma~~ Mutual Insurance Company shall:

15 1. Determine the extent to which high-wage-paying employers are
16 paying premiums higher than those which would produce the same ratio
17 of expected losses and expenses to premiums as for employers paying
18 lower wages;

19 2. Determine whether this effect is primarily seen in certain
20 types of job classifications;

21 3. Investigate alternatives and modifications to the current
22 method of computing workers' compensation premiums, including wage
23 rate recognition plans used in other states, split classifications,
24 wage rate caps, and hours worked;

1 4. Conduct a hearing or hearings on this matter, including
2 consideration of other alternatives; and

3 5. Adopt rules by January 1, 1996, to become effective on July
4 1, 1996, unless disapproved by the Legislature, to equalize, as
5 nearly as is practicable, expected losses and expenses as a
6 percentage of workers' compensation premiums for high- and low-wage-
7 paying employers in the same job classification. If the effect is
8 found to be primarily seen in certain types of job classifications,
9 the rules shall be adopted to apply only to such types of job
10 classifications. The adopted rules shall be subject to legislative
11 review and shall be promulgated as permanent rules pursuant to the
12 Administrative Procedures Act. The agency rule report required by
13 the Administrative Procedures Act shall include a rule impact
14 statement together with an actuarial analysis of the proposed rule
15 describing in detail the classes of persons who most likely will be
16 affected by the proposed rules; the classes of persons who will
17 benefit from the adopted rules; and the probable economic impact of
18 the proposed rules upon the affected classes of persons. The
19 actuarial analysis shall be prepared by an independent actuary
20 selected by the Insurance Commissioner. The rules shall not be
21 invalidated on the ground that the contents of the rule impact
22 statement or the actuarial analysis are insufficient or inaccurate.

23
24

1 C. The cost of the premium adjustment plan shall be allocated
2 among all employers purchasing workers' compensation insurance from
3 all carriers, ~~including CompSource Oklahoma.~~

4 SECTION 72. AMENDATORY 36 O.S. 2011, Section 903.2, is
5 amended to read as follows:

6 Section 903.2 ~~A.~~ No insurance company shall request and the
7 Insurance Commissioner shall not approve an increase for the expense
8 portion of insurance company rate filings based upon the
9 requirements of Section 6701 of this title, ~~Section 425 of Title 40~~
10 ~~of the Oklahoma Statutes,~~ and Section ~~61.2~~ 355 of Title 85 of the
11 Oklahoma Statutes.

12 ~~B. CompSource Oklahoma shall not request and its Board of~~
13 ~~Managers shall not approve reimbursement for expenses based upon the~~
14 ~~requirements of Section 6701 of this title, Section 425 of Title 40~~
15 ~~of the Oklahoma Statutes, and Section 61.2 of Title 85 of the~~
16 ~~Oklahoma Statutes above the limitation on expenses of administration~~
17 ~~of CompSource Oklahoma specified in Section 139 of Title 85 of the~~
18 ~~Oklahoma Statutes.~~

19 SECTION 73. AMENDATORY 36 O.S. 2011, Section 924.2, is
20 amended to read as follows:

21 Section 924.2 A. Any rate, schedule of rates or rating plan
22 for workers' compensation insurance submitted to or filed with the
23 Insurance Commissioner, or fixed by the Board of ~~Managers~~ Directors
24 of CompSource ~~Oklahoma~~ Mutual Insurance Company, and premiums, by

1 whatever name, for workers' compensation for self-insureds except
2 for group self-insured associations shall provide for an appropriate
3 reduction in premium charges, by whatever name, for those eligible
4 insured employers who have successfully participated in the
5 occupational safety and health consultation, education and training
6 program administered by the Commissioner of the Department of Labor
7 pursuant to Section 414 of Title 40 of the Oklahoma Statutes.

8 B. All insurance companies writing workers' compensation
9 insurance in this state, ~~including CompSource Oklahoma,~~ and all
10 self-insureds providing workers' compensation insurance except for
11 group self-insured associations, shall allow an appropriate
12 reduction in premium charges to all eligible employers who qualify
13 for the reduction pursuant to the provisions of this section.

14 C. Eligible employers shall be those employers:

15 1. Who are insured by an insurance company writing workers'
16 compensation insurance in this state; or

17 2. Who are self-insured; ~~or~~

18 ~~3. Who are insured by CompSource Oklahoma.~~

19 D. In order to qualify for the reduction in workers'
20 compensation insurance premium, an employer shall successfully
21 participate annually in the occupational safety and health
22 consultation, education and training program administered by the
23 Department of Labor. Successful participation shall be defined as:

24

1 1. Undergoing a safety and health hazard survey of the
2 workplace, including an evaluation of the employer's safety and
3 health program and onsite interviews with employees by the
4 Department's consultant;

5 2. Correcting all hazards identified during the onsite visit
6 within a reasonable period of time as established by the Department;

7 3. Establishing an effective workplace safety and health
8 program and implementing program provisions within a reasonable
9 period of time as established by the Department. The program shall
10 include:

11 a. demonstration of management commitment to worker
12 safety and health,

13 b. procedures for identifying and controlling workplace
14 hazards,

15 c. development and communication of safety plans, rules
16 and work procedures, and

17 d. training for supervisors and employees in safe and
18 healthful work practices;

19 4. Reducing by one-third (1/3) or more the extent to which the
20 lost workday case rate, as measured by the Department of Labor, was
21 above the national average for the industry at the time the employer
22 elected to participate in the occupational safety and health
23 consultation, education and training program, or maintaining a rate
24 at or below the national average for the industry; and

1 5. Documenting a reduction in workers' compensation claims for
2 the preceding year by showing one of the following:

3 a. a ten percent (10%) reduction in the dollar amount of
4 claims,

5 b. a ten percent (10%) reduction in the severity of
6 claims, or

7 c. no reported claims,

8 as a result of attending the occupational safety and health
9 consultation, education and training program administered by the
10 Department of Labor.

11 E. 1. Upon successful participation in the occupational safety
12 and health consultation, education and training program as defined
13 in subsection D of this section, an employer shall be issued a
14 certificate by the Commissioner of the Department of Labor which
15 shall be the basis of qualification for the reduction in workers'
16 compensation insurance premium, by whatever name. The certificate
17 shall qualify the employer for a premium reduction for a one-year
18 period.

19 2. Upon issuance of a certificate to an employer, the
20 Commissioner of the Department of Labor shall mail a copy of the
21 certificate to the employer's insurer. Any insurer required by this
22 section to allow an appropriate reduction in premium charges to a
23 qualified employer which willfully fails to allow such reduction
24 after receiving a copy of the certificate shall be subject, after

1 notice and hearing, to an administrative fine, imposed by the
2 Insurance Commissioner, which shall be not less than Ten Thousand
3 Dollars (\$10,000.00) or three times the amount of the premium
4 reduction, whichever is greater. The Insurance Commissioner shall
5 promulgate rules necessary to carry out the provisions of this
6 paragraph.

7 F. The Insurance Commissioner, and the Administrator of the
8 Workers' Compensation Court ~~and the CompSource Oklahoma President~~
9 ~~and Chief Executive Officer~~ shall maintain records documenting
10 reductions in workers' compensation insurance premiums granted
11 pursuant to this section and shall make an annual report of such
12 reductions to the President Pro Tempore of the Senate and the
13 Speaker of the House of Representatives by May 1 of each year.
14 Insurers shall report such premium reductions in their annual
15 statement.

16 G. ~~CompSource Oklahoma shall instruct its actuary to~~
17 ~~continually review the insurance premium credit program, developed~~
18 ~~and implemented pursuant to Section 142a of Title 85 of the Oklahoma~~
19 ~~Statutes, to determine if the program is detrimental to the~~
20 ~~financial stability of CompSource Oklahoma. If the actuary~~
21 ~~determines that the program contributes detrimentally to the~~
22 ~~financial stability of CompSource Oklahoma, the actuary shall~~
23 ~~immediately recommend to the CompSource Oklahoma President and Chief~~

24

1 ~~Executive Officer that the safety premium reduction cease for a one-~~
2 ~~year period.~~

3 SECTION 74. AMENDATORY 36 O.S. 2011, Section 995, is
4 amended to read as follows:

5 Section 995. Joint Underwriting, Joint Reinsurance Pool and
6 Residual Market Activities.

7 A. This section shall not apply to transactions involving
8 CompSource ~~Oklahoma~~ Mutual Insurance Company.

9 B. Notwithstanding paragraph 3 of subsection A of Section 992
10 of this title, insurers participating in joint underwriting, joint
11 reinsurance pools or residual market mechanisms may in connection
12 with such activity act in cooperation with each other in the making
13 of rates, rating systems, policy forms, underwriting rules, surveys,
14 inspections and investigations, the furnishing of loss and expense
15 statistics or other information, or carrying on research. Joint
16 underwriting, joint reinsurance pools and residual market mechanisms
17 shall not be deemed an advisory organization.

18 C. Except to the extent modified by this section, joint
19 underwriting, joint reinsurance pool and residual market mechanism
20 activities are subject to the other provisions of the Property and
21 Casualty Competitive Loss Cost Rating Act.

22 D. If, after a hearing, the Commissioner finds that any
23 activity or practice of an insurer participating in joint
24 underwriting or a pool is unfair, is unreasonable, will tend to

1 lessen competition in any market or is otherwise inconsistent with
2 the provisions or purposes of the Property and Casualty Competitive
3 Loss Cost Rating Act, the Commissioner may issue a written order and
4 require the discontinuance of such activity or practice.

5 E. Every pool shall file with the Commissioner a copy of its
6 constitution, articles of incorporation, agreement or association,
7 bylaws, rules and regulations governing its activities, list of
8 members, the name and address of a resident of this state upon whom
9 notice, orders of the Commissioner, or process may be served, and
10 any changes in amendments or changes in the foregoing.

11 F. Any residual market mechanism, plan or agreement to
12 implement such a mechanism, and any changes or amendments thereto,
13 shall be submitted in writing to the Commissioner for consideration
14 and approval, together with such information as may be reasonably
15 required.

16 SECTION 75. AMENDATORY 36 O.S. 2011, Section 1250.2, is
17 amended to read as follows:

18 Section 1250.2 As used in the Unfair Claims Settlement
19 Practices Act:

20 1. "Agent" means any individual, corporation, association,
21 partnership, or other legal entity authorized to represent an
22 insurer with respect to a claim;

23 2. "Claimant" means either a first party claimant, a third
24 party claimant, or both, and includes such claimant's designated

1 legal representatives and includes a member of the claimant's
2 immediate family designated by the claimant;

3 3. "Commissioner" means the Insurance Commissioner;

4 4. "First-party claimant" means an individual, corporation,
5 association, partnership, or other legal entity, including a
6 subscriber under any plan providing health services, asserting a
7 right to payment pursuant to an insurance policy or insurance
8 contract for an occurrence of contingency or loss covered by such
9 policy or contract;

10 5. "Health benefit plan" means group hospital or medical
11 insurance coverage, a not-for-profit hospital or medical service or
12 indemnity plan, a prepaid health plan, a health maintenance
13 organization plan, a preferred provider organization plan, the State
14 and Education Employees Group Health Insurance Plan, and coverage
15 provided by a Multiple Employer Welfare Arrangement (MEWA) or
16 employee self-insured plan except as exempt under federal ERISA
17 provisions. The term shall not include short-term accident, fixed
18 indemnity, or specified disease policies, disability income
19 contracts, limited benefit or credit disability insurance, workers'
20 compensation insurance coverage, automobile medical payment
21 insurance, or insurance under which benefits are payable with or
22 without regard to fault and which is required by law to be contained
23 in any liability insurance policy or equivalent self-insurance;

24

1 6. "Insurance policy or insurance contract" means any contract
2 of insurance, certificate, indemnity, medical or hospital service,
3 suretyship, annuity, subscriber certificate or any evidence of
4 coverage of a health maintenance organization issued, proposed for
5 issuance, or intended for issuance by any entity subject to this
6 Code;

7 7. "Insurer" means a person licensed by the Commissioner to
8 issue or who issues any insurance policy or insurance contract in
9 this state, ~~including CompSource,~~ and also includes health
10 maintenance organizations. Provided that, for the purposes of
11 paragraphs 15 and 16 of Section 1250.5 of this title, "insurer"
12 shall include the State and Education Employees Group Insurance
13 Board;

14 8. "Investigation" means all activities of an insurer directly
15 or indirectly related to the determination of liabilities under
16 coverages afforded by an insurance policy or insurance contract;

17 9. "Notification of claim" means any notification, whether in
18 writing or other means acceptable under the terms of an insurance
19 policy or insurance contract, to an insurer or its agent, by a
20 claimant, which reasonably apprises the insurer of the facts
21 pertinent to a claim;

22 10. "Preauthorization/precertification" means a determination
23 by a health benefit plan, based on the information presented at the
24 time by the health care provider, that health care services proposed

1 by the health care provider are medically necessary. The term shall
2 include "authorization", "certification" and any other term that
3 would be a reliable determination by a health benefit plan. A
4 preauthorization/precertification from a previous health plan shall
5 not bind a succeeding health benefit plan;

6 11. "Third-party claimant" means any individual, corporation,
7 association, partnership, or other legal entity asserting a claim
8 against any individual, corporation, association, partnership, or
9 other legal entity insured under an insurance policy or insurance
10 contract; and

11 12. "Verification of eligibility" means a representation by a
12 health benefit plan to a health care provider that a claimant is
13 entitled to covered benefits under the policy. Such verification of
14 eligibility shall be valid for four (4) business days from the date
15 given by the health benefit plan.

16 SECTION 76. AMENDATORY 36 O.S. 2011, Section 1250.4, is
17 amended to read as follows:

18 Section 1250.4 A. An insurer's claim files, ~~other than the~~
19 ~~claim files of the State Insurance Fund,~~ shall be subject to
20 examination by the Insurance Commissioner or by duly appointed
21 designees. Such files shall contain all notes and work papers
22 pertaining to a claim in such detail that pertinent events and the
23 dates of such events can be reconstructed. In addition, the
24 Insurance Commissioner, authorized employees and examiners shall

1 have access to any of an insurer's files that may relate to a
2 particular complaint under investigation or to an inquiry or
3 examination by the Insurance Department.

4 B. Every agent, adjuster, administrator, insurance company
5 representative, or insurer, ~~other than the State Insurance Fund and~~
6 ~~its representatives,~~ upon receipt of any inquiry from the
7 Commissioner shall, within thirty (30) days from the date of the
8 inquiry, furnish the Commissioner with an adequate response to the
9 inquiry.

10 C. Every insurer, upon receipt of any pertinent written
11 communication including but not limited to e-mail or other forms of
12 written electronic communication, or documentation by the insurer of
13 a verbal communication from a claimant which reasonably suggests
14 that a response is expected, shall, within thirty (30) days after
15 receipt thereof, furnish the claimant with an adequate response to
16 the communication.

17 D. Any violation by an insurer of this section shall subject
18 the insurer to discipline including a civil penalty of not less than
19 One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
20 (\$5,000.00).

21 SECTION 77. AMENDATORY 36 O.S. 2011, Section 1250.9, is
22 amended to read as follows:

23 Section 1250.9 A. If the Insurance Commissioner determines,
24 based on an investigation of complaints of unfair claim settlement

1 practices, that an insurer, ~~other than the State Insurance Fund,~~ has
2 engaged in unfair claim settlement practices with such frequency as
3 to indicate a general business practice and that such insurer should
4 be subjected to closer supervision with respect to such practices,
5 the Commissioner may require the insurer to file a report at such
6 periodic intervals as the Commissioner deems necessary. The
7 Commissioner shall also devise a statistical plan for such periodic
8 reports, which shall contain but not be limited to the following
9 information:

10 1. The total number of written claims filed, including the
11 original amount filed for by the insured and the classification by
12 line of insurance of each individual written claim, for the past
13 twelve-month period or from the date of the insurer's last periodic
14 report, whichever time is shorter;

15 2. The total number of written claims denied, for the past
16 twelve-month period or from the date of the insurer's last periodic
17 report, whichever time is shorter;

18 3. The total number of written claims settled, including the
19 original amount filed for by the insured, the settled amount, and
20 the classification of line of insurance of each individual settled
21 claim, for the past twelve-month period or from the date of the
22 insurer's last periodic report, whichever time is shorter;

23 4. The total number of written claims for which lawsuits were
24 instituted against the insurer, including the original amount of the

1 claim filed for by the insured, the amount of final adjudication,
2 the reason for the lawsuit and the classification by line of
3 insurance of each individual written claim, for the past twelve-
4 month period or from the date of the insurer's last periodic report,
5 whichever time is shorter; and

6 5. All information required by paragraph 12 of Section 1250.5
7 of this title.

8 B. For the purposes of this section, "written claims" means
9 those claims reduced to writing and filed by a resident of this
10 state with an insurer.

11 SECTION 78. AMENDATORY 36 O.S. 2011, Section 1250.10, is
12 amended to read as follows:

13 Section 1250.10 A. The Insurance Commissioner may hire
14 additional employees and examiners as needed for the enforcement of
15 the provisions of the Unfair Claims Settlement Practices Act.

16 B. The Commissioner shall compile the information received from
17 an insurer pursuant to Section 1250.9 of this title in such a manner
18 as to enable him to compare it to a minimum standard of performance
19 which shall be promulgated by the Commissioner. If the
20 Commissioner, after such comparison is made, finds that the insurer
21 falls below the minimum standard of performance, he shall cause an
22 investigation to be made of said insurer as to the reason, if any,
23 for the substandard performance.

24

1 C. The Commissioner shall also provide for the receiving and
2 processing of individual complaints alleging violations of the
3 Unfair Claims Settlement Practices Act by both insurers who are
4 required to make periodic reports and those who are not required to
5 make such reports, ~~but not by the State Insurance Fund.~~ If the
6 Commissioner in his complaint experience determines that the number
7 and type of complaints against an insurer, ~~other than the State~~
8 ~~Insurance Fund,~~ do not meet the minimum standard of performance or
9 are out of proportion to those against other insurers writing
10 similar lines of insurance, the Commissioner shall cause an
11 investigation to be made of the insurer.

12 SECTION 79. AMENDATORY 36 O.S. 2011, Section 1250.11, is
13 amended to read as follows:

14 Section 1250.11 ~~A.~~ Upon the receipt of the results of an
15 investigation instituted pursuant to the provisions of Section
16 1250.10 of this title, the Insurance Commissioner shall review the
17 results and shall determine whether, by the standards set out in
18 Sections 1250.3 and 1250.5 of this title, further action is
19 required. If the Insurance Commissioner deems further action
20 necessary, the Commissioner shall issue and serve upon the insurer a
21 statement of the charges and a notice in accordance with the
22 Administrative Procedures Act. No insurer shall be deemed in
23 violation of the Unfair Claims Settlement Practices Act solely by
24 reason of the numbers and types of such complaints or claims.

1 ~~B. The Insurance Commissioner shall not assert enforcement~~
2 ~~jurisdiction pursuant to this section over the State Insurance Fund.~~

3 SECTION 80. AMENDATORY 36 O.S. 2011, Section 1250.13, is
4 amended to read as follows:

5 Section 1250.13 A. The Insurance Commissioner, upon finding an
6 insurer, ~~other than the State Insurance Fund,~~ in violation of any
7 provision of the Unfair Claims Settlement Practices Act, shall issue
8 a cease and desist order to said insurer directing it to stop such
9 unlawful practices. If the insurer refuses or fails to comply with
10 said order, the Commissioner shall have the authority to revoke or
11 suspend the insurer's certificate of authority. The Commissioner
12 shall also have the authority to limit, regulate, and control the
13 insurer's line of business, the insurer's writing of policy forms or
14 other particular forms, and the insurer's volume of its line of
15 business or its writing of policy forms or other particular forms.
16 The Commissioner shall use the above authority to the extent deemed
17 necessary to obtain the insurer's compliance with the order. The
18 Attorney General shall offer his assistance if requested by the
19 Commissioner to enforce the Commissioner's orders.

20 B. Reasonable ~~attorneys~~ attorney fees shall be awarded the
21 Commissioner if judicial action is necessary for the enforcement of
22 the orders. Such fees shall be based upon those prevailing in the
23 community. Fees collected by the Commissioner without the
24 assistance of the Attorney General shall be credited to the

1 Insurance Commissioner's Revolving Fund. Fees collected by the
2 Attorney General shall be credited to the Attorney General's
3 Revolving Fund.

4 SECTION 81. AMENDATORY 36 O.S. 2011, Section 1250.14, is
5 amended to read as follows:

6 Section 1250.14 For any violation of the Unfair Claims
7 Settlement Practices Act, the Insurance Commissioner may, after
8 notice and hearing, subject an insurer, ~~other than the State~~
9 ~~Insurance Fund,~~ to a civil penalty of not less than One Hundred
10 Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)
11 for each occurrence. Such civil penalty may be enforced in the same
12 manner in which civil judgments may be enforced.

13 SECTION 82. AMENDATORY 36 O.S. 2011, Section 1442, is
14 amended to read as follows:

15 Section 1442. As used in the Third-party Administrator Act,
16 Section 1441 et seq. of this title:

17 1. "Administrator" means any person who collects premiums for
18 an insurer or trust or who adjusts or settles claims for an insurer
19 or trust, in connection with life or health insurance coverage,
20 annuities or employee benefit stop loss in this state, but shall not
21 include any person who collects premiums or who adjusts or settles
22 claims under the following circumstances:

23
24

- 1 a. any employer on behalf of the employees of that
2 employer or the employees of one or more subsidiary or
3 affiliated corporations of that employer,
4 b. a union on behalf of its members,
5 c. an insurance company which is licensed to transact
6 insurance business in this state,
7 d. a wholly owned subsidiary of an entity which is
8 subject to the jurisdiction of the Insurance
9 Commissioner,
10 e. an insurance company acting as an insurer with respect
11 to a policy lawfully issued and delivered by said
12 company in and pursuant to the laws of this state,
13 f. a hospital, medical, dental, or optometric service
14 corporation or a health care service organization,
15 including their agents, authorized by the Commissioner
16 to issue contracts in this state pursuant to the
17 provisions of the Oklahoma Insurance Code when engaged
18 in the performance of their duties,
19 g. a life or disability agent or broker who is licensed
20 in this state and whose activities are limited
21 exclusively to the sale of insurance,
22 h. an adjuster licensed in this state for the kinds of
23 business for which he is acting as an adjuster,
24

- i. a creditor insuring a debt between the creditor and its debtors on behalf of said creditor's debtors,
- j. a financial institution which is subject to supervision or examination by federal or state banking authorities,
- k. a company which issues credit cards and advances credit for and collects premiums or charges from its credit card holders who have authorized said collection, if the company does not adjust or settle claims,
- l. a person who adjusts or settles claims in the normal course of practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities,
- m. ~~the State Insurance Fund,~~
- ~~n.~~ any workers' compensation trust, or
- ~~e.~~ n. a trust providing benefits to the employees of any political subdivision of a city, county or the state; and

2. "Trust" means any trust other than those exempted in paragraph 1 of this section which engages in the business of making contracts of insurance.

1 SECTION 83. AMENDATORY 36 O.S. 2011, Section 6701, is
2 amended to read as follows:

3 Section 6701. A. ~~1. By January 1, 1996, each~~ Each insurance
4 company that provides workers' compensation insurance or an
5 equivalent insurance product in this state shall maintain or provide
6 workplace safety services for its policyholders as a condition for
7 approval by the Insurance Commissioner to write such insurance.
8 Such services shall be adequate to implement workplace safety plans
9 as required by the nature of its policyholders' operations and shall
10 include but not be limited to surveys, recommendations, training
11 programs, consultations, analyses of accident causes, industrial
12 hygiene, and industrial health services.

13 ~~2. The State Insurance Fund shall maintain or provide workplace~~
14 ~~safety services for its policyholders. Such safety services shall~~
15 ~~be adequate to implement workplace safety plans as required by the~~
16 ~~nature of its policyholders' operations and shall include but not be~~
17 ~~limited to surveys, recommendations, training programs,~~
18 ~~consultations, analyses of accident causes, industrial hygiene, and~~
19 ~~industrial health services.~~

20 B. Notice that workplace safety services are available to the
21 policyholder from the insurance company and ~~the State Insurance Fund~~
22 must appear in no less than ~~ten (10) point~~ ten-point bold type on
23 the front of each workers' compensation insurance or equivalent
24 insurance policy delivered or issued for delivery in this state.

1 SECTION 84. AMENDATORY 40 O.S. 2011, Section 417, is
2 amended to read as follows:

3 Section 417. (1) To assure the availability of accurate, timely
4 statistical data concerning occupational health and safety in
5 Oklahoma, all employers as defined in Section 402 of this title
6 shall submit reports, on a form and in a manner prescribed by the
7 Commissioner of Labor. Reports shall include only those injuries
8 arising from employment within the State of Oklahoma.

9 (2) The Department may exempt from this requirement those
10 classes of employers for whose operations adequate records of safety
11 experience are already available or the Department may exempt any
12 employer from this requirement when, in the judgment of the
13 Commissioner, the submission of annual reports by such employer is
14 not necessary to carry out the purposes of this act and would be an
15 undue burden upon such employer because of size, the nature of its
16 operation or other special circumstances.

17 (3) The Department shall publish each year a detailed summary
18 of the statistical data received from employers. A copy of such
19 summary shall be available on request to each reporting
20 establishment required to file reports of disabling work injuries
21 and shall be made available to anyone having a legitimate interest
22 in the subject matter of the report.

23 ~~(4) Upon publication of the annual summary, the Commissioner of~~
24 ~~Labor shall provide to the CompSource Oklahoma President and Chief~~

1 ~~Executive Officer, upon request, the reports of each employer~~
2 ~~subject to the provisions of this section, and any derivation,~~
3 ~~tables or analysis generated by the Department of Labor in the~~
4 ~~preparation of such summary.~~

5 SECTION 85. AMENDATORY 40 O.S. 2011, Section 418, is
6 amended to read as follows:

7 Section 418. (1) Each insurance carrier writing workers'
8 compensation insurance in this state, ~~the State Insurance Fund~~ and
9 each self-insured employer authorized to make workers' compensation
10 payments directly to employees shall pay to the Oklahoma Tax
11 Commission up to a sum equal to three-fourths of one percent (3/4 of
12 1%) of the total workers' compensation losses, excluding medical
13 payments and temporary total disability compensation, based on the
14 records of the Workers' Compensation Court, paid out or payable
15 during each quarter-year period of the calendar year, said
16 percentage to be fixed by the Commissioner and based upon his
17 certification that the proceeds thereof are reasonable and necessary
18 to accomplish the objectives of Section 401 et seq. of this title.
19 Such payments to the Oklahoma Tax Commission shall be made not later
20 than the fifteenth day of the month following the close of the
21 quarter-year in which compensation is paid or becomes payable.
22 Payments made, under the provisions of this section, shall be
23 considered losses for the purpose of computing workers' compensation
24 rates.

1 (2) The refund provisions of Sections 227 through 229 of Title
2 68 of the Oklahoma Statutes, ~~Sections 227 through 229~~, shall be
3 applicable to any payments made under the provisions of this act.

4 (3) In making and entering awards for compensation, the
5 Workers' Compensation Court shall determine and fix the amounts that
6 shall be paid to the Oklahoma Tax Commission under the provisions of
7 this section. The total amount so determined and fixed shall have
8 the same force and effect as an award of the Workers' Compensation
9 Court for compensation and all provisions relating to the collection
10 of awards of said court shall apply to such judgments.

11 (4) It shall be the duty of the Oklahoma Tax Commission to
12 collect the payments provided for herein, and said Commission is
13 hereby given authority to bring an action for the recovery of any
14 delinquent and unpaid payment or payments. In the alternative, the
15 Oklahoma Tax Commission may enforce payments by proceeding in
16 accordance with the provisions of Section ~~42~~ 346 of Title 85 of the
17 Oklahoma Statutes.

18 (5) The Oklahoma Tax Commission shall, monthly, as the same are
19 collected, pay to the State Treasurer of this state, to the credit
20 of the Special Occupational Health and Safety Fund, all monies
21 collected under the provisions of this section. Monies shall be
22 paid out of said Fund exclusively for the operation and
23 administration of Section 401 et seq. of this title and for other
24

1 necessary expenses of the Department of Labor pursuant to
2 appropriations by the Oklahoma Legislature.

3 (6) The Commissioner shall determine the needs of the program,
4 considering statistical data on disabling work injuries, depth and
5 scope of the program as evidenced by the needs and demands of
6 employers and the present, planned and anticipated budgetary needs
7 of the program, and submit same to the Legislature.

8 SECTION 86. AMENDATORY 47 O.S. 2011, Section 157.1, is
9 amended to read as follows:

10 Section 157.1 The Department of Transportation, the Board of
11 Agriculture, and the Department of Human Services of the state are
12 hereby authorized to carry insurance on vehicles, motorized
13 machinery, or equipment owned and operated by the Department of
14 Transportation, the Board of Agriculture, and the Department of
15 Human Services, such insurance to be of the following kinds and in
16 amounts not exceeding the following:

17 ~~(a) bodily~~ 1. Bodily injury liability, One Hundred Thousand
18 Dollars (\$100,000.00) each person, Three Hundred Thousand Dollars
19 (\$300,000.00) each accident;

20 ~~(b) property~~ 2. Property damage liability, Fifty Thousand
21 Dollars (\$50,000.00) each accident; and

22 ~~(c) medical~~ 3. Medical and hospital insurance, Five Thousand
23 Dollars (\$5,000.00).

24

1 Such insurance shall be on standard policy forms approved by the
2 State Insurance Commissioner and with companies authorized to do
3 business in Oklahoma, and shall be paid for out of administrative
4 funds of such departments. Such insurance may cover not only the
5 department or state agency purchasing the insurance but also the
6 personal liability of the operator. The ownership, maintenance,
7 operation and use of motor vehicles and motorized movable equipment
8 owned, leased, used or operated by such departments or state
9 agencies named in this section is hereby declared to be a public
10 governmental function. An action for damages may be brought against
11 such department or state agency, but the governmental immunity of
12 such department or state agency shall be waived only to the extent
13 of the amount of insurance purchased. Such department or state
14 agency shall be liable for negligence only while such insurance is
15 in force, but in no case in any amount exceeding the limits of
16 coverage of any such insurance policy. No attempt shall be made in
17 the trial of any action brought against any such department or state
18 agency to suggest the existence of any insurance which covers in
19 whole or in part any judgment or award which may be rendered in
20 favor of the plaintiff, and if the verdict rendered by the jury
21 exceeds the limits of the applicable insurance, the court shall
22 reduce the amount of said judgment or award to a sum equal to the
23 applicable limits stated in the policy. To the extent that the
24 insurer has provided indemnity in the contract of insurance to a

1 department or state agency described in this section, the said
2 insurer may not plead as a defense in any action involving insurance
3 purchased by the authority of this section, the governmental
4 immunity of either the state or of any department or agency thereof
5 purchasing insurance pursuant to this section. Venue of all actions
6 provided for herein shall be in the county of the residence of the
7 plaintiff or where the cause of action arose, but summons may be
8 served upon the director, head or governing board or body of the
9 department or state agency being sued and alleged to come within the
10 purview of this section, wherever ~~he~~ that person may be found. ~~If~~
11 ~~the State Insurance Fund is hereafter authorized to write such~~
12 ~~insurance, then the Department of Transportation, the Board of~~
13 ~~Agriculture, and the Department of Human Services shall obtain the~~
14 ~~insurance from the State Insurance Fund, if said State Insurance~~
15 ~~Fund is the lowest bid, after taking into account the premium tax~~
16 ~~being paid by any other bidder.~~ Such policies shall be filed in the
17 office of the Secretary of State as a public record.

18 SECTION 87. AMENDATORY 74 O.S. 2011, Section 85.29, as
19 amended by Section 750, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
20 2012, Section 85.29), is amended to read as follows:

21 Section 85.29 The amount of surety required for each state
22 officer or employee pursuant to Sections 85.26 through 85.31 of this
23 title is as follows:

24 DEPARTMENT	AMOUNT OF BOND
---------------	----------------

1	Office of the State Treasurer	\$300,000.00
2	Oklahoma Employment Security	
3	Commission	\$150,000.00
4	Central Services Division of the	
5	Office of Management and Enterprise	
6	Services	100,000.00
7	Insurance Commission	100,000.00
8	Office of the State Auditor and	
9	Inspector	50,000.00
10	Finance Division of the Office of	
11	Management and Enterprise Services	50,000.00
12	Bank Commissioner	50,000.00
13	CompSource Oklahoma President and	
14	 Chief Executive Officer	50,000.00
15	Commissioners of the Land Office	50,000.00
16	Oklahoma Securities Commission	50,000.00
17	Oklahoma Tax Commission	50,000.00
18	Department of Human Services	50,000.00
19	Oklahoma Public Employees Retirement	
20	System	50,000.00
21	Corporation Commission	50,000.00
22	State Board of Education	50,000.00
23	Finance Division	150,000.00
24	All Others	25,000.00

1	Department of Transportation	25,000.00
2	Boards of Regents of Oklahoma	
3	Universities and Colleges	50,000.00
4	Office of Attorney General	10,000.00
5	The University Hospitals	50,000.00
6	All Other State Departments, Agencies,	
7	Institutions, Commissions,	
8	Authorities, and other bodies of	
9	state government	10,000.00

10 Provided, however, that nothing in The Oklahoma Central
11 Purchasing Act shall prohibit any head of a department, institution,
12 agency, commission, authority or other body of state government from
13 requiring the Central Purchasing Division to purchase increased
14 amounts of blanket bond coverage for his or her employees up to a
15 total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when
16 the listed amount is deemed inadequate. The cost of increased
17 coverage shall be borne by the department, institution, agency,
18 commission, authority or other body of state government requesting
19 the increased coverage.

20 SECTION 88. AMENDATORY 74 O.S. 2011, Section 85.58A, as
21 amended by Section 782, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2012, Section 85.58A), is amended to read as follows:

23 Section 85.58A A. The Office of Management and Enterprise
24 Services shall establish for all state agencies, whether or not

1 subject to The Central Purchasing Act, and other entities as
2 provided by law a comprehensive professional risk management program
3 which shall:

4 1. Identify and evaluate risks of loss and exposures to loss to
5 officers, employees and properties;

6 2. Minimize risks through loss-prevention and loss-control
7 programs;

8 3. Transfer risks, if economically advantageous to the state,
9 by acquiring commercial insurance, contractual pass through of
10 liability, or by other means;

11 4. Consolidate and administer risk management plans and
12 programs including self-insurance programs, except Workers'
13 Compensation Insurance and State Employees Group Insurance;

14 5. Determine feasibility of and, if feasible, establish self-
15 insurance programs, considering whether a program may be self-
16 supporting to remain financially and actuarially sound;

17 6. Provide a system to allocate insurance and program costs to
18 determine payment for insurance coverage and program expenses
19 provided by the Office of Management and Enterprise Services;

20 7. When requested by a state retirement system, ~~CompSource~~
21 ~~Oklahoma~~ or the State and Education Employees Group Insurance Board,
22 assist in obtaining insurance authorized by law. If requested by
23 the Oklahoma State Regents for Higher Education, assist trust funds
24

1 for which the State Regents serve as trustees in obtaining insurance
2 authorized by law;

3 8. Assist state agencies and officers, employees, and members
4 thereof, charged with licensing authority, in obtaining insurance
5 for liability for judgments, based on the licensing authority,
6 rendered by any court pursuant to federal law;

7 9. When requested by a public trust established pursuant to
8 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
9 the beneficiary, obtain, provide or assist the public trust in
10 obtaining insurance authorized by law or trust indenture covering
11 any board member, trustee, official, officer, employee or volunteer
12 for errors and omissions or liability risks arising from the
13 performance of official duties pursuant to law or trust indenture;
14 and

15 10. When requested by the Oklahoma State Regents for Higher
16 Education, for the purpose of insuring real property required
17 pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of
18 which the Oklahoma State Regents for Higher Education is the
19 beneficiary, obtain, provide or assist the Oklahoma State Regents
20 for Higher Education in obtaining insurance for the real property
21 pursuant to the provisions of this section.

22 B. The Director of the Office of Management and Enterprise
23 Services may hire or contract for the services of a Risk Management
24 Administrator to supervise the Comprehensive Professional Risk

1 Management Program established pursuant to this section. If
2 appointed by the Director as a state employee, the Risk Management
3 Administrator shall be in the unclassified service.

4 C. The Risk Management Administrator shall evaluate insurance
5 coverage needs and in force for state agencies, whether or not
6 subject to The Central Purchasing Act, and other entities as
7 provided by law. All entities shall submit to the Risk Management
8 Administrator all information which the Risk Management
9 Administrator deems necessary to perform this duty.

10 D. The Risk Management Administrator in conjunction with the
11 State Purchasing Director under the authority of the Director of the
12 Office of Management and Enterprise Services may negotiate insurance
13 coverage and insurance-related services, including, but not limited
14 to, insurance brokerage and consulting services. The State
15 Purchasing Director shall ensure open processes for solicitation and
16 qualification of insurance coverage and services providers. The
17 State Purchasing Director shall award contracts for insurance
18 coverage and services to the provider or providers which offer the
19 best and final terms and conditions. The State Purchasing Director
20 may authorize the Risk Management Administrator to bind for
21 insurance coverage with providers.

22 E. The school districts of this state may request the Risk
23 Management Administrator to advise for the purchase of insurance
24 coverage for the school districts.

1 F. A state agency, whether or not subject to The Central
2 Purchasing Act, that contemplates purchase of property and casualty
3 insurance, shall provide details of the proposed purchase to the
4 Risk Management Administrator for approval or disapproval prior to
5 the purchase.

6 G. The Director of the Office of Management and Enterprise
7 Services shall promulgate rules to effect the provisions of the
8 comprehensive professional risk management program.

9 H. 1. a. Any community action agency established pursuant to
10 Sections 5035 through 5040 of this title may
11 participate in the comprehensive professional risk
12 management program established pursuant to this
13 section for risks incurred as a result of operating a
14 Head Start program or providing transportation
15 services to the public. The Risk Management
16 Administrator shall obtain or provide for insurance
17 coverage for such community action agencies or bonding
18 for employees of such community action agencies. Any
19 liability insurance coverage obtained or provided
20 shall include expenses for administrative and legal
21 services obtained or provided by the Risk Management
22 Administrator.

23 b. The Risk Management Administrator shall determine
24 criteria for participation in the risk management

1 program by such community action agencies. In
2 addition, the Risk Management Administrator may
3 require each such community action agency to:

- 4 (1) provide adequate qualified personnel and suitable
5 facilities and equipment for operating a Head
6 Start program or providing transportation
7 services to the public, and
- 8 (2) comply with such standards as are necessary for
9 the protection of the clients it serves.

10 2. To receive coverage pursuant to this section, a community
11 action agency shall make payments for any insurance coverage and
12 shall otherwise comply with the provisions of this section and rules
13 promulgated by the Office pursuant to the provisions of this
14 section.

15 3. Requests for the insurance coverage provided pursuant to the
16 provisions of this subsection shall be submitted in writing to the
17 Risk Management Administrator by the community action agencies.

18 I. The Risk Management Administrator may provide or obtain for
19 any state agency, public trust with the state as a beneficiary and a
20 director, officer, employee or member thereof, insurance for
21 liability for loss, including judgments, awards, settlements, costs
22 and legal expenses, resulting from violations of rights or
23 privileges secured by the Constitution or laws of the United States
24 of America which occur while a director, officer, employee or member

1 is acting within the scope of service to the State of Oklahoma. The
2 insurance shall be for coverage in excess of the limits on liability
3 established by The Governmental Tort Claims Act but shall not limit
4 or waive any immunities now or hereafter available to the State of
5 Oklahoma or any state agency, any public trust with the state as a
6 beneficiary, or any director, officer, employee or member thereof,
7 including, but not limited to, any immunities under the Eleventh
8 Amendment to the Constitution of the United States, state sovereign
9 immunity, and any absolute or qualified immunity held by any
10 director, officer, employee or member.

11 SECTION 89. AMENDATORY 74 O.S. 2011, Section 902, is
12 amended to read as follows:

13 Section 902. As used in Section 901 et seq. of this title:

14 (1) "System" means the Oklahoma Public Employees Retirement
15 System as established by this act and as it may hereafter be
16 amended;

17 (2) "Accumulated contributions" means the sum of all
18 contributions by a member to the System which shall be credited to
19 the member's account;

20 (3) "Act" means Sections 901 to 932, inclusive, of this title;

21 (4) "Actuarial equivalent" means a deferred income benefit of
22 equal value to the accumulated deposits or benefits when computed
23 upon the basis of the actuarial tables in use by the System;

24

1 (5) "Actuarial tables" means the actuarial tables approved and
2 in use by the Board at any given time;

3 (6) "Actuary" means the actuary or firm of actuaries employed
4 by the Board at any given time;

5 (7) "Beneficiary" means any person named by a member to receive
6 any benefits as provided for by Section 901 et seq. of this title.
7 If there is no beneficiary living at time of member employee's
8 death, the member's estate shall be the beneficiary;

9 (8) "Board" means the Oklahoma Public Employees Retirement
10 System Board of Trustees;

11 (9) "Compensation" means all salary and wages, as defined by
12 the Board of Trustees, including amounts deferred under deferred
13 compensation agreements entered into between a member and a
14 participating employer, but exclusive of payment for overtime,
15 payable to a member of the System for personal services performed
16 for a participating employer but shall not include compensation or
17 reimbursement for traveling, or moving expenses, or any compensation
18 in excess of the maximum compensation level, provided:

19 (a) For compensation for service prior to January 1, 1988,
20 the maximum compensation level shall be Twenty-five
21 Thousand Dollars (\$25,000.00) per annum.

22 For compensation for service on or after January 1,
23 1988, through June 30, 1994, the maximum compensation
24

1 level shall be Forty Thousand Dollars (\$40,000.00) per
2 annum.

3 For compensation for service on or after July 1, 1994,
4 through June 30, 1995, the maximum compensation level
5 shall be Fifty Thousand Dollars (\$50,000.00) per
6 annum; for compensation for service on or after July
7 1, 1995, through June 30, 1996, the maximum
8 compensation level shall be Sixty Thousand Dollars
9 (\$60,000.00) per annum; for compensation for service
10 on or after July 1, 1996, through June 30, 1997, the
11 maximum compensation level shall be Seventy Thousand
12 Dollars (\$70,000.00) per annum; and for compensation
13 for service on or after July 1, 1997, through June 30,
14 1998, the maximum compensation level shall be Eighty
15 Thousand Dollars (\$80,000.00) per annum. For
16 compensation for services on or after July 1, 1998,
17 there shall be no maximum compensation level for
18 retirement purposes.

19 (b) Compensation for retirement purposes shall include any
20 amount of elective salary reduction under Section 457
21 of the Internal Revenue Code of 1986 and any amount of
22 nonelective salary reduction under Section 414(h) of
23 the Internal Revenue Code of 1986.

1 (c) Notwithstanding any provision to the contrary, the
2 compensation taken into account for any employee in
3 determining the contribution or benefit accruals for
4 any plan year is limited to the annual compensation
5 limit under Section 401(a)(17) of the federal Internal
6 Revenue Code.

7 (d) Current appointed members of the Oklahoma Tax
8 Commission whose salary is constitutionally limited
9 and is less than the highest salary allowed by law for
10 his or her position shall be allowed, within ninety
11 (90) days from the effective date of this act, to make
12 an election to use the highest salary allowed by law
13 for the position to which the member was appointed for
14 the purposes of making contributions and determination
15 of retirement benefits. Such election shall be
16 irrevocable and be in writing. Reappointment to the
17 same office shall not permit a new election. Members
18 appointed to the Oklahoma Tax Commission after the
19 effective date of this act shall make such election,
20 pursuant to this subparagraph, within ninety (90) days
21 of taking office;

22 (10) "Credited service" means the sum of participating service,
23 prior service and elected service;

1 (11) "Dependent" means a parent, child, or spouse of a member
2 who is dependent upon the member for at least one-half (1/2) of the
3 member's support;

4 (12) "Effective date" means the date upon which the System
5 becomes effective by operation of law;

6 (13) "Eligible employer" means the state and any county, county
7 hospital, city or town, conservation districts, circuit engineering
8 districts and any public or private trust in which a county, city or
9 town participates and is the primary beneficiary, is to be an
10 eligible employer for the purpose of this act only, whose employees
11 are covered by Social Security and are not covered by or eligible
12 for another retirement plan authorized under the laws of this state
13 which is in operation on the initial entry date. Emergency medical
14 service districts may join the System upon proper application to the
15 Board. Provided affiliation by a county hospital shall be in the
16 form of a resolution adopted by the board of control.

17 (a) If a class or several classes of employees of any
18 above-defined employers are covered by Social Security
19 and are not covered by or eligible for and will not
20 become eligible for another retirement plan authorized
21 under the laws of this state, which is in operation on
22 the effective date, such employer shall be deemed an
23 eligible employer, but only with respect to that class
24

1 or those classes of employees as defined in this
2 section.

3 (b) A class or several classes of employees who are
4 covered by Social Security and are not covered by or
5 eligible for and will not become eligible for another
6 retirement plan authorized under the laws of this
7 state, which is in operation on the effective date,
8 and when the qualifications for employment in such
9 class or classes are set by state law; and when such
10 class or classes of employees are employed by a county
11 or municipal government pursuant to such
12 qualifications; and when the services provided by such
13 employees are of such nature that they qualify for
14 matching by or contributions from state or federal
15 funds administered by an agency of state government
16 which qualifies as a participating employer, then the
17 agency of state government administering the state or
18 federal funds shall be deemed an eligible employer,
19 but only with respect to that class or those classes
20 of employees as defined in this subsection; provided,
21 that the required contributions to the retirement plan
22 may be withheld from the contributions of state or
23 federal funds administered by the state agency and
24 transmitted to the System on the same basis as the

1 employee and employer contributions are transmitted
2 for the direct employees of the state agency. The
3 retirement or eligibility for retirement under the
4 provisions of law providing pensions for service as a
5 volunteer firefighter shall not render any person
6 ineligible for participation in the benefits provided
7 for in Section 901 et seq. of this title. An employee
8 of any public or private trust in which a county, city
9 or town participates and is the primary beneficiary
10 shall be deemed to be an eligible employee for the
11 purpose of this act only.

12 (c) All employees of the George Nigh Rehabilitation
13 Institute who elected to retain membership in the
14 System, pursuant to Section 913.7 of this title, shall
15 continue to be eligible employees for the purposes of
16 this act. The George Nigh Rehabilitation Institute
17 shall be considered a participating employer only for
18 such employees.

19 (d) All employees of CompSource Mutual Insurance Company
20 who retain membership in the Oklahoma Public Employees
21 Retirement System pursuant to Section 15 of this act
22 shall continue to be eligible employees for the
23 purposes of the Oklahoma Public Employees Retirement
24 System. CompSource Mutual Insurance Company shall be

1 considered a participating employer only for such
2 employees.

3 (e) A participating employer of the Teachers' Retirement
4 System of Oklahoma, who has one or more employees who
5 have made an election pursuant to enabling legislation
6 to retain membership in the System as a result of
7 change in administration, shall be considered a
8 participating employer of the Oklahoma Public
9 Employees Retirement System only for such employees;

10 (14) "Employee" means any officer or employee of a
11 participating employer, whose employment is not seasonal or
12 temporary and whose employment requires at least one thousand
13 (1,000) hours of work per year and whose salary or wage is equal to
14 the hourly rate of the monthly minimum wage for state employees.
15 For those eligible employers outlined in Section 910 of this title,
16 the rate shall be equal to the hourly rate of the monthly minimum
17 wage for that employer. Each employer, whose minimum wage is less
18 than the state's minimum wage, shall inform the System of the
19 minimum wage for that employer. This notification shall be by
20 resolution of the governing body.

21 (a) Any employee of the county extension agents who is not
22 currently participating in the Teachers' Retirement
23 System of Oklahoma shall be a member of this System.

1 (b) Eligibility shall not include any employee who is a
2 contributing member of the United States Civil Service
3 Retirement System.

4 (c) It shall be mandatory for an officer, appointee or
5 employee of the office of district attorney to become
6 a member of this System if he or she is not currently
7 participating in a county retirement system. Provided
8 further, that if an officer, appointee or employee of
9 the office of district attorney is currently
10 participating in such county retirement system, he or
11 she is ineligible for this System as long as he or she
12 is eligible for such county retirement system. Any
13 eligible officer, appointee or employee of the office
14 of district attorney shall be given credit for prior
15 service as defined in this section. The provisions
16 outlined in Section 917 of this title shall apply to
17 those employees who have previously withdrawn their
18 contributions.

19 (d) Eligibility shall also not include any officer or
20 employee of the Oklahoma Employment Security
21 Commission, except for those officers and employees of
22 the Commission electing to transfer to this System
23 pursuant to the provisions of Section 910.1 of this
24 title or any other class of officers or employees

1 specifically exempted by the laws of this state,
2 unless there be a consolidation as provided by Section
3 912 of this title. Employees of the Oklahoma
4 Employment Security Commission who are ineligible for
5 enrollment in the Employment Security Commission
6 Retirement Plan, that was in effect on January 1,
7 1964, shall become members of this System.

8 (e) Any employee employed by the Legislative Service
9 Bureau, State Senate or House of Representatives for
10 the full duration of a regular legislative session
11 shall be eligible for membership in the System
12 regardless of classification as a temporary employee
13 and may participate in the System during the regular
14 legislative session at the option of the employee.
15 For purposes of this subparagraph, the determination
16 of whether an employee is employed for the full
17 duration of a regular legislative session shall be
18 made by the Legislative Service Bureau if such
19 employee is employed by the Legislative Service
20 Bureau, the State Senate if such employee is employed
21 by the State Senate, or by the House of
22 Representatives if such employee is employed by the
23 House of Representatives. Each regular legislative
24 session during which the legislative employee or an

1 employee of the Legislative Service Bureau
2 participates full time shall be counted as six (6)
3 months of full-time participating service.

4 (i) Except as otherwise provided by this
5 subparagraph, once a temporary session employee
6 makes a choice to participate or not, the choice
7 shall be binding for all future legislative
8 sessions during which the employee is employed.

9 (ii) Notwithstanding the provisions of division (i) of
10 this subparagraph, any employee, who is eligible
11 for membership in the System because of the
12 provisions of this subparagraph and who was
13 employed by the State Senate or House of
14 Representatives after January 1, 1989, may file
15 an election, in a manner specified by the Board,
16 to participate as a member of the System prior to
17 September 1, 1989.

18 (iii) Notwithstanding the provisions of division (i) of
19 this subparagraph, a temporary legislative
20 session employee who elected to become a member
21 of the System may withdraw from the System
22 effective the day said employee elected to
23 participate in the System upon written request to
24 the Board. Any such request must be received by

1 the Board prior to October 1, 1990. All employee
2 contributions made by the temporary legislative
3 session employee shall be returned to the
4 employee without interest within four (4) months
5 of receipt of the written request.

6 (iv) A member of the System who did not initially
7 elect to participate as a member of the System
8 pursuant to subparagraph (e) of this paragraph
9 shall be able to acquire service performed as a
10 temporary legislative session employee for
11 periods of service performed prior to the date
12 upon which the person became a member of the
13 System if:

- 14 a. the member files an election with the System
15 not later than December 31, 2000, to
16 purchase the prior service; and
- 17 b. the member makes payment to the System of
18 the actuarial cost of the service credit
19 pursuant to subsection A of Section 913.5 of
20 this title. The provisions of Section 913.5
21 of this title shall be applicable to the
22 purchase of the service credit, including
23 the provisions for determining service
24 credit in the event of incomplete payment

1 due to cessation of payments, death,
2 termination of employment or retirement, but
3 the payment may extend for a period not to
4 exceed ninety-six (96) months;

5 (15) "Entry date" means the date on which an eligible employer
6 joins the System. The first entry date pursuant to Section 901 et
7 seq. of this title shall be January 1, 1964;

8 (16) "Executive Director" means the managing officer of the
9 System employed by the Board under Section 901 et seq. of this
10 title;

11 (17) "Federal Internal Revenue Code" means the federal Internal
12 Revenue Code of 1954 or 1986, as amended and as applicable to a
13 governmental plan as in effect on July 1, 1999;

14 (18) "Final average compensation" means the average annual
15 compensation, including amounts deferred under deferred compensation
16 agreements entered into between a member and a participating
17 employer, up to, but not exceeding the maximum compensation levels
18 as provided in paragraph (9) of this section received during the
19 highest three (3) of the last ten (10) years of participating
20 service immediately preceding retirement or termination of
21 employment. Provided, no member shall retire with a final average
22 compensation unless the member has made the required contributions
23 on such compensation, as defined by the Board of Trustees;

1 (19) "Fiscal year" means the period commencing July 1 of any
2 year and ending June 30 of the next year. The fiscal year is the
3 plan year for purposes of the federal Internal Revenue Code;
4 however, the calendar year is the limitation year for purposes of
5 Section 415 of the federal Internal Revenue Code;

6 (20) "Fund" means the Oklahoma Public Employees Retirement Fund
7 as created by Section 901 et seq. of this title;

8 (21) "Leave of absence" means a period of absence from
9 employment without pay, authorized and approved by the employer and
10 acknowledged to the Board, and which after the effective date does
11 not exceed two (2) years;

12 (22) "Member" means an eligible employee or elected official
13 who is in the System and is making the required employee or elected
14 official contributions, or any former employee or elected official
15 who shall have made the required contributions to the System and
16 shall have not received a refund or withdrawal;

17 (23) "Military service" means service in the Armed Forces of
18 the United States by an honorably discharged person during the
19 following time periods, as reflected on such person's Defense
20 Department Form 214, not to exceed five (5) years for combined
21 participating and/or prior service, as follows:

22 (a) during the following periods, including the beginning
23 and ending dates, and only for the periods served,
24 from:

- 1 (i) April 6, 1917, to November 11, 1918, commonly
2 referred to as World War I,
- 3 (ii) September 16, 1940, to December 7, 1941, as a
4 member of the 45th Division,
- 5 (iii) December 7, 1941, to December 31, 1946, commonly
6 referred to as World War II,
- 7 (iv) June 27, 1950, to January 31, 1955, commonly
8 referred to as the Korean Conflict or the Korean
9 War,
- 10 (v) February 28, 1961, to May 7, 1975, commonly
11 referred to as the Vietnam era, except that:
- 12 a. for the period from February 28, 1961, to
13 August 4, 1964, military service shall only
14 include service in the Republic of Vietnam
15 during that period, and
- 16 b. for purposes of determining eligibility for
17 education and training benefits, such period
18 shall end on December 31, 1976, or
- 19 (vi) August 1, 1990, to December 31, 1991, commonly
20 referred to as the Gulf War, the Persian Gulf
21 War, or Operation Desert Storm, but excluding any
22 person who served on active duty for training
23 only, unless discharged from such active duty for
24 a service-connected disability;

1 (b) during a period of war or combat military operation
2 other than a conflict, war or era listed in
3 subparagraph (a) of this paragraph, beginning on the
4 date of Congressional authorization, Congressional
5 resolution, or Executive Order of the President of the
6 United States, for the use of the Armed Forces of the
7 United States in a war or combat military operation,
8 if such war or combat military operation lasted for a
9 period of ninety (90) days or more, for a person who
10 served, and only for the period served, in the area of
11 responsibility of the war or combat military
12 operation, but excluding a person who served on active
13 duty for training only, unless discharged from such
14 active duty for a service-connected disability, and
15 provided that the burden of proof of military service
16 during this period shall be with the member, who must
17 present appropriate documentation establishing such
18 service.

19 An eligible member under this paragraph shall include only those
20 persons who shall have served during the times or in the areas
21 prescribed in this paragraph, and only if such person provides
22 appropriate documentation in such time and manner as required by the
23 System to establish such military service prescribed in this
24 paragraph, or for service pursuant to subdivision a of division (v)

1 of subparagraph (a) of this paragraph those persons who were awarded
2 service medals, as authorized by the United States Department of
3 Defense as reflected in the veteran's Defense Department Form 214,
4 related to the Vietnam Conflict for service prior to August 5, 1964;

5 (24) "Normal retirement date" means the date on which a member
6 may retire with full retirement benefits as provided in Section 901
7 et seq. of this title, such date being whichever occurs first:

8 (a) the first day of the month coinciding with or
9 following a member's:

10 (1) sixty-second birthday with respect to members
11 whose first participating service occurs prior to
12 November 1, 2011, or

13 (2) sixty-fifth birthday with respect to members
14 whose first participating service occurs on or
15 after November 1, 2011, or with respect to
16 members whose first participating service occurs
17 on or after November 1, 2011, reaches a minimum
18 age of sixty (60) years and who also reaches a
19 normal retirement date pursuant to subparagraph e
20 (c) of this paragraph,

21 (b) for any person who initially became a member prior to
22 July 1, 1992, and who does not reach a normal
23 retirement date pursuant to division (1) of
24 subparagraph (a) of this paragraph, the first day of

1 the month coinciding with or following the date at
2 which the sum of a member's age and number of years of
3 credited service total eighty (80); such a normal
4 retirement date will also apply to any person who
5 became a member of the sending system as defined in
6 Section 901 et seq. of this title, prior to July 1,
7 1992, regardless of whether there were breaks in
8 service after July 1, 1992,

9 (c) for any person who became a member after June 30,
10 1992, but prior to November 1, 2011, and who does not
11 reach a normal retirement date pursuant to division
12 (1) of subparagraph (a) of this paragraph, the first
13 day of the month coinciding with or following the date
14 at which the sum of a member's age and number of years
15 of credited service total ninety (90),

16 (d) in addition to subparagraphs (a), (b) and (c) of this
17 paragraph, the first day of the month coinciding with
18 or following a member's completion of at least twenty
19 (20) years of full-time-equivalent employment as:

20 (i) a correctional or probation and parole officer
21 with the Department of Corrections and at the
22 time of retirement, the member was a correctional
23 or probation and parole officer with the
24 Department of Corrections, or

1 (ii) a correctional officer, probation and parole
2 officer or fugitive apprehension agent with the
3 Department of Corrections who is in such position
4 on June 30, 2004, or who is hired after June 30,
5 2004, and who receives a promotion or change in
6 job classification after June 30, 2004, to
7 another position in the Department of
8 Corrections, so long as such officer or agent has
9 at least five (5) years of service as a
10 correctional officer, probation and parole
11 officer or fugitive apprehension agent with the
12 Department, has twenty (20) years of full-time-
13 equivalent employment with the Department and was
14 employed by the Department at the time of
15 retirement, or

16 (iii) a firefighter with the Oklahoma Military
17 Department either employed for the first time on
18 or after July 1, 2002, or who was employed prior
19 to July 1, 2002, in such position and who makes
20 the election authorized by division (2) of
21 subparagraph b of paragraph (8) of subsection A
22 of Section 915 of this title and at the time of
23 retirement, the member was a firefighter with the
24 Oklahoma Military Department, and such member has

1 at least twenty (20) years of credited service
2 upon which the two and one-half percent (2 1/2%)
3 multiplier will be used in calculating the
4 retirement benefit,

5 (e) for those fugitive apprehension agents who retire on
6 or after July 1, 2002, the first day of the month
7 coinciding with or following a member's completion of
8 at least twenty (20) years of full-time-equivalent
9 employment as a fugitive apprehension agent with the
10 Department of Corrections and at the time of
11 retirement, the member was a fugitive apprehension
12 agent with the Department of Corrections, or

13 (f) for any member who was continuously employed by an
14 entity or institution within The Oklahoma State System
15 of Higher Education and whose initial employment with
16 such entity or institution was prior to July 1, 1992,
17 and who without a break in service of more than thirty
18 (30) days became employed by an employer participating
19 in the Oklahoma Public Employees Retirement System,
20 the first day of the month coinciding with or
21 following the date at which the sum of the member's
22 age and number of years of credited service total
23 eighty (80);
24

1 (25) "Participating employer" means an eligible employer who
2 has agreed to make contributions to the System on behalf of its
3 employees;

4 (26) "Participating service" means the period of employment
5 after the entry date for which credit is granted a member;

6 (27) "Prior service" means the period of employment of a member
7 by an eligible employer prior to the member's entry date for which
8 credit is granted a member under Section 901 et seq. of this title;

9 (28) "Retirant" or "retiree" means a member who has retired
10 under the System;

11 (29) "Retirement benefit" means a monthly income with benefits
12 accruing from the first day of the month coinciding with or
13 following retirement and ending on the last day of the month in
14 which death occurs or the actuarial equivalent thereof paid in such
15 manner as specified by the member pursuant to Section 901 et seq. of
16 this title or as otherwise allowed to be paid at the discretion of
17 the Board;

18 (30) "Retirement coordinator" means the individual designated
19 by each participating employer through whom System transactions and
20 communication shall be directed;

21 (31) "Social Security" means the old-age survivors and
22 disability section of the Federal Social Security Act;

23

24

1 (32) "Total disability" means a physical or mental disability
2 accepted for disability benefits by the Federal Social Security
3 System;

4 (33) "Service-connected disability benefits" means military
5 service benefits which are for a service-connected disability rated
6 at twenty percent (20%) or more by the Veterans Administration or
7 the Armed Forces of the United States;

8 (34) "Elected official" means a person elected to a state
9 office in the legislative or executive branch of state government or
10 a person elected to a county office for a definite number of years
11 and shall include an individual who is appointed to fill the
12 unexpired term of an elected state official;

13 (35) "Elected service" means the period of service as an
14 elected official; and

15 (36) "Limitation year" means the year used in applying the
16 limitations of Section 415 of the Internal Revenue Code of 1986,
17 which year shall be the calendar year.

18 SECTION 90. AMENDATORY 74 O.S. 2011, Section 3601.1, is
19 amended to read as follows:

20 Section 3601.1 A. For purposes of Sections 3601.1 through 3603
21 of this title, the term "employee" means a full-time employee or any
22 number of part-time employees whose combined weekly hours of
23 employment equal those of a full-time employee, but shall not
24

1 include temporary employees working on a seasonal basis between May
2 1 and October 31.

3 B. Beginning July 1, 2008, the maximum number of full-time-
4 equivalent employees for each of the following agencies, boards,
5 commissions, departments, or programs shall not exceed the numbers
6 specified in this section, except as may be authorized pursuant to
7 the provisions of Section 3603 of this title.

8	MAXIMUM NUMBER OF
9	FULL-TIME-EQUIVALENT
10	EMPLOYEES
11 Board of Managers of the State Insurance Fund	591
12 Oklahoma Employment Security Commission	1150
13 Oklahoma Accountancy Board	11
14 Board of Governors of the Licensed Architects, 15 Landscape Architects and Interior Designers of 16 Oklahoma	4
17 Board of Chiropractic Examiners	3
18 State Board of Cosmetology	16
19 Board of Dentistry	5
20 Oklahoma State Board of Embalmers and Funeral 21 Directors	5
22 State Board of Registration for Professional 23 Engineers and Land Surveyors	10
24	

1	State Board of Medical Licensure and Supervision/ Board of Podiatric Medical Examiners/State Board of Examiners of Perfusionists	29
4	Commission on Marginally Producing Oil and Gas Wells	5
6	Oklahoma Motor Vehicle Commission	6
7	Oklahoma Board of Nursing	30
8	Oklahoma State Board of Examiners for Nursing Home Administrators	4
10	Board of Examiners in Optometry	3
11	State Board of Osteopathic Examiners	7
12	Oklahoma Peanut Commission	2
13	Oklahoma State Board of Pharmacy	10
14	State Board of Examiners of Psychologists	2
15	Oklahoma Real Estate Commission	26
16	Board of Examiners for Speech-Language Pathology and Audiology	2
18	Oklahoma Used Motor Vehicle and Parts Commission	12
19	State Board of Veterinary Medical Examiners	6
20	Oklahoma Wheat Utilization, Research and Market Development Commission	7
22	Oklahoma Firefighters Pension and Retirement System	13
24	Oklahoma Police Pension and Retirement System	12

1	Teachers' Retirement System of Oklahoma	52
2	Oklahoma Public Employees Retirement System	63
3	Oklahoma Student Loan Authority	85
4	Oklahoma Industrial Finance Authority/Oklahoma	
5	Development Finance Authority	10
6	State and Education Employees Group Insurance	
7	Board	178
8	Oklahoma Capital Investment Board	4
9	State Board of Licensed Social Workers	1
10	Oklahoma State Employees Benefits Council	38
11	Oklahoma State Banking Department	46
12	Liquefied Petroleum Gas Administration	10

13 C. The duties and compensation of employees, not otherwise
14 prescribed by law, necessary to perform the duties imposed upon the
15 Oklahoma Public Employees Retirement System Board of Trustees by law
16 shall be set by the Board of Trustees.

17 D. Temporary employees of the Oklahoma Used Motor Vehicle and
18 Parts Commission between the dates of November 1 and January 31
19 annually shall not be counted toward the maximum number of full-
20 time-equivalent employees provided for in this section.

21 SECTION 91. AMENDATORY 74 O.S. 2011, Section 3601.2, as
22 amended by Section 1007, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
23 2012, Section 3601.2), is amended to read as follows:

24

1 Section 3601.2 A. Beginning January 1, 2010, the agency,
 2 board, commission, department or program shall establish the salary
 3 of each of the chief executive officers for which they have
 4 appointing authority. Such salary shall be set between the minimum
 5 and maximum of the range specified below, for full-time employees
 6 only, per annum, payable monthly, pursuant to the limitations
 7 outlined below:

8 1. If the chief executive officer's salary is below the minimum
 9 annual salary then it can not be raised to more than the minimum
 10 annual salary in one (1) fiscal year. If the chief executive
 11 officer's salary is at or above the minimum annual salary then the
 12 salary may not be increased above the midpoint in one (1) fiscal
 13 year;

14 2. Such increases shall not occur more than once in a fiscal
 15 year; and

16 3. The salary of the incumbent chief executive officer shall
 17 not be increased if the officer's salary exceeds the maximum of the
 18 range.

	MINIMUM	MIDPOINT	MAXIMUM
	ANNUAL	ANNUAL	ANNUAL
	SALARY	SALARY	SALARY
22 CompSource Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
23 Oklahoma Employment			
24 Security Commission	\$93,190.00	\$109,635.00	\$126,080.00

1	Board of Governors of the			
2	Licensed Architects,			
3	Landscape Architects and			
4	Interior Designers of			
5	Oklahoma	\$45,513.00	\$62,757.00	\$80,000.00
6	Board of Chiropractic			
7	Examiners	\$46,788.00	\$55,044.00	\$63,301.00
8	State Board of Cosmetology	\$46,788.00	\$55,044.00	\$63,301.00
9	Board of Dentistry	\$54,956.00	\$64,334.00	\$75,687.00
10	Oklahoma Funeral Board	\$46,788.00	\$55,044.00	\$63,301.00
11	State Board of Registration			
12	for Professional			
13	Engineers and Land			
14	Surveyors	\$55,748.00	\$65,585.00	\$75,424.00
15	State Board of Medical			
16	Licensure and			
17	Supervision, Board of			
18	Podiatric Medical			
19	Examiners/State Board of			
20	Examiners of			
21	Perfusionists	\$67,551.00	\$79,471.00	\$91,392.00
22	Commission on Marginally			
23	Producing Oil and Gas			
24	Wells	\$55,748.00	\$65,585.00	\$75,424.00

1	Oklahoma Motor Vehicle			
2	Commission	\$55,748.00	\$65,585.00	\$75,424.00
3	Oklahoma Board of Nursing	\$67,551.00	\$79,471.00	\$91,392.00
4	Oklahoma State Board of			
5	Examiners for Nursing			
6	Home Administrators	\$46,788.00	\$55,044.00	\$63,301.00
7	State Board of Osteopathic			
8	Examiners	\$54,956.00	\$64,334.00	\$75,687.00
9	Oklahoma Peanut Commission	\$45,513.00	\$55,044.00	\$63,300.00
10	State Board of Examiners of			
11	Psychologists	\$46,788.00	\$55,044.00	\$63,301.00
12	Oklahoma Real Estate			
13	Commission	\$67,551.00	\$79,471.00	\$91,392.00
14	Board of Examiners for			
15	Speech-Language Pathology			
16	and Audiology	\$38,001.00	\$44,706.00	\$51,412.00
17	Oklahoma Used Motor Vehicle			
18	and Parts Commission	\$55,748.00	\$65,585.00	\$75,424.00
19	State Board of Veterinary			
20	Medical Examiners	\$46,788.00	\$55,044.00	\$63,301.00
21	Oklahoma Wheat Utilization,			
22	Research and Market			
23	Development Commission	\$55,748.00	\$65,585.00	\$75,424.00
24				

1	Oklahoma Firefighters			
2	Pension and Retirement			
3	System	\$80,732.00	\$94,980.00	\$109,226.00
4	Oklahoma Police Pension and			
5	Retirement System	\$80,733.00	\$94,981.00	\$109,227.00
6	Teachers' Retirement System			
7	of Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
8	Oklahoma Public Employees			
9	Retirement System	\$86,136.00	\$101,337.00	\$116,536.00
10	Oklahoma Student Loan			
11	Authority	\$83,790.00	\$101,377.00	\$116,536.00
12	Oklahoma Industrial Finance			
13	Authority	\$80,731.00	\$94,979.00	\$109,225.00
14	Oklahoma Capital Investment			
15	Board	\$80,731.00	\$94,979.00	\$109,225.00
16	State Board of Licensed			
17	Social Workers	\$46,788.00	\$55,044.00	\$63,301.00
18	Grand River Dam Authority	\$101,437.00	\$119,339.00	\$137,239.00
19	Oklahoma State Banking			
20	Department	\$101,437.00	\$119,339.00	\$137,239.00
21	Liquefied Petroleum Gas			
22	Administration	\$55,748.00	\$65,585.00	\$75,424.00
23	Oklahoma Securities			
24	Commission	\$101,437.00	\$119,339.00	\$137,239.00

1 B. All increases require certification of the appointing
2 authority that said action can be implemented for the current fiscal
3 year and subsequent fiscal year without the need for additional
4 funding. The agency, board, commission, department or program shall
5 report increases granted under this section to the Office of
6 Management and Enterprise Services on an annual basis by August 1 of
7 each year. The Office of Management and Enterprise Services shall
8 forward a report of such increases to the Governor, President Pro
9 Tempore of the Senate, and Speaker of the House of Representatives
10 no later than September 1 of each year.

11 C. Every two (2) years starting FY-05, the Office of Management
12 and Enterprise Services shall review these salary ranges and report
13 on and make recommendations on proposed salary ranges in their
14 annual compensation reports mandated by paragraph 5 of Section 840-
15 1.6A of this title by no later than December 1.

16 D. Every three (3) years the Legislature shall review the
17 salary ranges specified in subsection A of this section.

18 SECTION 92. AMENDATORY 82 O.S. 2011, Section 1085.24, is
19 amended to read as follows:

20 Section 1085.24 A. The State Treasurer of the State of
21 Oklahoma is hereby authorized and required to purchase from the
22 Water Conservation Storage Commission at private sale not to exceed
23 at any one time One Million Five Hundred Thousand Dollars
24 (\$1,500,000.00) in said investment certificates, or interim

1 investment certificates, as an investment of the public monies in
2 his possession. It shall be the responsibility of the State
3 Treasurer to invest only that portion of such public monies as it
4 deems to be more than sufficient to meet current expenditures
5 payable from public monies. The State Treasurer is authorized and
6 required to buy, and the Commission is authorized and required to
7 sell to the State Treasurer at private sale, as provided in this
8 section, so many of the investment certificates authorized by this
9 act as may be safely purchased for investment of public monies by
10 the State Treasurer without handicapping the State of Oklahoma in
11 promptly meeting its obligations. In event of such sale or sales,
12 the Commission shall determine and fix the rate of interest and
13 investment certificates so sold shall bear such rate of interest.

14 B. In the event any or all of the investment certificates are
15 sold to the State Treasurer under the provisions of subsection A of
16 this section and thereafter the uninvested cash on hand and in
17 solvent banks should fall short of demand orders on the State
18 Treasury, it shall be the duty of the State Treasurer to sell such
19 part or all of the investment certificates as are necessary to be
20 converted into cash to meet such demands. The State Treasurer may
21 sell such part or all of the said investment certificates as ~~he~~ the
22 State Treasurer is so authorized to sell, at private sale, to ~~the~~
23 ~~State Insurance Fund,~~ the Teachers' Retirement Fund, or any other
24 state fund, department or agency which has available monies to

1 purchase the same, and all such state funds, departments and
2 agencies are hereby authorized and empowered to so purchase such
3 investment certificates.

4 SECTION 93. AMENDATORY 85 O.S. 2011, Section 308, is
5 amended to read as follows:

6 Section 308. As used in the Workers' Compensation Code:

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

10 2. "Administrator" means the Administrator of the Workers'
11 Compensation Court;

12 3. "Amount in dispute" means the dollar value of any permanent
13 disability award granted to the employee by the Court for a
14 disability claim which is greater than the dollar amount offered by
15 the employer that admits compensability within twenty (20) days of
16 the filing of the Employee's First Notice of Accidental Injury and
17 Claim for Compensation to the employee for such disability claim,
18 when the employer has made a written settlement offer within thirty
19 (30) days of the employee reaching maximum medical improvement;

20 4. "Brother" or "sister" means a sibling of the employee under
21 eighteen (18) years of age, eighteen (18) years of age or over and
22 physically or mentally incapable of self-support, eighteen (18)
23 years of age or over and actually dependent and brothers and sisters
24 by adoption;

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

11 6. "Case manager" means a person who is a registered nurse with
12 a current, active unencumbered license from the Oklahoma Board of
13 Nursing, or possesses one or more of the following certifications
14 which indicate the individual has a minimum number of years of case
15 management experience, has passed a national competency test and
16 regularly obtains continuing education hours to maintain
17 certification:

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

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

14 8. "Child" means a natural or adopted son or daughter of the
15 employee under eighteen (18) years of age; or a natural or adopted
16 son or daughter of an employee eighteen (18) years of age or over
17 who is physically or mentally incapable of self-support; or any
18 natural or adopted son or daughter of an employee eighteen (18)
19 years of age or over who is actually dependent; or any natural or
20 adopted son or daughter of an employee between eighteen (18) and
21 twenty-three (23) years of age who is enrolled as a full-time
22 student in any accredited educational institution. The term "child"
23 includes a posthumous child, a child legally adopted or one for whom
24 adoption proceedings are pending at the time of death, an actually

1 dependent stepchild or an actually dependent acknowledged child born
2 out of wedlock;

3 9. "Claimant" means a person who claims benefits for an injury
4 pursuant to the provisions of the Workers' Compensation Code;

5 10. a. "Compensable injury" means any injury or occupational
6 illness, causing internal or external harm to the
7 body, which arises out of and in the course of
8 employment if such employment was the major cause of
9 the specific injury or illness. An injury, other than
10 cumulative trauma, is compensable only if it is caused
11 by a specific incident and is identifiable by time,
12 place and occurrence unless it is otherwise defined as
13 compensable in this act. A compensable injury must be
14 established by objective medical evidence. The
15 employee has the burden of proof to establish by a
16 preponderance of the evidence that such unexpected or
17 unforeseen injury was in fact caused by the
18 employment. There is no presumption from the mere
19 occurrence of such unexpected or unforeseen injury
20 that the injury was in fact caused by the employment.

21 b. "Compensable injury" means a cardiovascular, coronary,
22 pulmonary, respiratory, or cerebrovascular accident or
23 myocardial infarction causing injury, illness, or
24 death, only if, in relation to other factors

1 contributing to the physical harm, a work-related
2 activity is the major cause of the physical harm.
3 Such injury shall not be deemed to be a compensable
4 injury unless it is shown that the exertion of the
5 work necessary to precipitate the disability or death
6 was extraordinary and unusual in comparison to the
7 usual work of the employee, or alternately, that some
8 unusual incident occurred which is found to have been
9 the major cause of the physical harm.

10 c. "Compensable injury" shall not include the ordinary,
11 gradual deterioration or progressive degeneration
12 caused by the aging process, unless the employment is
13 a major cause of the deterioration or degeneration and
14 is supported by objective medical evidence; nor shall
15 it include injury incurred while engaging in or
16 performing, or as the result of engaging in or
17 performing, any recreational or social activities.

18 d. "Compensable injury" includes personal property which
19 is established by objective medical evidence to be
20 medically necessary and which replaces or improves
21 normal physical function of the body, such as
22 artificial dentures, artificial limbs, glass eyes, eye
23 glasses and other prostheses which are placed in or on
24 the body and is damaged as a result of the injury.

1 e. "Compensable injury" shall not include an injury
2 resulting directly or indirectly from idiopathic
3 causes; any contagious or infectious disease unless it
4 arises out of and occurs in the scope and course of
5 employment; or death due to natural causes occurring
6 while the worker is at work.

7 f. "Compensable injury" shall not include mental injury
8 that does not arise directly as a result of a
9 compensable physical injury, except in the case of
10 rape or other crime of violence which arises out of
11 and in the course of employment;

12 11. "Compensation" means the money allowance payable to an
13 employee as provided for in the Workers' Compensation Code;

14 12. "Consequential injury" means injury or harm to a part of
15 the body that is a direct result of the injury or medical treatment
16 to the part of the body originally injured in the claim. The Court
17 shall not make a finding of a consequential injury unless it is
18 established by objective medical evidence that medical treatment for
19 such part of the body is required;

20 13. "Continuing medical maintenance" means medical treatment
21 that is reasonable and necessary to maintain claimant's condition
22 resulting from the compensable injury or illness after reaching
23 maximum medical improvement. Continuing medical maintenance shall
24 not include diagnostic tests, surgery, injections, counseling,

1 physical therapy, or pain management devices or equipment, unless
2 specifically authorized by the Workers' Compensation Court in
3 advance of such treatment;

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

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

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

14 17. "Employee" means any person engaged in the employment of an
15 employer covered by the terms of the Workers' Compensation Code
16 except for such persons as may be excluded elsewhere in this act.
17 Provided, any person excluded as an employee may, if otherwise
18 qualified, be eligible for benefits under the Workers' Compensation
19 Code if specifically covered by any policy of insurance covering
20 benefits under the Workers' Compensation Code. "Employee" shall
21 also include a member of the Oklahoma National Guard while in the
22 performance of duties only while in response to state orders and any
23 authorized voluntary or uncompensated worker, rendering services as
24 a firefighter, peace officer or emergency management worker.

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

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

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

18 20. "Evidence-based" means expert-based, literature-supported
19 and outcomes validated by well-designed randomized trials when such
20 information is available and which uses the best available evidence
21 to support medical decision making;

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

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

2 23. "Impaired self-insurer" means a private self-insurer or
3 group self-insurance association that fails to pay its workers'
4 compensation obligations, or is financially unable to do so and is
5 the subject of any proceeding under the Federal Bankruptcy Reform
6 Act of 1978, and any subsequent amendments or is the subject of any
7 proceeding in which a receiver, custodian, liquidator,
8 rehabilitator, trustee or similar officer has been appointed by a
9 court of competent jurisdiction to act in lieu of or on behalf of
10 the self-insurer;

11 24. "Incapacity" means inadequate strength or ability to
12 perform a work-related task;

13 25. "Independent medical examiner" means a licensed physician
14 authorized to serve as a medical examiner pursuant to this act;

15 26. "Insurance carrier" shall include ~~CompSource Oklahoma,~~
16 stock corporations, reciprocal or interinsurance associations, or
17 mutual associations with which employers have insured, including
18 CompSource Mutual Insurance Company, and employers permitted to pay
19 compensation directly under the provisions of Section ~~51~~ 351 of this
20 ~~act~~ title;

21 27. "Light duty" describes the status of an employee when a
22 physician has declared the employee available for work with specific
23 temporary physical restrictions;

1 28. "Major cause" means more than fifty percent (50%) of the
2 resulting injury, disease or illness. A finding of major cause
3 shall be established by a preponderance of the evidence. A finding
4 that the workplace was not a major cause of the injury, disease or
5 illness shall not adversely affect the exclusive remedy provisions
6 of this act and shall not create a separate cause of action outside
7 of this act;

8 29. "Maximum medical improvement" means that no further
9 material improvement would reasonably be expected from medical
10 treatment or the passage of time;

11 30. "Medical treatment" means such medical, diagnostic,
12 surgical or other attendance or treatment, nurse and hospital
13 service, medicine, crutches, and apparatus as may be reasonable and
14 necessary after the compensable injury for an injured employee;

15 31. "Nationally recognized" includes, but is not limited to,
16 syntheses of clinical issues that may take the form of published
17 reports in the scientific literature, national consensus documents,
18 formalized documents addressing standards of practice, practice
19 parameters from professional societies or commissions, and
20 technology assessments produced by independent evidence-based
21 practice centers;

22 32. "Objective medical evidence" means evidence which meets the
23 criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court
24 case law applicable thereto. Objective findings are those findings

1 which cannot come under the voluntary control of the patient. When
2 determining physical or anatomical impairment, neither a physician,
3 any other medical provider, a judge of the Workers' Compensation
4 Court, nor the courts may consider complaints of pain. For the
5 purpose of making physical or anatomical impairment ratings to the
6 spine, physicians shall use criteria established by the American
7 Medical Association guides or modifications thereto as approved by
8 the Legislature. Objective evidence necessary to prove physical or
9 anatomical impairment in occupational hearing loss cases shall be
10 established by medically recognized and accepted clinical diagnostic
11 methodologies, including, but not limited to, audiological tests
12 that measure air and bone conduction thresholds and speech
13 discrimination ability. Medical opinions addressing compensability
14 and permanent impairment must be stated within a reasonable degree
15 of medical certainty;

16 33. "Occupational disease" means only that disease or illness
17 which is due to causes and conditions characteristic of or peculiar
18 to the particular trade, occupation, process or employment in which
19 the employee is exposed to such disease. An occupational disease
20 arises out of the employment only if the employment was the major
21 cause of the resulting occupational disease and such is supported by
22 objective medical evidence, as defined in this section;

23
24

1 34. "Peer review" means the process of subjecting submitted
2 manuscripts, guidelines, or other clinical or scholarly work to the
3 scrutiny of others who are experts in the same field;

4 35. "Permanent partial impairment" means any anatomical
5 abnormality or loss of use after maximum medical improvement has
6 been achieved which can be evaluated by a physician. Any examining
7 physician shall only evaluate impairment in accordance with the
8 method prescribed in Section ~~33~~ 333 of this ~~act~~ title. All
9 evaluations of permanent impairment must be supported by objective
10 medical evidence;

11 36. "Permanent total disability" means incapacity, because of
12 accidental injury or occupational disease, to earn wages in any
13 employment for which the employee may become physically suited and
14 reasonably fitted by education, training or experience, including
15 vocational rehabilitation. Loss of both hands, or both feet, or
16 both legs, or both eyes, or any two thereof, shall constitute
17 permanent total disability;

18 37. "Private self-insurer" means a private employer that has
19 been authorized to self-insure its workers' compensation obligations
20 pursuant to Section ~~51~~ 351 of this ~~act~~ title, but does not include
21 group self-insurance associations authorized under Section ~~51~~ 351 of
22 this ~~act~~ title or Section 398 of this title, or any public employer
23 that self-insures pursuant to Section ~~13~~ 313 of this ~~act~~ title;

1 38. "Prosthetic device" means an artificial device used to
2 replace a part or joint of the body that is lost or injured in an
3 accident or illness covered by this act;

4 39. "Qualified independent medical examiner" means a licensed
5 medical doctor or doctor of Osteopathy qualified to serve as an
6 independent medical examiner pursuant to this act;

7 40. "Scheduled member" or "member" means hands, fingers, arms,
8 legs, feet, toes, and eyes. In addition, for purposes of the
9 Multiple Injury Trust Fund only, "scheduled member" means hearing
10 impairment;

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

18 42. "State-developed" includes formalized treatment guidelines
19 developed and adopted by state governments, or by the Workers'
20 Compensation Court upon recommendation of the Physician Advisory
21 Committee;

22 43. "State's average weekly wage" means the average weekly wage
23 in this state determined by the Oklahoma Employment Security
24 Commission annually, which shall be used to establish maximum

1 benefits under the Workers' Compensation Code for injuries occurring
2 during a one-year period, which period shall begin on the first day
3 of November after publication by the Oklahoma Employment Security
4 Commission. For the purpose of computing benefits payable under the
5 Workers' Compensation Code, the state's average weekly wage shall be
6 rounded to the nearest dollar;

7 44. "Subcontractor" means a person, firm, corporation or other
8 legal entity hired by the general or prime contractor to perform a
9 specific task for the completion of a work-related activity;

10 45. "Surgery" does not include an injection, or the forcing of
11 fluids beneath the skin, for treatment or diagnosis;

12 46. "Surviving spouse" means the employee's spouse by reason of
13 a legal marriage recognized by any state or nation or by common law,
14 under the requirements of a common law marriage in this state, as
15 determined by the Workers' Compensation Court;

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

21 48. "Treating physician" means the licensed physician
22 authorized to provide active medical treatment for an injured
23 worker; and

24

1 49. "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 94. AMENDATORY 85 O.S. 2011, Section 313, is
6 amended to read as follows:

7 Section 313. A. 1. All public entities of this state, their
8 agencies and instrumentalities, authorities, and public trusts of
9 which they are beneficiaries shall provide workers' compensation to
10 their employees and elected officials engaged in either governmental
11 or proprietary functions in accordance with this section.
12 Compensation or indemnification for compensation shall be paid out
13 of the funds of the public entities.

14 2. Except as otherwise provided, the state and all its
15 institutions of higher education, departments, instrumentalities,
16 institutions, and public trusts of which it or they are
17 beneficiaries shall insure against liability for workers'
18 compensation ~~with the State Insurance Fund and shall not insure with~~
19 ~~any other insurance carrier unless:~~

- 20 a. ~~the State Insurance Fund refuses to accept the risk~~
- 21 ~~when the application for insurance is made,~~
- 22 b. ~~specifically authorized by law, or~~
- 23 c. ~~the state entity can obtain workers' compensation~~
- 24 ~~insurance coverage at the same cost or at a lower cost~~

1 ~~from another insurance carrier licensed in this state.~~
2 ~~Effective November 1, 1999, and for the next two~~
3 ~~fiscal years thereafter, not to exceed fifteen (15)~~
4 ~~state entities each fiscal year may obtain workers'~~
5 ~~compensation insurance coverage pursuant to this~~
6 ~~subparagraph from an insurer other than the State~~
7 ~~Insurance Fund. Beginning with the third fiscal year~~
8 ~~thereafter, all state entities may obtain workers'~~
9 ~~compensation insurance coverage pursuant to this~~
10 ~~subparagraph.~~

11 3. The state, all state institutions of higher education except
12 comprehensive universities, and all state departments,
13 instrumentalities, institutions, and public trusts of which the
14 state is a beneficiary, may self-insure ~~under rules promulgated by~~
15 ~~the State Insurance Fund. Self-insurance administration may only be~~
16 ~~obtained through the State Insurance Fund. The state, all state~~
17 ~~institutions of higher education except comprehensive universities,~~
18 ~~and all state departments, instrumentalities, institutions, and~~
19 ~~public trusts so electing to self-insure shall pay premiums set by~~
20 ~~the State Insurance Fund. The State Insurance Fund shall collect~~
21 ~~premiums, pay claims and provide for excess insurance. All~~
22 ~~dividends or profits accumulating from a self-insurance program~~
23 ~~shall be refunded to the participants on a formula devised by the~~
24 ~~State Insurance Fund.~~

1 B. All counties, cities and towns, their instrumentalities and
2 public trusts of which they are beneficiaries shall insure against
3 their liability for workers' compensation ~~with the State Insurance~~
4 ~~Fund or~~, through any combination of the following, ~~may~~:

5 1. Insure with an insurance carrier licensed in this state;

6 2. Self-insure and make any appropriation of funds to cover
7 their risk;

8 ~~2.~~ 3. Secure reinsurance or excess insurance over and above a
9 self-insurance retention in any manner authorized by subsections B
10 and C of Section 167 of Title 51 of the Oklahoma Statutes; or

11 ~~3.~~ 4. Secure compensation for their employees in the manner
12 provided in ~~the Political Subdivision~~ The Governmental Tort Claims
13 Act, subsection C of Section 167 of Title 51 of the Oklahoma
14 Statutes; ~~or~~

15 ~~4. Insure with other insurance carriers licensed in the State~~
16 ~~of Oklahoma.~~

17 C. Boards of education, their instrumentalities and public
18 trusts of which they are beneficiaries shall insure against their
19 liability for workers' compensation ~~with the State Insurance Fund~~
20 ~~or~~, through any combination of the following, ~~may~~:

21 1. Insure with an insurance carrier licensed in this state;

22 2. Self-insure and make any appropriation of funds to cover
23 their risk; or

24

1 ~~2.~~ 3. Secure reinsurance or excess insurance over and above a
2 self-insured retention in any manner authorized by ~~subsection B of~~
3 ~~Section 168 of Title 51 of the Oklahoma Statutes; or~~

4 ~~3.~~ Insure with other insurance carriers licensed in the State
5 of Oklahoma law.

6 D. Comprehensive universities shall insure against their
7 liability for workers' compensation ~~with the State Insurance Fund;~~
8 ~~or if it can be demonstrated to the Board of Regents of the~~
9 ~~comprehensive university prior to the inception date of a workers'~~
10 ~~compensation policy that the policy will result in a lower cost than~~
11 ~~one with the State Insurance Fund or, through any combination of the~~
12 following, ~~may:~~

13 1. Insure with an insurance carrier licensed in this state; or

14 2. Self-insure and make any appropriation of funds to cover
15 their risk; ~~or~~

16 ~~2.~~ Insure with other insurance carriers licensed in the State
17 of Oklahoma.

18 E. ~~In addition to any other provision of this section, city,~~
19 ~~county, city county, and public trust hospitals may insure with~~
20 ~~other insurance carriers licensed in this state if it can be~~
21 ~~demonstrated to the governing body of the hospital prior to the~~
22 ~~inception date of a workers' compensation policy each year that the~~
23 ~~policy will result in a lower cost than one with the State Insurance~~
24 ~~Fund.~~

1 ~~F.~~ For purposes of the Workers' Compensation ~~Act~~ Code, all
2 contracts of employment for state, county, municipal, and state
3 funded educational entities and public trusts will be considered to
4 have been entered into in this state regardless of where the work is
5 performed.

6 ~~G.~~ F. Where a person who is employed by the state, a
7 municipality, a county, or by any political subdivisions thereof,
8 and who, while off-duty from the employment, is employed by a
9 private employer, the private employer alone shall be liable for
10 compensation under the Workers' Compensation ~~Act~~ Code for any injury
11 or death of the person arising out of and in the course of
12 employment which occurs during the hours of actual employment by the
13 private employer. The provisions of this act shall be applicable to
14 private employers specified in this subsection. The provisions of
15 this subsection shall not relieve the state, a municipality or a
16 county, or any political subdivision thereof, from providing
17 disability benefits to which a person may be entitled pursuant to a
18 pension or retirement plan. The provisions of this subsection shall
19 not preclude an employee or group of employees so employed from
20 providing separate compensation coverage for off-duty employment by
21 a private employer.

22 SECTION 95. AMENDATORY 85 O.S. 2011, Section 328, is
23 amended to read as follows:

24

1 Section 328. A. If a self-insured employer, group self-
2 insurance association plan, an employer's workers' compensation
3 insurance carrier or an insured, which shall include any member of
4 an approved group self-insured association, policyholder or public
5 entity, has contracted with a workplace medical plan that is
6 certified by the State Commissioner of Health as provided in this
7 act, the employer shall select for the injured employee a treating
8 physician from the physicians listed within the network of the
9 certified workplace medical plan. The claimant may apply to the
10 certified workplace medical plan for a one-time change of physician
11 to another appropriate physician within the network of the certified
12 workplace medical plan by utilizing the dispute resolution process
13 set out in the certified workplace medical plan on file with the
14 State Department of Health. Notwithstanding any other provision of
15 law, those employees who are subject to such certified workplace
16 medical plan shall receive medical treatment in the manner
17 prescribed by the plan.

18 B. The provisions of this section shall not preclude an
19 employee, who has exhausted the dispute resolution process of the
20 certified workplace medical plan, from petitioning the Workers'
21 Compensation Court for a change of treating physician within the
22 certified workplace medical plan or, if a physician who is qualified
23 to treat the employee's injuries is not available within the plan,
24 for a change of physician outside the plan, if the physician agrees

1 to comply with all the rules, terms and conditions of the certified
2 workplace medical plan; or an employee from seeking emergency
3 medical treatment.

4 C. Any person or entity may make written application to the
5 State Commissioner of Health to have a workplace medical plan
6 certified that provides management of quality treatment to injured
7 employees for injuries and diseases compensable under the Workers'
8 Compensation Code. Each application for certification shall be
9 accompanied by a fee of One Thousand Five Hundred Dollars
10 (\$1,500.00). A workplace medical plan may be certified to provide
11 services to a limited geographic area. A certificate is valid for a
12 five-year period, unless revoked or suspended. Application for
13 certification shall be made in the form and manner and shall set
14 forth information regarding the proposed program for providing
15 services as the Commissioner may prescribe. The information shall
16 include, but not be limited to:

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

21 2. A description of the places and manner of providing services
22 under the plan.

23 D. 1. The Commissioner shall not certify a plan unless the
24 Commissioner finds that the plan:

1 a. proposes to provide quality services for all medical
2 services which:

3 (1) may be required by the Workers' Compensation Code
4 in a manner that is timely, effective and
5 convenient for the employee, and

6 (2) utilizes medical treatment guidelines and
7 protocols substantially similar to those
8 established for use by medical service providers
9 which have been recommended by the Physician
10 Advisory Committee and adopted by the
11 Administrator pursuant to this act. If the
12 Administrator has not adopted medical treatment
13 guidelines and protocols, the Commissioner may
14 certify a plan that utilizes medical guidelines
15 and protocols established by the plan if, at the
16 discretion of the Commissioner, the guidelines
17 and protocols are reasonable and will carry out
18 the intent of the Workers' Compensation Code.
19 Certified plans must utilize medical treatment
20 guidelines and protocols substantially similar to
21 those adopted by the Administrator pursuant to
22 this act, as such guidelines and protocols become
23 adopted,

- 1 b. is reasonably geographically convenient to residents
2 of the area for which it seeks certification,
- 3 c. provides appropriate financial incentives to reduce
4 service costs and utilization without sacrificing the
5 quality of service,
- 6 d. provides adequate methods of peer review, utilization
7 review and dispute resolution to prevent
8 inappropriate, excessive or medically unnecessary
9 treatment, and excludes participation in the plan by
10 those providers who violate these treatment standards,
- 11 e. requires the dispute resolution procedure of the plan
12 to include a requirement that disputes on an issue,
13 including a subsequent change of physician as
14 described in the provisions of this section, related
15 to medical care under the plan, be attempted to be
16 resolved within ten (10) days of the time the dispute
17 arises and if not resolved within ten (10) days, the
18 employee may pursue remedies in the Court~~-,~~
- 19 f. provides aggressive case management for injured
20 employees and a program for early return to work,
- 21 g. provides workplace health and safety consultative
22 services,
- 23 h. provides a timely and accurate method of reporting to
24 the Commissioner necessary information regarding

1 medical service costs and utilization to enable the
2 Commissioner to determine the effectiveness of the
3 plan,

- 4 i. authorizes necessary emergency medical treatment for
5 an injury provided by a provider of medical, surgical,
6 and hospital services who is not a part of the plan,
- 7 j. does not discriminate against or exclude from
8 participation in the plan any category of providers of
9 medical, surgical, or hospital services and includes
10 an adequate number of each category of providers of
11 medical, surgical, and hospital services to give
12 participants access to all categories of providers and
13 does not discriminate against ethnic minority
14 providers of medical services, and
- 15 k. complies with any other requirement the Commissioner
16 determines is necessary to provide quality medical
17 services and health care to injured employees.

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

21 E. If any insurer, ~~except CompSource Oklahoma,~~ fails to
22 contract with or provide access to a certified workplace medical
23 plan, an insured, after sixty (60) days' written notice to its
24 insurance carrier, shall be authorized to contract independently

1 with a plan of his or her choice for a period of one (1) year, to
2 provide medical care under the Workers' Compensation Code. The
3 insured shall be authorized to contract, after sixty (60) days'
4 written notice to its insurance carrier, for additional one-year
5 periods if his or her insurer has not contracted with or provided
6 access to a certified workplace medical plan.

7 ~~F. If CompSource Oklahoma fails to contract with at least three~~
8 ~~certified workplace medical plans, each covering at least fifty~~
9 ~~counties, then the insured, after sixty (60) days' written notice to~~
10 ~~CompSource Oklahoma, shall be authorized to contract independently~~
11 ~~with a plan of the insured's choice for a period of one (1) year to~~
12 ~~provide medical care under the Workers' Compensation Code. The~~
13 ~~insured shall be authorized to contract, after sixty (60) days'~~
14 ~~written notice to CompSource Oklahoma, for additional one-year~~
15 ~~periods if CompSource Oklahoma has not contracted with or fails to~~
16 ~~continue contracts with at least three certified workplace medical~~
17 ~~plans covering at least fifty counties. A workers' compensation~~
18 ~~insurance carrier, CompSource Oklahoma, or a group self-insurance~~
19 ~~association plan may grant a ten-percent premium reduction to an~~
20 ~~employer who is not experience rated when the employer participates~~
21 ~~in a certified workplace medical plan.~~

22 G. The Commissioner shall refuse to certify or shall revoke or
23 suspend the certification of a plan if the Commissioner finds that
24 the program for providing medical or health care services fails to

1 meet the requirements of this section, or service under the plan is
2 not being provided in accordance with the terms of the plan.

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

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

16 2. A site visit shall conclude with a determination that a
17 certified workplace medical plan is or is not operating in
18 accordance with its latest application to the State Department of
19 Health;

20 3. Compliant operations shall include, but not be limited to:
21 a. timely and effective medical services available with
22 reasonable geographic convenience,
23 b. appropriate treatment guidelines and protocols, and
24

1 c. effective programs for utilization review, case
2 management, grievances, and dispute resolution;

3 4. Performance of a site visit shall include:

4 a. inspection of organizational documentation,

5 b. inspection of systems documentation and processes,

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

8 d. random or systematic sampling, or a one-hundred-
9 percent inspection of all dispute resolution,
10 grievance, and Department of Health request for
11 assistance files,

12 e. workplace medical plan employee and management
13 interviews, as appropriate;

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

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

24

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

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

6 a. One Thousand Five Hundred Dollars (\$1,500.00) for an
7 initial, annual site visit,

8 b. One Thousand Dollars (\$1,000.00) if a follow-up visit
9 is performed,

10 c. separate from the once in five (5) years certification
11 application fee, and

12 d. charged only if less than two site visits occur in a
13 twelve-month period; and

14 9. In addition to the site visit fee, employees of the State
15 Department of Health may charge to the certified workplace medical
16 plan reasonable travel and travel-related expenses for the site
17 visit such as overnight lodging and meals. A certified workplace
18 medical plan shall reimburse travel expenses to the State Department
19 of Health at rates equal to the amounts then currently allowed under
20 the State Travel Reimbursement Act.

21 I. The State Board of Health shall adopt such rules as may be
22 necessary to implement the provisions of this act and this section.
23 Such rules shall authorize any person to petition the State
24 Commissioner of Health for decertification of a certified workplace

1 medical plan for material violation of any rules promulgated
2 pursuant to this section.

3 SECTION 96. AMENDATORY 85 O.S. 2011, Section 339, is
4 amended to read as follows:

5 Section 339. A. If the employee and employer shall reach an
6 agreement for the full, final and complete settlement of any issue
7 of a claim pursuant to the Workers' Compensation Code, a form
8 designated as "Compromise Settlement" shall be signed by both the
9 employer and employee, or representatives thereof, and shall be
10 approved by a judge of the Workers' Compensation Court or the
11 Administrator of the Workers' Compensation Court and filed with the
12 Administrator. In cases in which the employee is not represented by
13 legal counsel, a judge of the Court or the Administrator shall have
14 jurisdiction to approve a full, final and complete settlement of any
15 issue upon the filing of an Employer's First Notice of Injury.
16 There shall be no requirement for the filing of an Employee's First
17 Notice of Accidental Injury and Claim for Compensation to effect
18 such settlement in cases in which the employee is not represented by
19 legal counsel.

20 B. In the event all issues of a claim are not fully, finally
21 and completely settled by a Compromise Settlement, the issues not
22 settled by the parties and subject to the Court's continuing
23 jurisdiction must be noted by appendix to the Compromise Settlement
24 or on a form created for such purpose by the Administrator. The

1 appendix must be signed by the parties and approved by the Court as
2 set forth herein.

3 C. In the absence of fraud, a Compromise Settlement shall be
4 deemed binding upon the parties thereto and a final adjudication of
5 all rights pursuant to the Workers' Compensation Code. An official
6 record shall be made by a court reporter of the testimony taken to
7 effect the Compromise Settlement.

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

18 SECTION 97. AMENDATORY 85 O.S. 2011, Section 352, is
19 amended to read as follows:

20 Section 352. A. In addition to any other penalty prescribed by
21 law, any employer who fails to secure compensation required by
22 Section ~~51~~ 351 of this ~~act~~ title shall be liable for a civil
23 penalty, to be assessed by the Commissioner of Labor or designee, of
24 not more than Two Hundred Fifty Dollars (\$250.00) per employee for a

1 first offense, unless the employer secures workers' compensation
2 insurance within thirty (30) days after receiving notice of the
3 violation. If the employer secures workers' compensation insurance
4 within thirty (30) days after receiving notice of the violation, the
5 employer shall be liable for a civil penalty of not more than
6 Seventy-five Dollars (\$75.00) per employee. An employer shall be
7 liable for a civil penalty of not more than One Thousand Dollars
8 (\$1,000.00) per employee for a second or subsequent offense.
9 Provided, the maximum civil penalty shall not exceed Ten Thousand
10 Dollars (\$10,000.00) for all related series of violations. All
11 civil penalties collected shall be deposited in the Department of
12 Labor Revolving Fund and shall be used to enforce the provisions of
13 the Workers' Compensation Code.

14 B. After an employer is cited for two offenses of failing to
15 obtain workers' compensation insurance and fails to obtain coverage
16 within thirty (30) days of the second citation, the Commissioner of
17 Labor shall issue cease and desist orders, in accordance with the
18 Department of Labor administrative rules and procedures, against an
19 employer until the violating employer shall obtain workers'
20 compensation insurance for its employees. The Commissioner of Labor
21 shall have the authority to require the cessation of activities of
22 an employer whose employees are not covered by workers' compensation
23 insurance until the violating employer shall obtain workers'
24 compensation insurance for its employees; provided that an employer

1 who has made application for workers' compensation coverage with
2 ~~either CompSource Oklahoma or a private~~ an insurance carrier, and
3 who, through no fault of the employer, has not received notice that
4 such coverage has commenced, shall not be made to cease operations,
5 as provided for in this section, until a determination has been made
6 concerning the employee's application for workers' compensation
7 coverage. Any order to cease and desist issued by the Commissioner
8 may be enforced in district court. The district court may issue the
9 Commissioner an injunction without bond, for the purposes of
10 enforcing this section.

11 C. The Commissioner of Labor or designee shall assess and
12 collect any civil penalty incurred under subsection A of this
13 section and, in the Commissioner's discretion, may remit, mitigate
14 or negotiate the penalty. In determining the amount of the penalty
15 to be assessed, or the amount agreed upon in any negotiation,
16 consideration shall be given to the appropriateness of such penalty
17 in light of the life of the business of the employer charged, the
18 gravity of the violation, and the extent to which the employer
19 charged has complied with the provisions of Section ~~51~~ 351 of this
20 ~~act~~ title or has otherwise attempted to remedy the consequences of
21 the violation.

22 SECTION 98. AMENDATORY 85 O.S. 2011, Section 373, is
23 amended to read as follows:

24

1 Section 373. A. There is hereby created a Physician Advisory
2 Committee comprised of nine (9) members to be appointed as follows:

3 1. The Governor shall appoint three members, one of whom shall
4 be licensed in this state as a doctor of medicine and surgery, one
5 of whom shall be engaged in the practice of family medicine in a
6 rural community of the state, and one of whom shall be an
7 osteopathic physician;

8 2. The President Pro Tempore of the Senate shall appoint three
9 members, one of whom shall be licensed in this state as a doctor of
10 medicine and orthopedic surgery, one of whom shall be licensed in
11 this state either as a doctor of medicine or a doctor of osteopathy
12 and a neurosurgeon, and one of whom shall be licensed in this state
13 as a podiatric physician; and

14 3. The Speaker of the House of Representatives shall appoint
15 three members, one of whom shall be licensed in this state as an
16 osteopathic physician, one of whom shall be licensed in this state
17 either as a doctor of medicine or a doctor of osteopathy and shall
18 be engaged in the practice of occupational medicine, and one of whom
19 shall be licensed in this state as a chiropractic physician.

20 The terms of members serving on the effective date of this act
21 shall end on the effective date of this act. Thereafter, each
22 position will be filled by the appointing official for a term of
23 three (3) years. Members shall be subject to reappointment, with
24

1 any new appointee to serve out the remainder of the unexpired term
2 of the Committee member so replaced.

3 B. The Committee shall:

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

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

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

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 Oklahoma Treatment Guidelines
8 and protocols for medical treatment not addressed by the current
9 edition of the Official Disability Guidelines or addressed but not
10 recommended in the ODG section in regard to injuries to the
11 cervical, thoracic, and lumbar spine. The Oklahoma Treatment
12 Guidelines shall be adopted on or before March 1, 2012, and shall
13 remain in full force and effect until superseded.

14 a. The OTG shall be based upon evidence based medicine
15 and scientifically based and nationally peer reviewed
16 literature and shall include treatment for the top
17 fifteen (15) medically-recognized conditions (ICD-9 or
18 successor codes).

19 b. When completed, the OTG shall be submitted to the
20 Oklahoma Workers' Compensation Advisory Council for
21 review. After due notice and public hearing, the
22 Council shall issue a report to the Administrator
23 concerning the OTG submitted. After due notice and
24 public hearing, the Administrator shall adopt or

1 reject the proposal submitted. The OTG shall be
2 submitted by the Administrator to the Governor, the
3 Speaker of the House of Representatives and the
4 President Pro Tempore of the Senate within ten (10)
5 legislative days following adoption. The OTG
6 submitted shall be subject to disapproval by joint or
7 concurrent resolution of the Legislature during the
8 legislative session in which submitted. If
9 disapproved, the existing treatment guidelines shall
10 continue in effect. If the Legislature takes no
11 action on the OTG submitted by the Administrator, the
12 OTG shall become operative thirty (30) days following
13 the adjournment of the Legislature;

14 6. After public hearing, adopt Oklahoma Treatment Guidelines
15 for the prescription and dispensing of any controlled substance
16 included in Schedule II of the Uniform Controlled Dangerous
17 Substances Act if not addressed by the current edition of the
18 Official Disability Guidelines;

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;

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 treatment guidelines of the
11 latest edition of the Official Disability Guidelines or the Oklahoma
12 Treatment Guidelines.

13 D. Members of the Physician Advisory Committee shall receive no
14 compensation for serving on the Committee but shall be reimbursed by
15 the Court for their necessary travel expenses incurred in the
16 performance of their duties in accordance with the State Travel
17 Reimbursement Act.

18 E. Meetings of the Physician Advisory Committee shall be called
19 by the Administrator but held at least quarterly. The presence of a
20 simple majority of the members constitutes a quorum. No action
21 shall be taken by the Physician Advisory Committee without the
22 affirmative vote of at least a simple majority of the members.

23

24

1 F. The Administrator shall provide office supplies and
2 personnel of the Court to assist the Committee in the performance of
3 its duties.

4 G. Upon written request, the Insurance Commissioner, ~~CompSource~~
5 ~~Oklahoma~~, and every approved self-insured employer in Oklahoma shall
6 provide the Committee with data necessary to the performance of its
7 duties.

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

14 SECTION 99. AMENDATORY 85 O.S. 2011, Section 375, is
15 amended to read as follows:

16 Section 375. There is hereby created and established a fund to
17 be known as "CompSource Oklahoma", to be administered by a President
18 and Chief Executive Officer, without liability on the part of the
19 state beyond the amount of said fund, for the purpose of insuring
20 employers against liability for compensation under Sections ~~131~~
21 376.1 through ~~151~~ 400 of this title, and for assuring for the
22 persons entitled thereto compensation provided by the workers'
23 compensation law, and for the further purpose of insuring persons,
24 firms and corporations against loss, expense or liability by reason

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

12 ~~(a)~~ 1. CompSource Oklahoma shall be a revolving fund and shall
13 consist of all premiums received and paid into said fund for
14 insurance issued, all property and securities acquired by and
15 through the use of monies belonging to the fund and all interest
16 earned upon monies belonging to the fund and deposited or invested
17 as herein provided.

18 ~~(b)~~ 2. Said fund shall be applicable to the payment of losses
19 sustained on account of insurance and to the payment of expenses in
20 the manner provided in Sections ~~131~~ 376.1 through ~~151~~ 400 of this
21 title.

22 ~~(c)~~ 3. Said fund shall be fairly competitive with other
23 insurance carriers and it is the intent of the Legislature that said
24 fund shall become neither more nor less than self-supporting.

1 ~~(d)~~ 4. 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 ~~(e)~~ 5. CompSource Oklahoma shall not be subject to:

6 a. Sections 301 through 314 of Title 25, Oklahoma Open
7 Meeting Act,

8 b. Sections 151 through 158.2 of Title 47, State-Owned
9 Automobiles,

10 c. Sections 24A.1 through 24A.29 of Title 51, Oklahoma
11 Open Records Act,

12 d. Title 61 of the Oklahoma Statutes, Public Buildings
13 and Public Works,

14 e. Sections 3-101 through 3-115 of Title 65, Department
15 of Libraries,

16 f. Sections 201 through 217 of Title 67, Records
17 Management Act,

18 g. Sections 301 through 303 of Title 67, Reproduction of
19 Public Records,

20 h. Sections 305 through 317 of Title 67, Archives and
21 Records Commission,

22 i. Sections 81 through 97 of Title 73, Capitol Grounds
23 and Buildings,

- 1 j. Sections 3301 through 3305 of Title 74, State
2 Agencies,
3 k. Chapters 4, 8, 10, 13, 19, 30, 31, 48, 49, 53, 56, 81
4 and 110A of Title 74,
5 l. Section 34.2 of Title 80, and
6 m. all provisions from which CompSource Oklahoma was
7 permanently exempted pursuant to Sections 3316 and
8 3317 of Title 74.

9 6. To facilitate the transition from operating as CompSource
10 Oklahoma to CompSource Mutual Insurance Company, CompSource Oklahoma
11 may, but is not required to, comply with:

- 12 a. Title 62 of the Oklahoma Statutes, Public Finance,
13 b. Chapters 16, 17, 27A, 37, 37A, 37B, 38A, 38B, 45, 45A
14 and 61 of Title 74 of the Oklahoma Statutes, and
15 c. any other provision in the Oklahoma Statutes as is
16 necessary to facilitate the transition from
17 CompSource Oklahoma to CompSource Mutual Insurance
18 Company.

19 7. The official name of the fund which is known as "The State
20 Insurance Fund" shall be designated in all future references as
21 "CompSource Oklahoma". Any references in the Oklahoma Statutes to
22 The State Insurance Fund shall be deemed references to CompSource
23 Oklahoma.

1 SECTION 100. AMENDATORY 85 O.S. 2011, Section 376, as
2 amended by Section 1078, Chapter 304, O.S.L. 2012 (85 O.S. Supp.
3 2012, Section 376), is amended to read as follows:

4 Section 376. A. There is hereby created a Board to be known as
5 the "Board of Managers of CompSource Oklahoma", which ~~Board~~ shall
6 have supervision over the administration and operation of CompSource
7 Oklahoma, and shall be composed of eight (8) members as follows:

8 1. The Director of the Office of Management and Enterprise
9 Services or a designee;

10 2. The Lieutenant Governor or a designee;

11 3. The State Auditor and Inspector or a designee;

12 4. One member appointed by the Governor;

13 5. Two members appointed by the Speaker of the House of
14 Representatives, one of whom shall be representative of employers;
15 and

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

18 The appointed members of the Board shall serve at the pleasure of
19 the appointing authority.

20 B. The members of the Board shall elect annually from their
21 number a Chair and a Secretary. The Secretary shall keep true and
22 complete records of all proceedings of the Board. The Board shall
23 meet quarterly, and at all other times when a meeting is called by
24 the Chair, and at such meetings the Board may consider the condition

1 of CompSource Oklahoma and quarterly shall make a detailed
2 examination into the condition of its reserves and investments and
3 at each meeting may examine all other matters relating to the
4 administration of such fund. The time and place of the regular
5 meetings and the manner in which special meetings may be called
6 shall be set forth in the bylaws of the said Fund. Except as
7 otherwise provided in this act or in the bylaws, all actions shall
8 be taken by the affirmative vote of a majority of the Board members
9 present at a meeting, except that no investment policy and no
10 amendment of bylaws shall be valid unless authorized or ratified by
11 the affirmative vote of at least four Board members.

12 C. Appointed members of the Board shall be reimbursed for
13 expenses as provided in the State Travel Reimbursement Act. Said
14 reimbursement, not to exceed thirty (30) days in any calendar year,
15 shall be paid only when the Board is transacting official business.
16 Any reimbursement in excess of thirty (30) days shall be approved by
17 a majority of the Board. The Board shall have access to all records
18 and books of account and shall have power to require the presence or
19 appearance of any officer or employee of CompSource Oklahoma. All
20 information obtained by the members of the Board shall be
21 confidential unless disclosed by order of the Board.

22 D. No person or organization in a position to influence
23 official action of members of the Board of Managers of CompSource
24 Oklahoma, the President and Chief Executive Officer, and the

1 employees of CompSource Oklahoma shall furnish presents, gratuities,
2 transportation, lodging, educational seminars, conferences,
3 meetings, or similar functions to the Board of Managers of
4 CompSource Oklahoma, the President and Chief Executive Officer, and
5 the employees of CompSource Oklahoma other than as provided by law
6 and the rules of the Ethics Commission.

7 E. The official name of the Board of Managers which is known as
8 the "Board of Managers of the State Insurance Fund" shall be
9 designated in all future references as the "Board of Managers of
10 CompSource Oklahoma". Any references in the Oklahoma Statutes to
11 the Board of Managers of the State Insurance Fund shall be deemed
12 references to the Board of Managers of CompSource Oklahoma.

13 SECTION 101. AMENDATORY 85 O.S. 2011, Section 380, is
14 amended to read as follows:

15 Section 380. A. 1. Volunteer fire departments organized
16 pursuant to state law may obtain workers' compensation insurance for
17 volunteer firefighters through the Volunteer Firefighter Group
18 Insurance Pool pursuant to requirements established by CompSource
19 ~~Oklahoma~~ Mutual Insurance Company which shall administer the Pool.
20 For the premium set by CompSource ~~Oklahoma~~ Mutual Insurance Company,
21 the state shall provide Fifty-five Dollars (\$55.00) per firefighter
22 per year. Except as otherwise provided by subsection D of this
23 section, the total amount paid by the state shall not exceed Three
24 Hundred Twenty Thousand Three Hundred Thirty-eight Dollars

1 (\$320,338.00) per year or so much thereof as may be necessary to
2 fund the Volunteer Firefighter Group Insurance Pool.

3 2. CompSource ~~Oklahoma~~ Mutual Insurance Company shall collect
4 the premium from state agencies, public trusts and other
5 instrumentalities of the state. Any funds received by CompSource
6 ~~Oklahoma~~ Mutual Insurance Company from any state agency, public
7 trust, or other instrumentality for purposes of workers'
8 compensation insurance pursuant to this section shall be deposited
9 to the credit of the Volunteer Firefighter Group Insurance Pool.
10 CompSource ~~Oklahoma~~ Mutual Insurance Company shall collect premiums,
11 pay claims, and provide for excess insurance as needed.

12 B. CompSource ~~Oklahoma~~ Mutual Insurance Company shall report,
13 annually, to the Governor, the Speaker of the Oklahoma House of
14 Representatives, and the President Pro Tempore of the State Senate
15 the number of enrollees in the Volunteer Firefighter Group Insurance
16 Pool, and the amount of any anticipated surplus or deficiency of the
17 Pool; and shall also provide to the Governor, the Speaker of the
18 Oklahoma House of Representatives and the President Pro Tempore of
19 the State Senate sixty (60) days advance notice of any proposed
20 change in rates for the Volunteer Firefighter Group Insurance Pool.

21 C. The amount of claims paid, claim expenses, underwriting
22 losses, loss ratio, or any other financial aspect of the Volunteer
23 Firefighter Group Insurance Pool shall not be considered when
24 determining or considering bids for the amount of any premiums,

1 rates, or expenses owed by, or any discounts, rebates, dividends, or
2 other financial benefits owed to any other policyholder of
3 CompSource ~~Oklahoma~~ Mutual Insurance Company.

4 D. Except as otherwise provided by law, any increase in the
5 state payment rate for volunteer firefighters under the Volunteer
6 Firefighter Group Insurance Pool shall not exceed five percent (5%)
7 per annum. Any proposed change in rates for the Volunteer
8 Firefighter Group Insurance Pool must be approved by the Board of
9 ~~Managers~~ Directors of CompSource ~~Oklahoma~~ Mutual Insurance Company
10 with notice provided pursuant to subsection B of this section.

11 CompSource ~~Oklahoma~~ Mutual Insurance Company shall not increase
12 premiums for the Volunteer Firefighter Group Insurance Pool more
13 than once per annum.

14 E. For purposes of this section, the term "volunteer fire
15 departments" includes those volunteer fire departments which have
16 authorized voluntary or uncompensated workers rendering services as
17 firefighters and are created by statute pursuant to Section 592 of
18 Title 18 of the Oklahoma Statutes, Sections 29-201 through ~~29-205~~
19 29-204 of Title 11 of the Oklahoma Statutes, and those defined by
20 Section 351 of Title 19 of the Oklahoma Statutes.

21 SECTION 102. AMENDATORY 85 O.S. 2011, Section 396, is
22 amended to read as follows:

23 Section 396. ~~A-~~ Information acquired by the CompSource
24 Oklahoma President and Chief Executive Officer or the officers or

1 employees of CompSource Oklahoma, from persons, firms or
2 corporations insured by CompSource Oklahoma, or from employees of
3 such persons, firms or corporations pursuant to this article shall
4 not be open to public inspection, and any officer or employee of the
5 State of Oklahoma, who without authority of the Commissioner, or
6 pursuant to the rules prescribed by the CompSource Oklahoma
7 President and Chief Executive Officer, or as otherwise required by
8 law, shall disclose the same, shall be guilty of a misdemeanor.

9 ~~B. For the purpose of implementing Section 142a of this title,~~
10 ~~the CompSource Oklahoma President and Chief Executive Officer shall~~
11 ~~provide to the Commissioner of Labor annually, upon request, a~~
12 ~~listing of the insureds of CompSource Oklahoma with the name,~~
13 ~~address and nature of business or occupation of the insured.~~

14 SECTION 103. AMENDATORY 85 O.S. 2011, Section 403, as
15 amended by Section 1082, Chapter 304, O.S.L. 2012 (85 O.S. Supp.
16 2012, Section 403), is amended to read as follows:

17 Section 403. A. There is hereby created, for the purposes
18 declared in this act, the "Multiple Injury Trust Fund" to be derived
19 from the following sources:

20 1. As soon as practicable after January 1 of each year, the
21 Administrator of the Workers' Compensation Court shall establish an
22 assessment rate applicable to each mutual or interinsurance
23 association, stock company, ~~CompSource Oklahoma,~~ or other insurance
24 carrier writing workers' compensation insurance in this state, each

1 employer carrying its own risk, and each group self-insurance
2 association, for amounts for purposes of computing the assessment
3 authorized by this section necessary to pay the annual obligations
4 of the Multiple Injury Trust Fund determined on or before December
5 31 of each year by the ~~Board of Managers of CompSource Oklahoma~~ MITF
6 Director to be outstanding for the next calendar year, and to pay
7 the allocations provided for in subsection I of this section. The
8 rate shall be equal for all parties required to pay the assessment.
9 The Board of Directors for CompSource Mutual Insurance Company shall
10 have the power to disapprove the rate established by the MITF
11 Director until the Multiple Injury Trust Fund repays in full the
12 amount due on any loan from CompSource Mutual Insurance Company or
13 its predecessor CompSource Oklahoma. If the MITF Director and
14 CompSource Mutual Insurance Company have not agreed on the
15 assessment rate within thirty (30) days, the Administrator of the
16 Workers' Compensation Court shall set an assessment rate sufficient
17 to cover all foreseeable obligations of the Multiple Injury Trust
18 Fund, including interest and principal owed by the Fund on any loan.
19 The rate in effect on the effective date of this act shall remain
20 effective through June 30, 2012;

21 2. The Oklahoma Tax Commission shall assess and collect from
22 any uninsured employer a temporary assessment at the rate of five
23 percent (5%) of the total compensation for permanent total
24 disability awards, permanent partial impairment awards, and death

1 benefits paid out during each quarter of the calendar year by the
2 employers;

3 3. The assessments shall be paid to the Tax Commission.
4 Insurance carriers, self-insurers, and group self-insurance
5 associations ~~and CompSource Oklahoma~~ shall pay the assessment in
6 four equal installments not later than the fifteenth day of the
7 month following the close of each quarter of the calendar year of
8 the assessment. Assessments shall be determined based upon gross
9 direct written premiums, normal premiums or actual paid losses of
10 the paying party, as applicable, during the calendar quarter for
11 which the assessment is due. Uninsured employers shall pay the
12 assessment not later than the fifteenth day of the month following
13 the close of each quarter of the calendar year of the assessment.
14 For purposes of this section, "uninsured employer" means an employer
15 required by law to carry workers' compensation insurance but who has
16 failed or neglected to do so. Only one-third (1/3) of assessments
17 against insurance carriers ~~and CompSource Oklahoma~~ may be charged to
18 policyholders and shall not be considered in determining whether any
19 rate is excessive. The remaining two-thirds (2/3) of assessments
20 against insurance carriers ~~and CompSource Oklahoma~~ may not be
21 included in any rate, premium, charge, fee, assessment or other
22 amount to be collected from a policyholder. Insurance carriers ~~and~~
23 ~~CompSource Oklahoma~~ shall not separately state the amount of the
24 assessment on any invoice or billing assessment.

1 a. The assessment authorized in this section shall be
2 determined using a rate equal to the proportion that
3 the sum of the outstanding obligations of the Multiple
4 Injury Trust Fund as determined pursuant to paragraph
5 1 of this subsection and the allocations provided for
6 in subsection I of this section bear to the combined
7 gross direct written premiums of all such insurers;
8 all actual paid losses of all individual self-
9 insureds; and the normal premium of all group self-
10 insurance associations, for the year period from
11 January 1 to December 31 preceding the assessment.

12 b. For purposes of this subsection:

13 (1) "actual paid losses" means all medical and
14 indemnity payments, including temporary
15 disability, permanent disability, and death
16 benefits, and excluding loss adjustment expenses
17 and reserves, and

18 (2) "normal premium" means a standard premium less
19 any discounts;

20 4. By April 15 of each year, the Insurance Commissioner, ~~Board~~
21 ~~of Managers of CompSource Oklahoma~~ the MITF Director, and each
22 individual and group self-insured shall provide the Administrator
23 with such information as the Administrator may determine is
24 necessary to effectuate the purposes of this section;

1 5. Each mutual or interinsurance association, stock company,
2 ~~CompSource Oklahoma~~, or other insurance carrier writing workers'
3 compensation insurance in this state, and each employer carrying its
4 own risk, including each group self-insurance association, shall be
5 notified by the Administrator in writing of the rate for the
6 assessment on or before May 1 of each year in which a rate is
7 determined. The rate determined by the Administrator shall be in
8 effect for four calendar quarters beginning July 1 following
9 determination by the Administrator;

10 6. a. No mutual or interinsurance association, stock
11 company, ~~CompSource Oklahoma~~, or other insurance
12 carrier writing workers' compensation insurance in
13 this state, may be assessed in any year an amount
14 greater than six percent (6%) of the gross direct
15 written premiums of that insurer.

16 b. No employer carrying its own risk may be assessed in
17 any year an amount greater than six percent (6%) of
18 the total actual paid losses of that individual self-
19 insured.

20 c. No group self-insurance association may be assessed in
21 any year an amount greater than six percent (6%) of
22 the normal premium of that group self-insurance
23 association.

24

1 d. If the maximum assessment does not provide in any one
2 year an amount sufficient to make all necessary
3 payments for obligations of the Multiple Injury Trust
4 Fund and for the allocations provided for in
5 subsection I of this section, the unpaid portion shall
6 be paid as soon thereafter as funds become available.

7 B. The Multiple Injury Trust Fund is hereby authorized to
8 receive and expend monies appropriated by the Legislature.

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

13 D. Any mutual or interinsurance association, stock company, or
14 other insurance company, which is subject to regulation by the
15 Insurance Commissioner, ~~or CompSource Oklahoma,~~ failing to make
16 payments required in this act promptly and correctly, and failing to
17 report payment of the same to the Insurance Commission within ten
18 (10) days of payment shall be subject to administrative penalties as
19 allowed by law, including but not limited to a fine in the amount of
20 Five Hundred Dollars (\$500.00) or an amount equal to one percent
21 (1%) of the unpaid amount, whichever is greater, to be paid to the
22 Insurance Commissioner.

23 E. Any employer carrying its own risk, or group self-insurance
24 association failing to make payments required in this act promptly

1 and correctly, and failing to report payment of the same to the
2 Administrator within ten (10) days of payment shall be subject to
3 administrative penalties as allowed by law, including but not
4 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or
5 an amount equal to one percent (1%) of the unpaid amount, whichever
6 is greater, to be paid to the Administrator.

7 F. 1. On or before the first day of April of each year, the
8 State Treasurer shall advise the Administrator, the ~~Board of~~
9 ~~Managers of CompSource Oklahoma~~ MITF Director and the Tax Commission
10 of the amount of money held as of March 1 of that year by the State
11 Treasurer to the credit of the Multiple Injury Trust Fund. On or
12 before the first day of November of each year, the State Treasurer
13 shall advise the Administrator, the Board of Managers of CompSource
14 Oklahoma and the Tax Commission of the amount of money held as of
15 October 1 of that year by the State Treasurer to the credit of the
16 Multiple Injury Trust Fund.

17 2. Until such time as the Multiple Injury Trust Fund fully
18 satisfies any loan obligation payable to CompSource Mutual Insurance
19 Company or its predecessor CompSource Oklahoma, the State Treasurer
20 shall:

21 a. advise the Chief Executive Officer of CompSource
22 Mutual Insurance Company on or before the first day of
23 April of the money held as of March 1 of that year by
24

1 the State Treasurer to the credit of the Multiple
2 Injury Trust Fund, and

3 b. advise the Chief Executive Officer of CompSource
4 Mutual Insurance Company on or before the first day of
5 November of the money held as of October 1 of that
6 year by the State Treasurer to the credit of the
7 Multiple Injury Trust Fund.

8 G. Eighty percent (80%) of all sums held by the State Treasurer
9 to the credit of the Multiple Injury Trust Fund may by order of the
10 ~~CompSource Oklahoma President and Chief Executive Officer~~ MITF
11 Director, with the approval of the ~~Board of Managers of CompSource~~
12 ~~Oklahoma~~ Insurance Commissioner, be invested in or loaned on the
13 pledge of any of the securities in which a state bank may invest the
14 monies deposited therein by the State Treasurer; or may be deposited
15 in state or national banks or trust companies upon insured time
16 deposit bearing interest at a rate no less than currently being paid
17 upon insured savings accounts in the institutions. As used in this
18 section, "insured" means insurance as provided by an agency of the
19 federal government. All such securities or evidence of indebtedness
20 shall be placed in the hands of the State Treasurer, who shall be
21 the custodian thereof, who shall collect the principal and interest
22 when due, and pay the same into the Multiple Injury Trust Fund. The
23 State Treasurer shall pay by vouchers drawn on the Multiple Injury
24 Trust Fund for the making of such investments, when signed by the

1 ~~CompSource Oklahoma President and Chief Executive Officer and~~
2 ~~approved by the Board of Managers of CompSource Oklahoma~~ MITF
3 Director, upon delivery of such securities or evidence of
4 indebtedness to the State Treasurer. The ~~CompSource Oklahoma~~
5 ~~President and Chief Executive Officer~~ MITF Director may, ~~upon like~~
6 ~~approval of the Board of Managers of CompSource Oklahoma~~, sell any
7 of such securities, the proceeds thereof to be paid over to the
8 State Treasurer for the Multiple Injury Trust Fund.

9 H. The refund provisions of Sections 227 through 229 of Title
10 68 of the Oklahoma Statutes shall be applicable to any payments made
11 to the Multiple Injury Trust Fund. Refunds shall be paid from and
12 out of the Multiple Injury Trust Fund.

13 I. The Tax Commission shall pay, monthly, to the State
14 Treasurer to the credit of the Multiple Injury Trust Fund all monies
15 collected pursuant to the provisions of this section, less the
16 annual sum of Two Million Five Hundred Fifty Thousand Dollars
17 (\$2,550,000.00), of which One Million Two Hundred Seventy-five
18 Thousand Dollars (\$1,275,000.00) shall be payable by the Oklahoma
19 Tax Commission to the State Treasurer in equal monthly installments
20 to the credit of the Department of Labor, Six Hundred Thirty-seven
21 Thousand Five Hundred Dollars (\$637,500.00) shall be payable in
22 equal monthly installments to the credit of the Office of the
23 Attorney General, and Six Hundred Thirty-seven Thousand Five Hundred
24 Dollars (\$637,500.00) shall be payable in equal monthly installments

1 to the credit of the Oklahoma Department of Career and Technology
2 Education. Monies received by the Department of Labor under this
3 section shall be used for safety consultation and the regulation of
4 the safety of public employees through the Occupational Safety and
5 Health Act of 1970. Monies received by the Office of the Attorney
6 General shall be deposited to the credit of the Attorney General's
7 Workers' Compensation Fraud Unit Revolving Fund created pursuant to
8 Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received
9 by the Oklahoma Department of Career and Technology Education shall
10 supplement other funding to the Department for purposes of
11 implementing the provisions of subsection B of Section 414 of Title
12 40 of the Oklahoma Statutes. The State Treasurer shall pay out of
13 the Multiple Injury Trust Fund only upon the order and direction of
14 the Workers' Compensation Court acting under the provisions hereof.

15 J. The Administrator shall promulgate rules as the
16 Administrator deems necessary to effectuate the provisions of this
17 section.

18 K. The Insurance Commissioner shall promulgate rules relating
19 to insurers as defined in Title 36 of the Oklahoma Statutes, as the
20 Insurance Commissioner deems necessary to effectuate the provisions
21 of this section.

22 ~~L. The Multiple Injury Trust Fund may enter into any agreement~~
23 ~~with CompSource Oklahoma for the purpose of fulfilling all of its~~
24 ~~payment obligations.~~

1 ~~M.~~ The Multiple Injury Trust Fund may enter into an agreement
2 with any reinsurer licensed to sell reinsurance by the Insurance
3 Commissioner pursuant to a competitive process administered by the
4 Director of Central Purchasing in the Office of Management and
5 Enterprise Services.

6 ~~N.~~ M. Any dividend, rebate, or other distribution, payable by
7 ~~CompSource Oklahoma~~ or any other workers' compensation insurance
8 carrier, to a state agency policyholder shall be paid to the State
9 Treasurer, and shall be credited as follows:

10 1. In the event of failure of the Multiple Injury Trust Fund to
11 meet all lawful obligations, the monies shall be credited to the
12 Multiple Injury Trust Fund and shall be used by the Multiple Injury
13 Trust Fund to meet all lawful obligations of the Multiple Injury
14 Trust Fund; and

15 2. Otherwise, all future dividends made by ~~CompSource Oklahoma~~
16 ~~or~~ any workers' compensation insurance carrier, on behalf of state
17 agencies, shall be deposited to the credit of the General Revenue
18 Fund of the State Treasury.

19 SECTION 104. AMENDATORY 85 O.S. 2011, Section 406, is
20 amended to read as follows:

21 Section 406. A. ~~CompSource Oklahoma shall be charged with~~ The
22 chief administrative officer of the Multiple Injury Trust Fund shall
23 be the MITF Director, who shall have supervision over the
24 administration and protection of the Multiple Injury Trust Fund and

1 shall be notified by the Administrator of the Workers' Compensation
2 Court of all proceedings which may affect such fund.

3 1. The person serving as the Administrator of the Multiple
4 Injury Trust Fund on the date of passage and approval of this act
5 shall serve as the initial MITF Director, provided such person is
6 serving as the Administrator of the Multiple Injury Trust Fund on
7 the effective date of this act.

8 2. Except as provided in paragraph 1 of this subsection, the
9 MITF Director shall be appointed by and serve at the pleasure of the
10 Governor.

11 B. ~~CompSource Oklahoma~~ The MITF Director shall have standing
12 and the authority to appear in any case before the Workers'
13 Compensation Court in which the Court is considering an award from
14 the Multiple Injury Trust Fund.

15 C. Any party interested shall have a right to bring a
16 proceeding in the Supreme Court to review an award of the Court
17 affecting such Multiple Injury Trust Fund, in the same manner as is
18 now provided by law with reference to other awards by the Court.

19 D. The State Treasurer shall allocate ~~to CompSource Oklahoma~~
20 sufficient funds out of the Multiple Injury Trust Fund, ~~sufficient~~
21 ~~funds~~ for administration expenses thereof in amounts to be fixed and
22 approved by the ~~Administrator for the Multiple Injury Trust Fund~~
23 MITF Director, unless rejected by the Governor and Attorney General.

24

1 E. The MITF Director shall make reports regarding financial and
2 claims data to the Governor, Workers' Compensation Court, and the
3 Insurance Commissioner, upon request.

4 SECTION 105. AMENDATORY 85 O.S. 2011, Section 407, is
5 amended to read as follows:

6 Section 407. A. There is hereby created in the State Treasury
7 the "Workers' Compensation Administration Fund" to be used for the
8 costs of administering the Workers' Compensation Code and for other
9 purposes pursuant to legislative appropriation.

10 B. No money on deposit with the State Treasurer to the credit
11 of the Workers' Compensation Administration Fund shall be expended
12 except pursuant to legislative appropriation.

13 C. For the purpose of providing funds for the Workers'
14 Compensation Administration Fund, each mutual or interinsurance
15 association, stock company, ~~CompSource Oklahoma~~ or other insurance
16 carrier writing workers' compensation insurance in this state shall
17 pay to the Oklahoma Tax Commission a tax at a rate of one percent
18 (1%) of all gross direct premiums written during each quarter of the
19 calendar year for workers' compensation insurance on risks located
20 in this state after deducting from such gross direct premiums,
21 return premiums, unabsorbed portions of any deposit premiums, policy
22 dividends, safety refunds, savings and other similar returns paid or
23 credited to policyholders. Such payments to the Tax Commission
24 shall be made not later than the fifteenth day of the month

1 following the close of each quarter of the calendar year in which
2 such gross direct premium is collected or collectible.

3 Contributions made by insurance carriers ~~and CompSource Oklahoma,~~
4 under the provisions of this section, shall be considered for the
5 purpose of computing workers' compensation rates.

6 D. When an employer is authorized to become a self-insurer, the
7 Administrator of the Workers' Compensation Court as directed by the
8 Workers' Compensation Court shall so notify the Tax Commission,
9 giving the effective date of such authorization. The Tax Commission
10 shall then assess and collect from the employers carrying their own
11 risk a tax at the rate of two percent (2%) of the total compensation
12 for permanent total disability awards, permanent partial impairment
13 awards and death benefits paid out during each quarter of the
14 calendar year by the employers. Such tax shall be payable by the
15 employers and collected by the Tax Commission according to the
16 provisions of this section regarding payment and collection of the
17 tax created in subsections C, E, F and G of this section.

18 E. It shall be the duty of the Tax Commission to collect the
19 payments provided for in this act. The Tax Commission is hereby
20 authorized to bring an action for the recovery of any delinquent or
21 unpaid payments required in this section. The Tax Commission may
22 also enforce payments by proceeding in accordance with the
23 provisions of Section ~~46~~ 346 of this ~~act~~ title.

24

1 F. The Tax Commission shall pay monthly to the State Treasurer
2 to the credit of the General Revenue Fund all monies collected under
3 the provisions of this section.

4 G. The refund provisions of Sections 227 through 229 of Title
5 68 of the Oklahoma Statutes shall be applicable to any payments made
6 pursuant to this section.

7 SECTION 106. REPEALER 74 O.S. 2011, Section 840-5.10, is
8 hereby repealed.

9 SECTION 107. REPEALER 76 O.S. 2011, Section 22, is
10 hereby repealed.

11 SECTION 108. REPEALER 85 O.S. 2011, Section 378, is
12 hereby repealed.

13 SECTION 109. REPEALER 85 O.S. 2011, Sections 375, as
14 amended by Section 44 of this act and as recodified by Section 55 of
15 this act, 376, as last amended by Section 45 of this act and as
16 recodified by Section 55 of this act, 377, 379, 381, 382, 384, as
17 amended by Section 1079, Chapter 304, O.S.L. 2012, 385, 386, 387, as
18 amended by Section 1080, Chapter 304, O.S.L. 2012, 388, 389, as
19 amended by Section 1081, Chapter 304, O.S.L. 2012, 390, 391, 392,
20 393, 394, 395, 397, 400 and 401 (85 O.S. Supp. 2012, Sections 384,
21 387 and 389), are hereby repealed.

22 SECTION 110. RECODIFICATION 85 O.S. 2011, Sections 375,
23 as amended by Section 44 of this act, and 376, as last amended by
24 Section 45 of this act, shall be recodified as Sections 376.1 and

1 376.2, respectively, of Title 85 of the Oklahoma Statutes, unless
2 there is created a duplication in numbering.

3 SECTION 111. Sections 16, 18, 19, 20, 21, 22, 23, 24, 25, 26,
4 27, 28, 29, 30, 31, 32, 33, 38, 39, 40, 41, 42, 46, 50 and 54 of
5 this act shall become effective January 1, 2015.

6 Passed the House of Representatives the 13th day of March, 2013.

7

8

Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2013.

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Presiding Officer of the Senate

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