

## FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend amendment number 1 to HB1921 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By adding the following attachment to the amendment, each section to be placed in the bill as provided in the amendment.

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Chris Kannady

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 "SECTION 1. AMENDATORY Section 6, Chapter 208, O.S.L.  
2 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.  
3 Supp. 2016, Section 6), is amended to read as follows:

4 Section 6.

5 A. 1. a. Any person or entity who makes any material false  
6 statement or representation, who willfully and  
7 knowingly omits or conceals any material information,  
8 or who employs any device, scheme, or artifice, or who  
9 aids and abets any person for the purpose of:

- 10 (1) obtaining any benefit or payment,  
11 (2) increasing any claim for benefit or payment, or  
12 (3) obtaining workers' compensation coverage under  
13 this act,

14 shall be guilty of a felony punishable pursuant to  
15 Section 1663 of Title 21 of the Oklahoma Statutes.

16 b. A material false statement or representation includes,  
17 but is not limited to, attempting to obtain treatment  
18 or compensation for body parts that were not injured  
19 in the course and scope of employment.

20 c. Fifty percent (50%) of any criminal fine imposed and  
21 collected under this section shall be paid and  
22 allocated in accordance with applicable law to the  
23 Workers' Compensation Commission Revolving Fund  
24 administered by the Workers' Compensation Commission.

1        2. Any person or entity with whom any person identified in  
2 division (1) of subparagraph a of paragraph 1 of this subsection has  
3 conspired to achieve the proscribed ends shall, by reason of such  
4 conspiracy, be guilty as a principal of a felony.

5        B. A copy of division (1) of subparagraph a of paragraph 1 of  
6 subsection A of this section shall be included on all forms  
7 prescribed by the Commission for the use of injured employees  
8 claiming benefits and for the use of employers in responding to  
9 employees' claims under this act.

10        C. ~~Where~~ If the Commission or the Attorney General finds that a  
11 violation of division (1) of subparagraph a of paragraph 1 of  
12 subsection A of this section has been committed, or that any other  
13 criminal violations in furtherance of this act were committed, the  
14 chair of the Commission or the Attorney General shall refer the  
15 matter for appropriate action to the prosecuting attorney having  
16 criminal jurisdiction over the matter.

17        D. 1. a. There shall be established within the Office of the  
18                    Attorney General a Workers' Compensation Fraud  
19                    Investigation Unit, funded by the Commission. The  
20                    Attorney General shall appoint a Director of the  
21                    Workers' Compensation Fraud Investigation Unit, who  
22                    may also serve as the director of any other designated  
23                    insurance fraud investigation division within the  
24                    Attorney General's office.

1           b.     (1)   The Unit shall investigate workers' compensation  
2                        fraud, any additional criminal violations that  
3                        may be related to workers' compensation fraud,  
4                        and any other insurance fraud matters as may be  
5                        assigned at the discretion of the Attorney  
6                        General.

7                        (2)   The Attorney General shall designate the  
8                        personnel assigned to the Unit, who, on meeting  
9                        the qualifications established by the Oklahoma  
10                       Council on Law Enforcement Education and  
11                       Training, shall have the powers of specialized  
12                       law enforcement officers of the State of Oklahoma  
13                       for the purpose of conducting investigations  
14                       under this subparagraph. Personnel hired as  
15                       specialized law enforcement officers shall have a  
16                       minimum of three (3) years of certified law  
17                       enforcement experience or its equivalent in  
18                       national or military law enforcement experience  
19                       as approved by the Oklahoma Council on Law  
20                       Enforcement Education and Training.

21           2.   The Attorney General and his or her deputies and assistants  
22           and the Director of the Workers' Compensation Fraud Investigation  
23           Unit and his or her deputies and assistants shall be vested with the  
24           power of enforcing the requirements of this section.

1        3. It shall be the duty of the Unit to assist the Attorney  
2 General in the performance of his or her duties. The Unit shall  
3 determine the identity of employees in this state who have violated  
4 division (1) of subparagraph a of paragraph 1 of subsection A of  
5 this section and report the violation to the Office of the Attorney  
6 General and the Commission. The Attorney General shall report the  
7 violation to the prosecuting attorney having jurisdiction over the  
8 matter.

9        4. a. In the course of any investigation being conducted by  
10 the Unit, the Attorney General and his or her deputies  
11 and assistants and the Director and his or her  
12 deputies and assistants shall have the power of  
13 subpoena and may:

14            (1) subpoena witnesses,

15            (2) administer oaths or affirmations and examine any  
16 individual under oath, and

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

19        b. The issuance of subpoenas for witnesses shall be  
20 served in the same manner as if issued by a district  
21 court.

22        c. (1) Upon application by the commissioner or the  
23 Director of the Unit, the district court located  
24 in the county where a subpoena was served may

1                   issue an order compelling an individual to comply  
2                   with the subpoena to testify.

3                   (2) Any failure to obey the order of the court may be  
4                   punished as contempt.

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

14          e.   In addition to the punishments described in paragraph  
15               1 of subsection A of this section, any person  
16               providing false testimony under oath or affirmation in  
17               this state as to any matter material to any  
18               investigation or hearing conducted under this  
19               subparagraph, or any workers' compensation hearing,  
20               shall upon conviction be guilty of perjury.

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

23          6.   a.   Every carrier or employer who has reason to suspect  
24               that a violation of division (1) of subparagraph a of

1 paragraph 1 of subsection A of this section has  
2 occurred shall be required to report all pertinent  
3 matters to the unit.

4 b. No carrier or employer who makes a report for a  
5 suspected violation of division (1) of subparagraph a  
6 of paragraph 1 of subsection A of this section by an  
7 employee shall be liable to the employee unless the  
8 carrier or employer knowingly and intentionally  
9 included false information in the report.

10 c. (1) Any carrier or employer who willfully and  
11 knowingly fails to report a violation under  
12 division (1) of subparagraph a of paragraph 1 of  
13 subsection A of this section shall be guilty of a  
14 misdemeanor and on conviction shall be punished  
15 by a fine not to exceed One Thousand Dollars  
16 (\$1,000.00).

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

21 d. Any employee may report suspected violations of  
22 division (1) of subparagraph a of paragraph 1 of  
23 subsection A of this section. No employee who makes a  
24

1 report shall be liable to the employee whose suspected  
2 violations have been reported.

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

8 2. The prosecuting attorney of the district to whom a suspected  
9 violation of subsection A of this section, or any other criminal  
10 violations that may be related thereto, have been referred shall,  
11 for the purpose of assisting him or her in such prosecutions, have  
12 the authority to appoint as special deputy prosecuting attorneys  
13 licensed attorneys-at-law in the employment of the Unit or any other  
14 designated insurance fraud investigation division within the  
15 Attorney General's office. Such special deputy prosecuting  
16 attorneys shall, for the purpose of the prosecutions to which they  
17 are assigned, be responsible to and report to the prosecuting  
18 attorney.

19 F. Notwithstanding any other provision of law, investigatory  
20 files as maintained by the Attorney General's office and by the Unit  
21 shall be deemed confidential and privileged. The files may be made  
22 open to the public once the investigation is closed by the Director  
23 of the Workers' Compensation Fraud Investigation Unit with the  
24 consent of the Attorney General.



1       G. The Attorney General, with the cooperation and assistance of  
2 the Commission, is authorized to establish rules as may be necessary  
3 to carry out the provisions of this section.

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

6       I. The Commission shall include a statement on all forms for  
7 notices and instructions to employees, employers, carriers and  
8 third-party administrators that any person who commits workers'  
9 compensation fraud, upon conviction, shall be guilty of a felony  
10 punishable by imprisonment, a fine or both.

11       J. If an injured employee is charged with workers' compensation  
12 fraud, any pending workers' compensation proceeding, including  
13 benefits, shall be stayed after the preliminary hearing is concluded  
14 and the claimant is bound over and shall remain stayed until the  
15 final disposition of the criminal case. All notice requirements  
16 shall continue during the stay.

17       K. If the Attorney General's Office is in compliance with the  
18 discovery provisions of Section 258 of Title 22 of the Oklahoma  
19 Statutes, medical records created for the purpose of treatment and  
20 medical opinions obtained during the investigation shall be  
21 admissible at the preliminary hearing without the appearance of the  
22 medical professional creating such records or opinions. However,  
23 when material evidence dispositive to the issues of whether there  
24 was probable cause the crime was committed and whether the defendant

1 committed the crime, was not included in a report or opinion  
2 admitted at preliminary hearing, but might be presented at a  
3 pretrial hearing by a medical professional who created such report  
4 or opinion, the judge may, upon the motion of either party, order  
5 the appearance of the medical professional creating such report or  
6 opinion. Questions of fact regarding the conduct of the defendant  
7 that conflict with the findings of the medical professional  
8 evaluating the defendant shall not constitute material evidence. In  
9 the event of such motion, notice shall be given to the Attorney  
10 General's Workers Compensation Fraud and Investigation and  
11 Prosecution Unit. A hearing shall be held and, if the motion is  
12 granted, the evidence shall not be presented fewer than five (5)  
13 days later.

14 L. Any person or entity who, in good faith and exercising due  
15 care, reports suspected workers' compensation fraud or insurance  
16 fraud, or who allows access to medical records or other information  
17 pertaining to suspected workers' compensation or insurance fraud, by  
18 persons authorized to investigate a report concerning the workers'  
19 compensation and insurance fraud, shall have immunity from any civil  
20 or criminal liability for such report or access. Any such person or  
21 entity shall have the same immunity with respect to participation in  
22 any judicial proceeding resulting from such reports. For purposes  
23 of any civil or criminal proceeding, there shall be a presumption of  
24 good faith of any person making a report, providing medical records

1 or providing information pertaining to a workers' compensation or  
2 insurance fraud investigation by the Attorney General, and  
3 participating in a judicial proceeding resulting from a subpoena or  
4 a report.

5 SECTION 2. AMENDATORY Section 20, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2016, Section 20), is amended to read as  
7 follows:

8 Section 20. A. In addition to its other duties and powers, the  
9 Workers' Compensation Commission is given and granted full power and  
10 authority:

11 1. To appoint administrative law judges to hear all claims for  
12 compensation, including claims based on injuries which occurred  
13 outside this state for which compensation is payable under this act.  
14 An administrative law judge shall have been licensed to practice law  
15 in this state for a period of not less than three (3) years and  
16 shall have not less than three (3) years of workers' compensation  
17 experience prior to appointment;

18 2. To remand any case to an administrative law judge for the  
19 purpose of taking additional evidence;

20 3. To assess penalties;

21 4. To prescribe rules governing the representation of  
22 employees, employers, and carriers in respect to claims before the  
23 Commission;

1        5. To make available all records in connection with all cases  
2 of personal injury to the Oklahoma Department of Labor. The  
3 Commissioner of Labor may propose rules for the prevention of  
4 injuries and transmit the rules to the Commission. The Commission  
5 may recommend proposed rules for prevention of injuries to the  
6 Commissioner of Labor; and

7        6. To have and exercise all other powers and duties conferred  
8 or imposed by this act.

9        B. 1. In addition to the other powers and duties granted to  
10 the Commission in this section and otherwise provided by law, the  
11 Commission is authorized to establish and impose reasonable  
12 administrative fees to recover the cost of preparation of various  
13 informative materials distributed by the Commission.

14        2. The administrative fees shall be established by regulation  
15 of the Commission.

16        3. Funds derived from administrative fees shall be deposited  
17 into the Workers' Compensation Commission Revolving Fund to be used  
18 to defray expenses incurred in preparation and distribution of  
19 materials.

20        SECTION 3.        AMENDATORY        Section 36, Chapter 208, O.S.L.  
21 2013 (85A O.S. Supp. 2016, Section 36), is amended to read as  
22 follows:

23        Section 36. A. If ~~a subcontractor~~ an individual or business  
24 entity fails to secure compensation required by this ~~act~~ title, the

1 ~~prime contractor~~ party for whom work is being performed shall be  
2 liable for compensation to the employees of the ~~subcontractor~~  
3 individual or business entity unless there is an intermediate  
4 ~~subcontractor~~ individual or business entity who has workers'  
5 compensation coverage.

6 B. 1. Any ~~contractor or the contractor's~~ party for whom work  
7 is being performed or the party's insurance carrier who shall become  
8 liable for the payment of compensation on account of injury to or  
9 death of an employee of ~~his or her subcontractor~~ an individual or  
10 business entity may recover from the ~~subcontractor~~ individual or  
11 business entity the amount of the compensation paid or for which  
12 liability is incurred.

13 2. The claim for the recovery shall constitute a lien against  
14 any monies due or to become due to the ~~subcontractor~~ individual or  
15 business entity from the ~~prime contractor~~ party for whom work is  
16 being performed.

17 3. A claim for recovery shall not affect the right of the  
18 injured employee or the dependents of the deceased employee to  
19 recover compensation due from the ~~prime contractor~~ party for whom  
20 work is being performed or his or her insurance carrier.

21 C. 1. a. ~~When a sole proprietorship or partnership fails to~~  
22 ~~elect to cover the sole proprietor or partners under~~  
23 ~~this act, the prime contractor is not liable under~~  
24 ~~this act for injuries sustained by the sole proprietor~~

~~or partners if the sole proprietor or partners are not employees of the prime contractor.~~

- b. ~~(1) A sole proprietor or the partners of a partnership who do not elect to be covered by this act and be deemed employees thereunder and who deliver to the prime contractor a current certification of noncoverage issued by the Commission shall be conclusively presumed not to be covered by the law or to be employees of the prime contractor during the term of his or her certification or any renewals thereof.~~
- ~~(2) A certificate of noncoverage may not be presented to a subcontractor who does not have workers' compensation coverage.~~
- ~~(3) This provision shall not affect the rights or coverage of any employees of the sole proprietor or of the partnership.~~

~~2. The prime contractor's insurance carrier shall not be liable for injuries to the sole proprietor or partners described in this section who have provided a current certification of noncoverage, and the carrier shall not include compensation paid by the prime contractor to the sole proprietor or partners described above in computing the insurance premium for the prime contractor.~~

1       3.   a.   ~~Any prime contractor who after being presented with a~~  
2           ~~current certification of noncoverage by a sole~~  
3           ~~proprietor or partnership compels the sole proprietor~~  
4           ~~or partnership to pay or contribute to workers'~~  
5           ~~compensation coverage of that sole proprietor or~~  
6           ~~partnership shall be guilty of a misdemeanor.~~

7       b.   ~~Any prime contractor who compels a sole proprietor or~~  
8           ~~partnership to obtain a certification of noncoverage~~  
9           ~~when the sole proprietor or partnership does not~~  
10          ~~desire to do so shall be guilty of a misdemeanor.~~

11       c.   ~~Any applicant who makes a false statement when~~  
12           ~~applying for a certification of noncoverage or any~~  
13           ~~renewals thereof shall be guilty of a felony.~~

14       D.   1.   ~~A certification of noncoverage issued by the Commission~~  
15       ~~shall be valid for two (2) years after the effective date stated~~  
16       ~~thereon. Both the effective date and the expiration date shall be~~  
17       ~~listed on the face of the certificate by the Commission. The~~  
18       ~~certificate shall expire at midnight two (2) years from its issue~~  
19       ~~date, as noted on the face of the certificate.~~

20       2.   ~~The Commission may assess a fee not to exceed Fifty Dollars~~  
21       ~~(\$50.00) with each application for a certification of noncoverage or~~  
22       ~~any renewals thereof.~~

23       3.   ~~Any certification of noncoverage issued by the Commission~~  
24       ~~shall contain the social security number and notarized signature of~~

1 ~~the applicant. The notarization shall be in a form and manner~~  
2 ~~prescribed by the Commission.~~

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

5 ~~E. If work is performed by an independent contractor on a~~  
6 ~~single-family residential dwelling occupied by the owner, or the~~  
7 ~~premises of such dwelling, or for a farmer whose cash payroll for~~  
8 ~~wages, excluding supplies, materials and equipment, for the~~  
9 ~~preceding calendar year did not exceed One Hundred Thousand Dollars~~  
10 ~~(\$100,000.00), such owner or farmer shall not be liable for~~  
11 ~~compensation under this act for injuries to the independent~~  
12 ~~contractor or his or her employees~~ Any individual or business entity  
13 that is not required to be covered under a workers' compensation  
14 insurance policy or other plan for the payment of workers'  
15 compensation may execute an Affidavit of Exempt Status under the  
16 Administrative Workers' Compensation Act. The affidavit shall be a  
17 form prescribed by the Workers' Compensation Commission and shall be  
18 available on the Commission's website. The Commission may assess a  
19 fee not to exceed Fifty Dollars (\$50.00) for each affidavit  
20 executed.

21 D. Execution of the affidavit shall establish a rebuttable  
22 presumption that the executor or executor's agent is not an employee  
23 for purposes of the Administrative Workers' Compensation Act and  
24 that an individual or company possessing the affidavit is in



1 compliance and shall not be responsible for workers' compensation  
2 claims made by the executor.

3 E. The execution of an affidavit shall not affect the rights or  
4 coverage of any employee of the individual executing the affidavit.

5 F. 1. Knowingly providing false information on a notarized  
6 Affidavit of Exempt Status under the Administrative Workers'  
7 Compensation Act shall constitute a misdemeanor punishable by a fine  
8 not to exceed One Thousand Dollars (\$1,000.00).

9 2. Affidavits shall conspicuously state on the front thereof in  
10 at least ten-point, boldface print that it is a crime to falsify  
11 information on the form.

12 3. The Commission shall immediately notify the Workers'  
13 Compensation Fraud Unit in the Office of the Attorney General of any  
14 violations or suspected violations of this section. The Commission  
15 shall cooperate with the Fraud Unit in any investigation involving  
16 affidavits executed pursuant to this section.

17 G. Fees collected pursuant to subsection C of this section  
18 shall be deposited in the State Treasury to the credit of the  
19 Workers' Compensation Commission Revolving Fund.

20 H. If any employer relies in good faith on proof of a valid  
21 workers' compensation insurance policy issued to a contractor of any  
22 tier or on proof of an Affidavit of Exempt Status under this  
23 section, the employer shall not be liable for injuries of any  
24 employees of the contractor.

1       SECTION 4.       AMENDATORY       Section 38, Chapter 208, O.S.L.

2   2013 (85A O.S. Supp. 2016, Section 38), is amended to read as  
3   follows:

4       Section 38.   A.   An employer shall secure compensation to  
5   employees under ~~this act~~ the Administrative Workers' Compensation  
6   Act in one of the following ways:

7       1.   By insuring and keeping insured the payment of compensation  
8   with any stock corporation, mutual association, or other concerns  
9   authorized to transact the business of workers' compensation  
10   insurance in this state. When an insurer issues a policy to provide  
11   workers' compensation benefits under the provisions of ~~this act~~ the  
12   Administrative Workers' Compensation Act, it shall file a notice  
13   with the Workers' Compensation Commission containing the name,  
14   address, and principal occupation of the employer, the number,  
15   effective date, and expiration date of the policy, and such other  
16   information as may be required by the Commission. The notice shall  
17   be filed by the insurer within thirty (30) days after the effective  
18   date of the policy. Any insurer who does not file the notice  
19   required by this paragraph shall be subject to a fine by the  
20   Commission of not more than One Thousand Dollars (\$1,000.00);

21       2.   By obtaining and keeping in force guaranty insurance with  
22   any company authorized to do guaranty business in this state. Each  
23   company that issues workers' compensation guaranty insurance shall  
24   file a copy of the contract with the Commission within thirty (30)

1 days after the effective date of the contract. Any company that  
2 does not file a copy of the contract as required by this paragraph  
3 shall be subject to a fine by the Commission of not more than One  
4 Thousand Dollars (\$1,000.00);

5 3. By furnishing satisfactory proof to the Commission of the  
6 employer's financial ability to pay the compensation. The  
7 Commission, ~~under rules adopted by the Insurance Department,~~ shall  
8 require any employer that has:

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

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

17 (2) provide proof of excess coverage with such terms  
18 and conditions as is commensurate with their  
19 ability to pay the benefits required by the  
20 provisions of this act, and

21 b. one hundred or more employees and One Million Dollars  
22 (\$1,000,000.00) or more in net assets to:

23 (1) secure a surety bond payable to the state, or an  
24 irrevocable letter of credit, in an amount

determined by the Commission which shall be at least an average of the yearly claims for the last three (3) years, or

(2) provide proof of excess coverage with terms and conditions that are commensurate with their ability to pay the benefits required by the provisions of this act;

4. By forming a group self-insurance association consisting of two or more employers which shall have a common interest and which shall have entered into an agreement to pool their liabilities under the Administrative Workers' Compensation Act. Such agreement shall be subject to rules of the Commission. Any employer, upon application to become a member of a group self-insurance association, shall file with the Commission a notice, in such form as prescribed by the Commission, acknowledging that the employer accepts joint and several liability. Upon approval by the Commission of such application for membership, said member shall be a qualified self-insured employer; or

5. By any other security as may be approved by the Commission and the Insurance Department.

B. The Commission may waive the requirements of this section in an amount which is commensurate with the ability of the employer to pay the benefits required by the provisions of this act. Irrevocable letters of credit required by this subsection shall

1 contain such terms as may be prescribed by the Commission and shall  
2 be issued for the benefit of the state by a financial institution  
3 whose deposits are insured by the Federal Deposit Insurance  
4 Corporation.

5 C. An employer who does not fulfill the requirements of this  
6 section is not relieved of the obligation to pay compensation under  
7 ~~this act~~ the Administrative Workers' Compensation Act. The security  
8 required under this section, including any interest, shall be  
9 maintained by the ~~Commission~~ Self-insurance Guaranty Fund Board as  
10 provided in Section 99 of this act title until each claim for  
11 benefits is paid, settled, or lapses under ~~this act~~ the  
12 Administrative Workers' Compensation Act, and costs of  
13 administration of such claims are paid.

14 D. Failure on the part of any employer to secure the payment of  
15 compensation provided in ~~this act~~ the Administrative Workers'  
16 Compensation Act shall have the effect of enabling the ~~Commission~~  
17 Self-insurance Guaranty Fund Board to assert the rights of an  
18 injured employee against the employer.

19 E. Any employer that knowingly provides false information to  
20 the Commission for purposes of securing or maintaining a self-  
21 insurance permit shall be guilty of a felony and subject to a  
22 maximum fine of Ten Thousand Dollars (\$10,000.00).  
23  
24

1       SECTION 5.       AMENDATORY       Section 40, Chapter 208, O.S.L.

2       2013 (85A O.S. Supp. 2016, Section 40), is amended to read as  
3       follows:

4       Section 40.   A.   1.   Any employer who fails to secure  
5       compensation required under this act, upon conviction, shall be  
6       guilty of a misdemeanor and subject to a fine of up to Ten Thousand  
7       Dollars (\$10,000.00) to be deposited in the Workers' Compensation  
8       Commission Revolving Fund.

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

11      B.   1.   Whenever the Workers' Compensation Commission has reason  
12      to believe that any employer required to secure the payment of  
13      compensation under this act has failed to do so, the Commission  
14      shall serve on the employer a proposed judgment declaring the  
15      employer to be in violation of this act and containing the amount,  
16      if any, of the civil penalty to be assessed against the employer  
17      under paragraph 5 of this subsection.

18      2.   a.   An employer may contest a proposed judgment of the  
19              Commission issued under paragraph 1 of this subsection  
20              by filing with the Commission, within twenty (20) days  
21              of receipt of the proposed judgment, a written request  
22              for a hearing.

23      b.   The request for a hearing does not need to be in any  
24              particular form but shall specify the grounds on which

1 the person contests the proposed judgment, the  
2 proposed assessment, or both.

3 c. If a written request for hearing is not filed with the  
4 Commission within the time specified in subparagraph a  
5 of this paragraph, the proposed judgment, the proposed  
6 penalty, or both, shall be a final judgment of the  
7 Commission and shall not be subject to further review  
8 by any court, except if the employer shows good cause  
9 why it did not timely contest the judgment or penalty.

10 d. A proposed judgment by the Commission under this  
11 section shall be prima facie correct, and the burden  
12 is on the employer to prove that the proposed judgment  
13 is incorrect.

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

19 b. The Commission shall promptly notify the carrier of  
20 the employer's allegation and of the date of hearing.

21 c. The carrier shall promptly, and no later than five (5)  
22 days before the hearing, respond in writing to the  
23 employer's allegation by providing evidence of  
24

1 coverage for the period in question or by  
2 affirmatively denying the employer's allegation.

3 4. Hearings under this section shall be procedurally conducted  
4 as provided in Sections 69 through 78 of this ~~act~~ title.

5 5. The Commission may assess a fine against an employer who  
6 fails to secure the payment of compensation in an amount up to One  
7 Thousand Dollars (\$1,000.00) per day of violation payable to the  
8 Workers' Compensation Commission Revolving Fund.

9 6. If an employer fails to secure the payment of compensation  
10 or pay any civil penalty assessed against the employer after a  
11 judgment issued under this section has become final by operation of  
12 law or on appeal, the Commission may petition the Oklahoma County  
13 District Court or the district court of the county where the  
14 employer's principal place of business is located for an order  
15 enjoining the employer from engaging in further employment until  
16 such time as the employer secures the payment of compensation or  
17 makes full payment of all civil penalties.

18 SECTION 6. AMENDATORY Section 98, Chapter 208, O.S.L.  
19 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S.  
20 Supp. 2016, Section 98), is amended to read as follows:

21 Section 98. The Self-insurance Guaranty Fund shall be derived  
22 from the following sources:

23 1. Any unexpended funds, including interest thereon, held by  
24 the State Treasurer in the Workers' Compensation Self-insurance



1 Guaranty Fund transferred to the Self-insurance Guaranty Fund as  
2 provided in Section 124 of this title;

3 2. ~~Until the Self-insurance Guaranty Fund contains Two Million~~  
4 ~~Dollars (\$2,000,000.00) or in~~ In the event the amount in the net  
5 fund balance falls below ~~One Million Dollars (\$1,000,000.00)~~ Seven  
6 Hundred Fifty Thousand Dollars (\$750,000.00), the Workers'  
7 Compensation Commission shall make an assessment against each  
8 private self-insurer and group self-insurance association based on  
9 an assessment rate to be determined by the commissioners, not  
10 exceeding ~~one percent (1%)~~ two percent (2%) per annum of actual paid  
11 losses of the self-insurer during the preceding calendar year,  
12 payable to the Tax Commission for deposit to the fund. The  
13 assessment against private self-insurers shall be determined using a  
14 rate equal to the proportion that the deficiency in the fund  
15 attributable to private self-insurers bears to the actual paid  
16 losses of all private self-insurers for the year period of January 1  
17 through December 31 preceding the assessment. The assessment  
18 against group self-insurance associations shall be determined using  
19 a rate equal to the proportion that the deficiency in excess of the  
20 surplus of the Group Self-Insurance Association Guaranty Fund at the  
21 date of the transfer attributable to group self-insurance  
22 associations bears to the actual paid losses of all group self-  
23 insurance associations cumulatively for any calendar year preceding  
24 the assessment. Each self-insurer shall provide the Workers'

1 Compensation Commission with such information as the Commission may  
2 determine is necessary to effectuate the purposes of this paragraph.  
3 For purposes of this paragraph, "actual paid losses" means all  
4 medical and indemnity payments, including temporary disability,  
5 permanent disability, and death benefits, and excluding loss  
6 adjustment expenses and reserves.

7       a. The assessment shall be paid within thirty (30)  
8       calendar days after the date the commissioners notify  
9       the self-insurer of the assessment.

10       b. A private employer or group self-insurance association  
11       which ceases to be a self-insurer shall remain liable  
12       for any and all assessments of the self-insurer as  
13       provided in this paragraph based on actual paid losses  
14       for the calendar year period preceding the assessment.

15       c. Failure of a self-insurer to pay, or timely pay, an  
16       assessment required by this paragraph, or to report  
17       payment of the same to the Commission within ten (10)  
18       days of payment, shall be grounds for revocation by  
19       the Commission of the self-insurer's permit to self-  
20       insure in this state, after notice and hearing. A  
21       former self-insurer failing to make payments required  
22       by this paragraph promptly and correctly, or failing  
23       to report payment of the same to the Commission within  
24       ten (10) days of payment, shall be subject to

1 administrative penalties as allowed by law, including  
2 but not limited to, a fine in the amount of Five  
3 Hundred Dollars (\$500.00) or an amount equal to one  
4 percent (1%) of the unpaid amount, whichever is  
5 greater, to be paid and deposited to the credit of the  
6 Workers' Compensation Commission Revolving Fund  
7 created in Section ~~28~~ 28.1 of this title. It shall be  
8 the duty of the Tax Commission to collect the  
9 assessment provided for in this paragraph. The Tax  
10 Commission is authorized to bring an action for  
11 recovery of any delinquent or unpaid assessments, and  
12 may enforce payment of the assessment by proceeding in  
13 accordance with Section 79 of this title.

- 14 d. An impaired self-insurer shall be exempt from  
15 assessments beginning on the date of the Commission's  
16 designation until the Commission determines the self-  
17 insurer is no longer impaired.
- 18 e. The Tax Commission shall determine the fund balance as  
19 of March 1 and September 1 of each year, and when  
20 otherwise requested by the Workers' Compensation  
21 Commission, and shall advise the Workers' Compensation  
22 Commission in writing within thirty (30) days of each  
23 such determination; ~~and~~
- 24

1       3. Any excess funds, including interest thereon, transferred to  
2 the Self-insurance Guaranty Fund as provided in Section 99 of this  
3 title; and

4       4. Any interest accruing on monies paid into the fund.

5       SECTION 7.       AMENDATORY       Section 99, Chapter 208, O.S.L.  
6 2013, as amended by Section 5, Chapter 169, O.S.L. 2014 (85A O.S.  
7 Supp. 2016, Section 99), is amended to read as follows:

8       Section 99. A. On determination by the Workers' Compensation  
9 Commission that a self-insurer has become an impaired self-insurer,  
10 the Commission shall promptly secure release of the security  
11 required by Section 38 of this title ~~and,~~ advise the Self-insurance  
12 Guaranty Fund Board of the impairment. ~~Claims administration,~~  
13 ~~including processing, investigating and paying valid claims against~~  
14 ~~an impaired self-insurer under the Administrative Workers'~~  
15 ~~Compensation Act, may include payment by the surety that issued the~~  
16 ~~surety bond or be under a contract between the Commission and an~~  
17 ~~insurance carrier, appropriate state governmental entity or an~~  
18 ~~approved service organization, as approved by the Commission, and~~  
19 transfer the proceeds of the security to the Self-insurance Guaranty  
20 Fund Board to be maintained in a segregated account for  
21 administering workers' compensation obligations of the impaired  
22 self-insurer. The Self-insurance Guaranty Fund Board shall be the  
23 fiduciary of the account.

1        B. Proceeds from the released security shall be used for  
2 administering the workers' compensation obligations of the impaired  
3 self-insurer. Claims administration includes, but is not limited  
4 to, processing, investigating and paying claims; actuarial studies;  
5 attorney fees incurred for filing a proof of claim in the bankruptcy  
6 of the impaired self-insurer; and a pro rata portion of the staff  
7 expenses of the Self-insurance Guaranty Fund Board.

8        C. Except as otherwise provided by law or agreement of the  
9 parties, excess proceeds from the security remaining after each  
10 claim for benefits of an impaired self-insurer has been paid,  
11 settled or lapsed under the Administrative Workers' Compensation  
12 Act, and costs of administration of such claims have been paid, as  
13 determined by the Self-insurance Guaranty Fund Board, shall be  
14 transferred to the Self-insurance Guaranty Fund by the Commission or  
15 Board, as appropriate.

16        SECTION 8.        AMENDATORY        Section 162, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 119), is amended to read as  
18 follows:

19        Section 119. A. Persons requesting and receiving copies of  
20 documents on file with the Workers' Compensation Commission shall  
21 pay a fee to the Commission of One Dollar (\$1.00) for each page  
22 copied. All fees so collected shall be deposited in the State  
23 Treasury in the Workers' Compensation Commission Revolving Fund.  
24

1 B. All penalties and fines imposed by the Commission, upon  
2 collection, shall be deposited to the credit of the Workers'  
3 Compensation Commission Revolving Fund.

4 SECTION 9. AMENDATORY Section 128, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2016, Section 307), is amended to read as  
6 follows:

7 Section 307. A. On application and motion of a person showing  
8 an agreement to arbitrate and alleging another person's refusal to  
9 arbitrate under the agreement:

10 1. If the refusing party does not appear or does not oppose the  
11 motion, the Workers' Compensation Commission shall order the parties  
12 to arbitrate; and

13 2. If the refusing party opposes the motion, the Commission  
14 shall proceed summarily to decide the issue and order the parties to  
15 arbitrate unless it finds that there is no enforceable agreement to  
16 arbitrate. The Commission may also assess costs against the party  
17 opposing the motion if it concludes the opposition was not brought  
18 in good faith to be deposited in the Workers' Compensation  
19 Commission Revolving Fund created by the Administrative Workers'  
20 Compensation Act.

21 B. On motion of a person alleging that an arbitration  
22 proceeding has been initiated or threatened but that there is no  
23 agreement to arbitrate, the Commission shall proceed summarily to  
24 decide the issue. If the Commission finds that there is an

1 enforceable agreement to arbitrate, it shall order the parties to  
2 arbitrate. The Commission may also assess costs against the party  
3 opposing the motion if the Commission concludes the opposition was  
4 not brought in good faith to be deposited in the Workers'  
5 Compensation Commission Revolving Fund created by the Administrative  
6 Workers' Compensation Act.

7 C. If the Commission finds that the parties have not entered  
8 into an enforceable arbitration agreement, the dispute shall be  
9 resolved under the Administrative Workers' Compensation Act.

10 D. If an action is initiated in district court to determine  
11 whether an enforceable arbitration agreement exists, on motion by  
12 the responding party, that proceeding shall be transferred to the  
13 Commission for determination.

14 E. If a party challenges the enforceability of an arbitration  
15 agreement, the underlying claim, including all benefits, shall be  
16 stayed until the Commission determines whether an enforceable  
17 arbitration agreement exists.

18 SECTION 10. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 402 of Title 85A, unless there  
20 is created a duplication in numbering, reads as follows:

21 All notices, pleading, orders or other correspondence may be  
22 delivered to or by the Workers' Compensation Court of Existing  
23 Claims by the United States Postal Service, in person, or, as may be  
24

1 determined by the Administrator of the Court, by facsimile, email or  
2 other electronic means.

3 SECTION 11. AMENDATORY 62 O.S. 2011, Section 195, as  
4 amended by Section 458, Chapter 304, O.S.L. 2012 (62 O.S. Supp.  
5 2016, Section 195), is amended to read as follows:

6 Section 195. A. 1. There is hereby created a petty cash fund  
7 at each of the following institutions: Oklahoma School for the  
8 Blind, Muskogee, Oklahoma; Oklahoma School for the Deaf, Sulphur,  
9 Oklahoma; Griffin Memorial Hospital, Norman, Oklahoma; Eastern State  
10 Hospital, Vinita, Oklahoma; Northern Oklahoma Resource Center of  
11 Enid, Enid, Oklahoma; Southern Oklahoma Resource Center of Pauls  
12 Valley, Pauls Valley, Oklahoma; Western State Psychiatric Center,  
13 Fort Supply, Oklahoma; Central Oklahoma Juvenile Treatment Center,  
14 Tecumseh, Oklahoma; L.E. Rader Children's Diagnostic and Evaluation  
15 Center, Sand Springs, Oklahoma; L.E. Rader Intensive Treatment  
16 Center, Sand Springs, Oklahoma; the Southwest Oklahoma Juvenile  
17 Center, Manitou, Oklahoma; the Office of Juvenile Affairs' Boys'  
18 Group Home, Enid, Oklahoma; the Office of Juvenile Affairs' Boys'  
19 Group Home, Lawton, Oklahoma; the Office of Juvenile Affairs' Girls'  
20 Group Home, Tulsa, Oklahoma; the Oklahoma Medical Center; and the  
21 J.D. McCarty Center for Children with Developmental Disabilities.

22 2. The Director of the Office of Management and Enterprise  
23 Services and the head of the institution involved are hereby  
24 authorized and it shall be their duty to fix the maximum amount of



1 the petty cash funds. The Director of the Office of Management and  
2 Enterprise Services shall prescribe all forms, systems, and  
3 procedures for administering the petty cash funds of the  
4 institution.

5 B. 1. There is hereby created a petty cash fund in the legal  
6 division of the Department of Human Services which fund shall be  
7 used solely to pay court costs, filing fees, witness fees, and  
8 expenses related to any case or proceeding within the responsibility  
9 of the legal division.

10 2. There is hereby created a petty cash fund in the Child  
11 Support Enforcement Division of the Department of Human Services.  
12 The fund shall be used solely to pay litigation expenses, including  
13 court costs, filing fees, witness fees, and expenses related to any  
14 case or proceeding within the responsibility of the Child Support  
15 Enforcement Division.

16 3. The Director of the Office of Management and Enterprise  
17 Services and the Director of the Department of Human Services are  
18 hereby authorized and it shall be their duty to fix the maximum  
19 amount of the petty cash funds. The Director of the Office of  
20 Management and Enterprise Services shall prescribe all forms,  
21 systems, and procedures for administering the petty cash funds.

22 C. 1. There is hereby created a petty cash fund in the finance  
23 department of the Corporation Commission which shall be used solely  
24 to pay litigation expenses of the legal division, including court

1 costs, filing fees, witness fees, and other expenses related to any  
2 case, proceeding, or matter within the responsibility of the legal  
3 division.

4 2. The Director of the Office of Management and Enterprise  
5 Services and the Corporation Commission are hereby authorized and it  
6 shall be their duty to fix the maximum amount of the petty cash  
7 fund, not to exceed Five Hundred Dollars (\$500.00). The Director of  
8 the Office of Management and Enterprise Services shall prescribe all  
9 forms, systems, and procedures for administering the petty cash  
10 fund.

11 D. 1. There is hereby created a petty cash fund for the  
12 Property Distribution Division of the Office of Management and  
13 Enterprise Services.

14 2. The amount of the Property Distribution petty cash fund  
15 shall not exceed Five Hundred Dollars (\$500.00). The initial amount  
16 shall be drawn by warrant from the State Surplus Property Revolving  
17 Fund. The Director of the Office of Management and Enterprise  
18 Services is authorized to prescribe forms, systems and procedures  
19 for the administration of the Property Distribution petty cash fund.

20 E. 1. There is hereby created a petty cash fund in the legal  
21 division of the Oklahoma Health Care Authority which fund shall be  
22 used solely to pay for court costs, filing fees, witness fees, and  
23 expenses related to any case or proceeding within the responsibility  
24 of the legal division.

1        2. The Director of the Office of Management and Enterprise  
2 Services and the Chief Executive Officer of the Oklahoma Health Care  
3 Authority are hereby authorized and it shall be their duty to fix  
4 the maximum amount of the petty cash fund, not to exceed Five  
5 Hundred Dollars (\$500.00). The Director of the Office of Management  
6 and Enterprise Services shall prescribe all forms, systems, and  
7 procedures for administering the petty cash fund.

8        F. 1. The Director of the Office of Management and Enterprise  
9 Services is hereby authorized, upon request by the State  
10 Commissioner of Health, to establish a petty cash fund for the State  
11 Department of Health in an amount not to exceed One Thousand Dollars  
12 (\$1,000.00), to be used for the purpose of making change for persons  
13 obtaining licenses, paying fees and fines, and transacting other  
14 such business with the Department.

15        2. The fund shall be established and replenished from any  
16 monies available to the Department for operating expenses.

17        3. The Director of the Office of Management and Enterprise  
18 Services shall prescribe all forms, systems, and procedures for  
19 administering the fund.

20        G. There is hereby created a petty cash fund for the Workers'  
21 Compensation Commission which shall be used to make change for  
22 persons purchasing printed or electronic materials from the  
23 Commission, paying fees and fines, and transacting other business  
24 with the Commission. The fund shall be established and replenished

1 from any monies available to the Commission for operating expenses.  
2 The Director of the Office of Management and Enterprise Services and  
3 the Workers' Compensation Commission are hereby authorized and it  
4 shall be their duty to fix the maximum amount of the petty cash  
5 fund, not to exceed Five Hundred Dollars (\$500.00). The Director of  
6 the Office of Management and Enterprise Services shall prescribe all  
7 forms, systems and procedures for administering the petty cash  
8 fund."

10       56-1-7304       SD       03/13/17