

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

☐ FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

☐ COMMITTEE AMENDMENT

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend House Bill No. 2367, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Daniels

Daniels-TEK-FS-Req#2231  
4/22/2019 4:38 PM

(Floor Amendments Only)    Date and Time Filed: \_\_\_\_\_

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE  
FOR ENGROSSED

HOUSE BILL NO. 2367

By: Kannady of the House

and

Daniels of the Senate

FLOOR SUBSTITUTE

[ workers' compensation - amending various statutes  
relating to workers' compensation - codification -  
emergency ]

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

SECTION 1. AMENDATORY Section 2, Chapter 208, O.S.L.  
2013, as amended by Section 1, Chapter 150, O.S.L. 2018 (85A O.S.  
Supp. 2018, Section 2), is amended to read as follows:

Section 2. As used in the Administrative Workers' Compensation  
Act:

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

2. "Carrier" means any stock company, mutual company, or  
reciprocal or interinsurance exchange authorized to write or carry

1 on the business of workers' compensation insurance in this state.

2 Whenever required by the context, the term "carrier" shall be deemed  
3 to include duly qualified self-insureds or self-insured groups;

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

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

- 21 a. Certified Disability Management Specialist (CDMS),
- 22 b. Certified Case Manager (CCM),
- 23 c. Certified Rehabilitation Registered Nurse (CRRN),
- 24 d. Case Manager - Certified (CMC),

1 e. Certified Occupational Health Nurse (COHN), or

2 f. Certified Occupational Health Nurse Specialist (COHN-  
3 S);

4 5. "Certified workplace medical plan" means an organization of  
5 health care providers or any other entity, certified by the State  
6 Commissioner of Health, that is authorized to enter into a  
7 contractual agreement with an employer, group self-insurance  
8 association plan, an employer's workers' compensation insurance  
9 carrier, third-party administrator or an insured to provide medical  
10 care under the Administrative Workers' Compensation Act. Certified  
11 plans shall only include plans which provide medical services and  
12 payment for services on a fee-for-service basis to medical  
13 providers;

14 6. "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 7. "Claimant" means a person who claims benefits for an injury  
4 or occupational disease pursuant to the provisions of the  
5 Administrative Workers' Compensation Act;

6 8. "Commission" means the Workers' Compensation Commission;

7 9. a. "Compensable injury" means damage or harm to the  
8 physical structure of the body, or damage or harm to  
9 prosthetic appliances, including eyeglasses, contact  
10 lenses, or hearing aids, ~~caused solely as the result~~  
11 of which the major cause is either an accident,  
12 cumulative trauma or occupational disease arising out  
13 of the course and scope of employment. An "accident"  
14 means an event involving factors external to the  
15 employee that:  
16 (1) was unintended, unanticipated, unforeseen,  
17 unplanned and unexpected,  
18 (2) occurred at a specifically identifiable time and  
19 place,  
20 (3) occurred by chance or from unknown causes, ~~and~~ or  
21 (4) was independent of sickness, mental incapacity,  
22 bodily infirmity or any other cause.

23 b. "Compensable injury" does not include:  
24

- (1) injury to any active participant in assaults or combats which, although they may occur in the workplace, are the result of non-employment-related hostility or animus of one, both, or all of the combatants and which assault or combat amounts to a deviation from customary duties; provided, however, injuries caused by horseplay shall not be considered to be compensable injuries, except for innocent victims,
- (2) injury incurred while engaging in or performing or as the result of engaging in or performing any recreational or social activities for the employee's personal pleasure,
- (3) injury which was inflicted on the employee at a time when employment services were not being performed or before the employee was hired or after the employment relationship was terminated,
- (4) injury where the accident was caused by the use of alcohol, illegal drugs, or prescription drugs used in contravention of physician's orders. If, within twenty-four (24) hours of being injured or reporting an injury, an employee tests positive for intoxication, an illegal controlled substance, or a legal controlled substance used

1 in contravention to a treating physician's  
2 orders, or refuses to undergo the drug and  
3 alcohol testing, there shall be a rebuttable  
4 presumption that the injury was caused by the use  
5 of alcohol, illegal drugs, or prescription drugs  
6 used in contravention of physician's orders.  
7 This presumption may only be overcome if the  
8 employee proves by clear and convincing evidence  
9 that his or her state of intoxication had no  
10 causal relationship to the injury,

11 (5) any strain, degeneration, damage or harm to, or  
12 disease or condition of, the eye or  
13 musculoskeletal structure or other body part  
14 resulting from the natural results of aging,  
15 osteoarthritis, arthritis, or degenerative  
16 process including, but not limited to,  
17 degenerative joint disease, degenerative disc  
18 disease, degenerative  
19 spondylosis/spondylolisthesis and spinal  
20 stenosis, or

21 (6) any preexisting condition except when the  
22 treating physician clearly confirms an  
23 identifiable and significant aggravation incurred  
24 in the course and scope of employment.

1           c.   ~~The definition of "compensable injury" shall not be~~  
2           ~~construed to limit or abrogate the right to recover~~  
3           ~~for mental injuries as described in Section 13 of this~~  
4           ~~title, heart or lung injury or illness as described in~~  
5           ~~Section 14 of this title, or occupational diseases as~~  
6           ~~described in Section 65 of this title.~~

7           ~~d.~~   A compensable injury shall be established by medical  
8           evidence supported by objective findings as defined in  
9           paragraph 31 of this section.

10          ~~e.~~

11          d.   The injured employee shall prove by a preponderance of  
12          the evidence that he or she has suffered a compensable  
13          injury.

14          ~~f.~~

15          e.   Benefits shall not be payable for a condition which  
16          results from a non-work-related independent  
17          intervening cause following a compensable injury which  
18          causes or prolongs disability, aggravation, or  
19          requires treatment. A non-work-related independent  
20          intervening cause does not require negligence or  
21          recklessness on the part of a claimant.

22          ~~g.~~

23          f.   An employee who suffers a compensable injury shall be  
24          entitled to receive compensation as prescribed in this



1 act. Notwithstanding other provisions of law, if it  
2 is determined that a compensable injury did not occur,  
3 the employee shall not be entitled to compensation  
4 under this act;

5 10. "Compensation" means the money allowance payable to the  
6 employee or to his or her dependents and includes the medical  
7 services and supplies provided for in Section 50 of this title and  
8 funeral expenses;

9 11. "Consequential injury" means injury or harm to a part of  
10 the body that is a direct result of the injury or medical treatment  
11 to the part of the body originally injured in the claim. The  
12 Commission shall not make a finding of a consequential injury unless  
13 it is established by objective medical evidence that medical  
14 treatment for such part of the body is required;

15 12. "Continuing medical maintenance" means medical treatment  
16 that is reasonable and necessary to maintain claimant's condition  
17 resulting from the compensable injury or illness after reaching  
18 maximum medical improvement, but in no event shall such treatment  
19 continue for longer than one (1) year from the date of maximum  
20 medical improvement. Continuing medical maintenance shall not  
21 include diagnostic tests, surgery, injections, counseling, physical  
22 therapy, or pain management devices or equipment;

23 13. "Course and scope of employment" means an activity of any  
24 kind or character for which the employee was hired and that relates

1 to and derives from the work, business, trade or profession of an  
2 employer, and is performed by an employee in the furtherance of the  
3 affairs or business of an employer. The term includes activities  
4 conducted on the premises of an employer or at other locations  
5 designated by an employer and travel by an employee in furtherance  
6 of the affairs of an employer that is specifically directed by the  
7 employer. This term does not include:

- 8 a. an employee's transportation to and from his or her  
9 place of employment,
- 10 b. travel by an employee in furtherance of the affairs of  
11 an employer if the travel is also in furtherance of  
12 personal or private affairs of the employee,
- 13 c. any injury occurring in a parking lot or other common  
14 area adjacent to an employer's place of business  
15 before the employee clocks in or otherwise begins work  
16 for the employer or after the employee clocks out or  
17 otherwise stops work for the employer unless the  
18 employer owns or maintains exclusive control over the  
19 area, or
- 20 d. any injury occurring while an employee is on a work  
21 break, unless the injury occurs while the employee is  
22 on a work break inside the employer's facility or in  
23 an area owned by or exclusively controlled by the

1           employer and the work break is authorized by the  
2           employee's supervisor;

3       14. "Cumulative trauma" means an injury to an employee that is  
4 caused by the combined effect of repetitive physical activities  
5 extending over a period of time in the course and scope of  
6 employment. Cumulative trauma shall not mean fatigue, soreness or  
7 general aches and pain that may have been caused, aggravated,  
8 exacerbated or accelerated by the employee's course and scope of  
9 employment. Cumulative trauma shall have resulted directly and  
10 independently of all other causes ~~and the employee shall have~~  
11 ~~completed at least one hundred eighty (180) days of continuous~~  
12 ~~active employment with the employer;~~

13       15. "Death" means only death resulting from compensable injury  
14 as defined in paragraph 9 of this section;

15       16. "Disability" means incapacity because of compensable injury  
16 to earn, in the same or any other employment, substantially the same  
17 amount of wages the employee was receiving at the time of the  
18 compensable injury;

19       17. "Drive-away operations" includes every person engaged in  
20 the business of transporting and delivering new or used vehicles by  
21 driving, either singly or by towbar, saddle-mount or full-mount  
22 method, or any combination thereof, with or without towing a  
23 privately owned vehicle;

1 18. a. "Employee" means any person, including a minor, in the  
2 service of an employer under any contract of hire or  
3 apprenticeship, written or oral, expressed or implied,  
4 but excluding one whose employment is casual and not  
5 in the course of the trade, business, profession, or  
6 occupation of his or her employer and excluding one  
7 who is required to perform work for a municipality or  
8 county or the state or federal government on having  
9 been convicted of a criminal offense or while  
10 incarcerated. "Employee" shall also include a member  
11 of the Oklahoma National Guard while in the  
12 performance of duties only while in response to state  
13 orders and any authorized voluntary or uncompensated  
14 worker, rendering services as a firefighter, ~~peace~~ law  
15 enforcement officer or emergency management worker.  
16 Travel by a ~~police~~ police officer, fireman, or a  
17 member of a first aid or rescue squad, in responding  
18 to and returning from an emergency, shall be deemed to  
19 be in the course of employment.

20 b. The term "employee" shall not include:

21 (1) any person for whom an employer is liable under  
22 any Act of Congress for providing compensation to  
23 employees for injuries, disease or death arising  
24 out of and in the course of employment including,

1 but not limited to, the Federal Employees'  
2 Compensation Act, the Federal Employers'  
3 Liability Act, the Longshore and Harbor Workers'  
4 Compensation Act and the Jones Act, to the extent  
5 his or her employees are subject to such acts,

6 (2) any person who is employed in agriculture,  
7 ranching or horticulture by an employer who had a  
8 gross annual payroll in the preceding calendar  
9 year of less than One Hundred Thousand Dollars  
10 (\$100,000.00) wages for agricultural, ranching or  
11 horticultural workers, or any person who is  
12 employed in agriculture, ranching or horticulture  
13 who is not engaged in operation of motorized  
14 machines. This exemption applies to any period  
15 of time for which such employment exists,  
16 irrespective of whether or not the person is  
17 employed in other activities for which the  
18 exemption does not apply. If the person is  
19 employed for part of a year in exempt activities  
20 and for part of a year in nonexempt activities,  
21 the employer shall be responsible for providing  
22 workers' compensation only for the period of time  
23 for which the person is employed in nonexempt  
24 activities,

- 1 (3) any person who is a licensed real estate sales  
2 associate or broker, paid on a commission basis,
- 3 (4) any person who is providing services in a medical  
4 care or social services program, or who is a  
5 participant in a work or training program,  
6 administered by the Department of Human Services,  
7 unless the Department is required by federal law  
8 or regulations to provide workers' compensation  
9 for such person. This division shall not be  
10 construed to include nursing homes,
- 11 (5) any person employed by an employer with five or  
12 fewer total employees, all of whom are related  
13 within the second degree by blood or marriage to  
14 the employer, are dependents living in the  
15 household of the employer, or are a combination  
16 of such relatives and dependents, if the employer  
17 is a natural person or ~~a general or limited~~  
18 ~~partnership, or an incorporator of a corporation~~  
19 ~~if the corporation is the employer~~ in the  
20 household of the owner of the employer if the  
21 employer is not a natural person and the owner  
22 owns fifty percent (50%) or more of the employer,
- 23 (6) any person employed by an employer which is a  
24 youth sports league which qualifies for exemption

1 from federal income taxation pursuant to federal  
2 law,

3 (7) sole proprietors, members of a partnership,  
4 individuals who are party to a franchise  
5 agreement as set out by the Federal Trade  
6 Commission franchise disclosure rule, 16 CFR  
7 436.1 through 436.11, members of a limited  
8 liability company who own at least ten percent  
9 (10%) of the capital of the limited liability  
10 company or any stockholder-employees of a  
11 corporation who own ten percent (10%) or more  
12 stock in the corporation, unless they elect to be  
13 covered by a policy of insurance covering  
14 benefits under the Administrative Workers'  
15 Compensation Act,

16 (8) any person providing or performing voluntary  
17 service who receives no wages for the services  
18 other than meals, drug or alcohol rehabilitative  
19 therapy, transportation, lodging or reimbursement  
20 for incidental expenses except for volunteers  
21 specifically provided for in subparagraph a of  
22 this paragraph,

23 (9) a person, commonly referred to as an owner-  
24 operator, who owns or leases a truck-tractor or

1 truck for hire, if the owner-operator actually  
2 operates the truck-tractor or truck and if the  
3 person contracting with the owner-operator is not  
4 the lessor of the truck-tractor or truck.

5 Provided, however, an owner-operator shall not be  
6 precluded from workers' compensation coverage  
7 under the Administrative Workers' Compensation  
8 Act if the owner-operator elects to participate  
9 as a sole proprietor,

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

22 (11) any person who is employed as a domestic servant  
23 or as a casual worker in and about a private home  
24 or household, which private home or household had



1 a gross annual payroll in the preceding calendar  
2 year of less than Fifty Thousand Dollars  
3 (\$50,000.00) for such workers;

4 19. "Employer" means a person, partnership, association,  
5 limited liability company, corporation, and the legal  
6 representatives of a deceased employer, or the receiver or trustee  
7 of a person, partnership, association, corporation, or limited  
8 liability company, departments, instrumentalities and institutions  
9 of this state and divisions thereof, counties and divisions thereof,  
10 public trusts, boards of education and incorporated cities or towns  
11 and divisions thereof, employing a person included within the term  
12 "employee" as defined in this section. Employer may also mean the  
13 employer's workers' compensation insurance carrier, if applicable.  
14 Except as provided otherwise, this act applies to all public and  
15 private entities and institutions. ~~Employer shall not include a~~  
16 ~~qualified employer with an employee benefit plan as provided under~~  
17 ~~the Oklahoma Employee Injury Benefit Act in Sections 200 through 213~~  
18 ~~of this title;~~

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

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

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

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

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

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

17 25. "Insurance Commissioner" means the Insurance Commissioner  
18 of the State of Oklahoma;

19 26. "Insurance Department" means the Insurance Department of  
20 the State of Oklahoma;

21 27. "Major cause" means more than fifty percent (50%) of the  
22 resulting injury, disease or illness. A finding of major cause  
23 shall be established by a preponderance of the evidence. A finding  
24 that the workplace was not a major cause of the injury, disease or

1 illness shall not adversely affect the exclusive remedy provisions  
2 of this act and shall not create a separate cause of action outside  
3 this act;

4 28. "Maximum medical improvement" means that no further  
5 material improvement would reasonably be expected from medical  
6 treatment or the passage of time;

7 29. "Medical services" means those services specified in  
8 Section 50 of this title;

9 30. "Misconduct" shall include the following:

- 10 a. unexplained absenteeism or tardiness,
- 11 b. willful or wanton indifference to or neglect of the  
12 duties required,
- 13 c. willful or wanton breach of any duty required by the  
14 employer,
- 15 d. the mismanagement of a position of employment by  
16 action or inaction,
- 17 e. actions or omissions that place in jeopardy the  
18 health, life, or property of self or others,
- 19 f. dishonesty,
- 20 g. wrongdoing,
- 21 h. violation of a law, or
- 22 i. a violation of a policy or rule adopted to ensure  
23 orderly work or the safety of self or others;
- 24

1       31.   a.   (1)    "Objective findings" are those findings which  
2                   cannot come under the voluntary control of the  
3                   patient.

4                   (2)   (a)   When determining permanent disability, a  
5                           physician, any other medical provider, an  
6                           administrative law judge, the Commission or  
7                           the courts shall not consider complaints of  
8                           pain.

9                           (b)   For the purpose of making permanent  
10                                disability ratings to the spine, physicians  
11                                shall use criteria established by the ~~most~~  
12                                ~~current edition~~ Sixth Edition of the  
13                                American Medical Association "Guides to the  
14                                Evaluation of Permanent Impairment".

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

23                           (b)   Any difference in the baseline hearing  
24                                levels shall be confirmed by subsequent

1 testing; provided, however, such test shall  
2 be given within four (4) weeks of the  
3 initial baseline hearing level test but not  
4 before five (5) days after being adjusted  
5 for presbycusis.

6 b. Medical opinions addressing compensability and  
7 permanent disability shall be stated within a  
8 reasonable degree of medical certainty;

9 32. "Official Disability Guidelines" or "ODG" means the current  
10 edition of the Official Disability Guidelines and the ODG Treatment  
11 in Workers' Comp as published by the Work Loss Data Institute;

12 33. "Permanent disability" means the extent, expressed as a  
13 percentage, of the loss of a portion of the total physiological  
14 capabilities of the human body as established by competent medical  
15 evidence and based on the ~~current edition~~ Sixth Edition of the  
16 American Medical Association guides to the evaluation of impairment,  
17 if the impairment is contained therein;

18 34. "Permanent partial disability" means a permanent disability  
19 or loss of use after maximum medical improvement has been reached  
20 which prevents the injured employee, who has been released to return  
21 to work by the treating physician, from returning to his or her pre-  
22 injury or equivalent job. All evaluations of permanent partial  
23 disability must be supported by objective findings;

1        35. "Permanent total disability" means, based on objective  
2 findings, incapacity, based upon accidental injury or occupational  
3 disease, to earn wages in any employment for which the employee may  
4 become physically suited and reasonably fitted by education,  
5 training, experience or vocational rehabilitation provided under  
6 this act. Loss of both hands, both feet, both legs, or both eyes,  
7 or any two thereof, shall constitute permanent total disability;

8        36. "Preexisting condition" means any illness, injury, disease,  
9 or other physical or mental condition, whether or not work-related,  
10 for which medical advice, diagnosis, care or treatment was  
11 recommended or received preceding the date of injury;

12        37. "Pre-injury or equivalent job" means the job that the  
13 claimant was working for the employer at the time the injury  
14 occurred or any other employment offered by the claimant's employer  
15 that pays at least one hundred percent (100%) of the employee's  
16 average weekly wage;

17        38. "Private self-insurer" means a private employer that has  
18 been authorized to self-insure its workers' compensation obligations  
19 pursuant to this act, but does not include group self-insurance  
20 associations authorized by this act, or any public employer that  
21 self-insures pursuant to this act;

22        39. "Prosthetic" means an artificial device used to replace a  
23 part or joint of the body that is lost or injured in an accident or  
24 illness covered by this act;

1       40. "Scheduled member" or "member" means hands, fingers, arms,  
2 legs, feet, toes, and eyes. In addition, for purposes of the  
3 Multiple Injury Trust Fund only, "scheduled member" means hearing  
4 impairment;

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

12       42. "State average weekly wage" means the state average weekly  
13 wage determined by the Oklahoma Employment Security Commission in  
14 the preceding calendar year. If such determination is not  
15 available, the Commission shall determine the wage annually after  
16 reasonable investigation;

17       43. "Subcontractor" means a person, firm, corporation or other  
18 legal entity hired by the general or prime contractor to perform a  
19 specific task for the completion of a work-related activity;

20       44. "Surgery" does not include an injection, or the forcing of  
21 fluids beneath the skin, for treatment or diagnosis;

22       45. "Surviving spouse" means the employee's spouse by reason of  
23 a legal marriage recognized by the State of Oklahoma or under the  
24

1 requirements of a common law marriage in this state, as determined  
2 by the Workers' Compensation Commission;

3 46. "Temporary partial disability" means an injured employee  
4 who is temporarily unable to perform his or her job, but may perform  
5 alternative work offered by the employer;

6 47. "Time of accident" or "date of accident" means the time or  
7 date of the occurrence of the accidental incident from which  
8 compensable injury, disability, or death results; and

9 48. "Wages" means money compensation received for employment at  
10 the time of the accident, including the reasonable value of board,  
11 rent, housing, lodging, or similar advantage received from the  
12 employer and includes the amount of tips required to be reported by  
13 the employer under Section 6053 of the Internal Revenue Code and the  
14 regulations promulgated pursuant thereto or the amount of actual  
15 tips reported, whichever amount is greater.

16 SECTION 2. AMENDATORY Section 3, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 3), is amended to read as  
18 follows:

19 Section 3. A. Every employer ~~and every employee, unless~~  
20 ~~otherwise specifically provided in this act, shall be~~ subject and  
21 bound to the provisions of the Administrative Workers' Compensation  
22 Act. ~~However, nothing~~ shall pay or provide benefits according to  
23 the provisions of this act for the accidental injury or death of an  
24 employee arising out of and in the course of his or her employment,



1 without regard to fault for such injury, if the employee's contract  
2 of employment was made or if the injury occurred within this state.  
3 If an employee makes a claim for an injury in another jurisdiction,  
4 the employee is precluded from his or her right of action under the  
5 Administrative Workers' Compensation Act. Nothing in this act shall  
6 be construed to conflict with any valid Act of Congress governing  
7 the liability of employers for injuries received by their employees.

8 B. ~~This act~~ The State of Oklahoma accepts the provisions of the  
9 Acts of Congress designated as 40 U.S.C., Section 3172, formerly 40  
10 U.S.C., Section 290, and hereby extends the territorial jurisdiction  
11 of the Administrative Workers' Compensation Act of this state to all  
12 lands and premises within the exterior boundaries of this state  
13 which the Government of the United States of America owns or holds  
14 by deed or act of cession, and to all purchases, projects,  
15 buildings, constructions, improvements and property within the  
16 exterior boundaries of this state belonging to the Government of the  
17 United States of America, in the same manner and to the same extent  
18 as if the premises were under the exclusive jurisdiction of this  
19 state, subject only to the limitations placed thereon by the Acts of  
20 Congress.

21 C. The Administrative Workers' Compensation Act shall apply  
22 only to claims for injuries and death based on accidents which occur  
23 on or after the effective date of this act February 1, 2014.  
24

1        ~~C. D.~~ The Workers' Compensation Code in effect before ~~the~~  
2 ~~effective date of this act~~ February 1, 2014, shall govern all rights  
3 in respect to claims for injuries and death based on accidents  
4 occurring before ~~the effective date of this act~~ February 1, 2014.

5        SECTION 3.        AMENDATORY        Section 5, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 5), is amended to read as  
7 follows:

8        Section 5. A. The rights and remedies granted to an employee  
9 subject to the provisions of the Administrative Workers'  
10 Compensation Act shall be exclusive of all other rights and remedies  
11 of the employee, his legal representative, dependents, next of kin,  
12 or anyone else claiming rights to recovery on behalf of the employee  
13 against the employer, or any principal, officer, director, employee,  
14 stockholder, partner, or prime contractor of the employer on account  
15 of injury, illness, or death. Negligent acts of a co-employee may  
16 not be imputed to the employer. No role, capacity, or persona of  
17 any employer, principal, officer, director, employee, or stockholder  
18 other than that existing in the role of employer of the employee  
19 shall be relevant for consideration for purposes of this act, and  
20 the remedies and rights provided by this act shall be exclusive  
21 regardless of the multiple roles, capacities, or personas the  
22 employer may be deemed to have. ~~For the purpose of extending the~~  
23 ~~immunity of this section, any operator or owner of an oil or gas~~  
24 ~~well or other operation for exploring for, drilling for, or~~

~~producing oil or gas shall be deemed to be an intermediate or principal employer for services performed at a drill site or location with respect to injured or deceased workers whose immediate employer was hired by such operator or owner at the time of the injury or death.~~

B. Exclusive remedy shall not apply if:

1. An employer fails to secure the payment of compensation due to the employee as required by this act. An injured employee, or his or her legal representative in case death results from the injury, may, at his or her option, elect to claim compensation under this act or to maintain a legal action in court for damages on account of the injury or death; or

2. The injury was caused by an intentional tort committed by the employer. An intentional tort shall exist only when the employee is injured as a result of willful, deliberate, specific intent of the employer to cause such injury. Allegations or proof that the employer had knowledge that the injury was substantially certain to result from the employer's conduct shall not constitute an intentional tort. The employee shall plead facts that show it is at least as likely as it is not that the employer acted with the purpose of injuring the employee. The issue of whether an act is an intentional tort shall be a question of law.

C. The immunity from civil liability described in subsection A of this section shall apply regardless of whether the injured

1 employee is denied compensation or deemed ineligible to receive  
2 compensation under this act.

3 D. If an employer has failed to secure the payment of  
4 compensation for his or her injured employee as provided for in this  
5 act, an injured employee, or his or her legal representative if  
6 death results from the injury, may maintain an action in the  
7 district court for damages on account of such injury.

8 E. The immunity created by the provisions of this section shall  
9 not extend to action against another employer, or its employees, on  
10 the same job as the injured or deceased worker where such other  
11 employer does not stand in the position of an intermediate or  
12 principal employer to the immediate employer of the injured or  
13 deceased worker.

14 F. The immunity created by the provisions of this section shall  
15 not extend to action against another employer, or its employees, on  
16 the same job as the injured or deceased worker even though such  
17 other employer may be considered as standing in the position of a  
18 special master of a loaned servant where such special master neither  
19 is the immediate employer of the injured or deceased worker nor  
20 stands in the position of an intermediate or principal employer to  
21 the immediate employer of the injured or deceased worker.

22 G. This section shall not be construed to abrogate the loaned  
23 servant doctrine in any respect other than that described in  
24 subsection F of this section. Nothing in this act shall be

1 construed to relieve the employer from any other penalty provided  
2 for in this act for failure to secure the payment of compensation  
3 under this act.

4 H. For the purpose of extending the immunity of this section,  
5 any architect, professional engineer, or land surveyor shall be  
6 deemed an intermediate or principal employer for services performed  
7 at or on the site of a construction project, but this immunity shall  
8 not extend to the negligent preparation of design plans and  
9 specifications.

10 I. If the employer has failed to secure the payment of  
11 compensation as provided in this act or in the case of an  
12 intentional tort, the injured employee or his or her legal  
13 representative may maintain an action either before the Commission  
14 or in the district court, but not both.

15 SECTION 4. AMENDATORY Section 6, Chapter 208, O.S.L.  
16 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.  
17 Supp. 2018, Section 6), is amended to read as follows:

18 Section 6.

19 A. 1. a. Any person or entity who makes any material false  
20 statement or representation, who willfully and  
21 knowingly omits or conceals any material information,  
22 or who employs any device, scheme, or artifice, or who  
23 aids and abets any person for the purpose of:  
24 (1) obtaining any benefit or payment,

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

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

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

10          c.    Fifty percent (50%) of any criminal fine imposed and  
11                collected under this section shall be paid and  
12                allocated in accordance with applicable law to the  
13                Workers' Compensation Commission Revolving Fund  
14                ~~administered by the Commission.~~

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

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

1 C. Where the Commission or the Attorney General finds that a  
2 violation of division (1) of subparagraph a of paragraph 1 of  
3 subsection A of this section has been committed, or that any other  
4 criminal violations in furtherance of this act were committed, the  
5 chair of the Commission or the Attorney General shall refer the  
6 matter for appropriate action to the prosecuting attorney having  
7 criminal jurisdiction over the matter.

8 D. 1. a. There shall be established within the Office of the  
9 Attorney General a Workers' Compensation Fraud  
10 Investigation Unit, funded by the Commission. The  
11 Attorney General shall appoint a Director of the  
12 Workers' Compensation Fraud Investigation Unit, who  
13 may also serve as the director of any other designated  
14 insurance fraud investigation division within the  
15 Attorney General's office.

16 b. (1) The Unit shall investigate workers' compensation  
17 fraud, any additional criminal violations that  
18 may be related to workers' compensation fraud,  
19 and any other insurance fraud matters as may be  
20 assigned at the discretion of the Attorney  
21 General.

22 (2) The Attorney General shall designate the  
23 personnel assigned to the Unit, who, on meeting  
24 the qualifications established by the Oklahoma

1 Council on Law Enforcement Education and  
2 Training, shall have the powers of specialized  
3 law enforcement officers of the State of Oklahoma  
4 for the purpose of conducting investigations  
5 under this subparagraph. Personnel hired as  
6 specialized law enforcement officers shall have a  
7 minimum of three (3) years of certified law  
8 enforcement experience or its equivalent in  
9 national or military law enforcement experience  
10 as approved by the Oklahoma Council on Law  
11 Enforcement Education and Training.

12 2. The Attorney General and his or her deputies and assistants  
13 and the Director of the Workers' Compensation Fraud Investigation  
14 Unit and his or her deputies and assistants shall be vested with the  
15 power of enforcing the requirements of this section.

16 3. It shall be the duty of the Unit to assist the Attorney  
17 General in the performance of his or her duties. The Unit shall  
18 determine the identity of employees in this state who have violated  
19 division (1) of subparagraph a of paragraph 1 of subsection A of  
20 this section and report the violation to the Office of the Attorney  
21 General and the Commission. The Attorney General shall report the  
22 violation to the prosecuting attorney having jurisdiction over the  
23 matter.  
24



- 1       4.   a.   In the course of any investigation being conducted by  
2           the Unit, the Attorney General and his or her deputies  
3           and assistants and the Director and his or her  
4           deputies and assistants shall have the power of  
5           subpoena and may:
- 6               (1)   subpoena witnesses,  
7               (2)   administer oaths or affirmations and examine any  
8               individual under oath, and  
9               (3)   require and compel the production of records,  
10              books, papers, contracts, and other documents.
- 11       b.   The issuance of subpoenas for witnesses shall be  
12           served in the same manner as if issued by a district  
13           court.
- 14       c.   (1)   Upon application by the commissioner or the  
15           Director of the Unit, the district court located  
16           in the county where a subpoena was served may  
17           issue an order compelling an individual to comply  
18           with the subpoena to testify.
- 19               (2)   Any failure to obey the order of the court may be  
20              punished as contempt.
- 21       d.   If any person has refused in connection with an  
22           investigation by the Director to be examined under  
23           oath concerning his or her affairs, then the Director  
24           is authorized to conduct and enforce by all

1 appropriate and available means any examination under  
2 oath in any state or territory of the United States in  
3 which any officer, director, or manager may then  
4 presently be to the full extent permitted by the laws  
5 of the state or territory.

6 e. In addition to the punishments described in paragraph  
7 1 of subsection A of this section, any person  
8 providing false testimony under oath or affirmation in  
9 this state as to any matter material to any  
10 investigation or hearing conducted under this  
11 subparagraph, or any workers' compensation hearing,  
12 shall upon conviction be guilty of perjury.

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

15 6. a. Every carrier or employer who has reason to suspect  
16 that a violation of division (1) of subparagraph a of  
17 paragraph 1 of subsection A of this section has  
18 occurred shall be required to report all pertinent  
19 matters to the ~~unit~~ Unit.

20 b. No carrier or employer who makes a report for a  
21 suspected violation of division (1) of subparagraph a  
22 of paragraph 1 of subsection A of this section by an  
23 employee shall be liable to the employee unless the  
24

1 carrier or employer knowingly and intentionally  
2 included false information in the report.

3 c. (1) Any carrier or employer who willfully and  
4 knowingly fails to report a violation under  
5 division (1) of subparagraph a of paragraph 1 of  
6 subsection A of this section shall be guilty of a  
7 misdemeanor and on conviction shall be punished  
8 by a fine not to exceed One Thousand Dollars  
9 (\$1,000.00).

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

14 d. Any employee may report suspected violations of  
15 division (1) of subparagraph a of paragraph 1 of  
16 subsection A of this section. No employee who makes a  
17 report shall be liable to the employee whose suspected  
18 violations have been reported.

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

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

12        F. Notwithstanding any other provision of law, investigatory  
13 files as maintained by the Attorney General's office and by the Unit  
14 shall be deemed confidential and privileged. The files may be made  
15 open to the public once the investigation is closed by the Director  
16 of the Workers' Compensation Fraud Investigation Unit with the  
17 consent of the Attorney General.

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

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

23        I. The Commission shall include a statement on all forms for  
24 notices and instructions to employees, employers, carriers and

1 third-party administrators that any person who commits workers'  
2 compensation fraud, upon conviction, shall be guilty of a felony  
3 punishable by imprisonment, a fine or both.

4 J. If an injured employee is charged with workers' compensation  
5 fraud, any pending workers' compensation proceeding, including  
6 benefits, shall be stayed after the preliminary hearing is concluded  
7 and the claimant is bound over and shall remain stayed until the  
8 final disposition of the criminal case. All notice requirements  
9 shall continue during the stay.

10 K. If the Attorney General's Office is in compliance with the  
11 discovery provisions of Section 258 of Title 22 of the Oklahoma  
12 Statutes, medical records created for the purpose of treatment and  
13 medical opinions obtained during the investigation shall be  
14 admissible at the preliminary hearing without the appearance of the  
15 medical professional creating such records or opinions. However,  
16 when material evidence dispositive to the issues of whether there  
17 was probable cause the crime was committed and whether the defendant  
18 committed the crime, was not included in a report or opinion  
19 admitted at preliminary hearing, but might be presented at a  
20 pretrial hearing by a medical professional who created such report  
21 or opinion, the judge may, upon the motion of either party, order  
22 the appearance of the medical professional creating such report or  
23 opinion. Questions of fact regarding the conduct of the defendant  
24 that conflict with the findings of the medical professional

1 evaluating the defendant shall not constitute material evidence. In  
2 the event of such motion, notice shall be given to the Attorney  
3 General's Workers' Compensation Fraud and Investigation and  
4 Prosecution Unit. A hearing shall be held and, if the motion is  
5 granted, the evidence shall not be presented fewer than five (5)  
6 days later.

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

22 SECTION 5. AMENDATORY Section 7, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 7), is amended to read as  
24 follows:

1       Section 7. A. An employer may not discriminate or retaliate  
2 against an employee when the employee has in good faith:

3       1. Filed a claim under this act;

4       2. Retained a lawyer for representation regarding a claim under  
5 this act;

6       3. Instituted or caused to be instituted any proceeding under  
7 the provisions of this act; or

8       4. Testified or is about to testify in any proceeding under the  
9 provisions of this act.

10      B. The ~~Commission~~ district courts shall have exclusive  
11 jurisdiction to hear and decide claims based on ~~subsection A of this~~  
12 section.

13      C. ~~If the Commission determines that the defendant violated~~  
14 ~~subsection A of this section, the Commission may award the employee~~  
15 ~~back pay up to a maximum of One Hundred Thousand Dollars~~  
16 ~~(\$100,000.00). Interim earnings or amounts earnable with reasonable~~  
17 ~~diligence by the person discriminated against shall reduce the back~~  
18 ~~pay otherwise allowable~~ An employer which violates any provision of  
19 this section shall be liable in a district court action for  
20 reasonable damages, actual and punitive if applicable, suffered by  
21 an employee as a result of the violation. Exemplary or punitive  
22 damage awards made pursuant to this section shall not exceed One  
23 Hundred Thousand Dollars (\$100,000.00). The employee shall have the  
24 burden of proof by a preponderance of the evidence.

1 D. The prevailing party shall be entitled to recover costs and  
2 a reasonable attorney fee.

3 E. No employer may discharge an employee during a period of  
4 temporary total disability for the sole reason of being absent from  
5 work or for the purpose of avoiding payment of temporary total  
6 disability benefits to the injured employee.

7 F. Notwithstanding any other provision of this section, an  
8 employer shall not be required to rehire or retain an employee who,  
9 after temporary total disability has been exhausted, is determined  
10 by a physician to be physically unable to perform his or her  
11 assigned duties, or whose position is no longer available.

12 G. This section shall not be construed as establishing an  
13 exception to the employment-at-will doctrine.

14 ~~H. The remedies provided for in this section shall be exclusive~~  
15 ~~with respect to any claim arising out of the conduct described in~~  
16 ~~subsection A of this section.~~

17 SECTION 6. AMENDATORY Section 14, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2018, Section 14), is amended to read as  
19 follows:

20 Section 14. A. A cardiovascular, coronary, pulmonary,  
21 respiratory, or cerebrovascular accident or myocardial infarction  
22 causing injury, illness, or death is a compensable injury only if,  
23 in relation to other factors contributing to the physical harm, the  
24 course and scope of employment was the major cause.



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

8 ~~2. Physical or mental stress shall not be considered in~~  
9 ~~determining whether the employee or claimant has met his or her~~  
10 ~~burden of proof.~~

11 SECTION 7. AMENDATORY Section 16, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 16), is amended to read as  
13 follows:

14 Section 16. A. The Official Disability Guidelines - Treatment  
15 in Workers' Compensation (ODG), published by the Work Loss Data  
16 Institute, ~~is to be recognized as the primary standard of reference,~~  
17 shall be mandatory at the time of treatment, in determining the  
18 frequency and extent of services presumed to be medically necessary  
19 and appropriate for compensable injuries under this act, or in  
20 resolving such matters in the event a dispute arises. ~~The medical~~  
21 ~~treatment guidelines are not requirements, nor are they mandates or~~  
22 ~~standards; they provide advice by identifying the care most likely~~  
23 ~~to benefit injured workers. The guidelines shall be evidence based,~~  
24 ~~scientifically valid, outcome-focused, and designed to reduce~~

1 ~~excessive or inappropriate medical care while safeguarding necessary~~  
2 ~~medical care.~~

3 B. Physicians providing care to an employee shall prescribe for  
4 the employee any necessary prescription drugs and over-the-counter  
5 alternatives to prescription medicine as clinically appropriate and  
6 as recommended under the Official Disability Guidelines.

7 Prescriptions and nonprescription drugs that are not preferred,  
8 exceed or are not addressed by ODG require preauthorization and the  
9 preauthorization request shall include the prescribing doctor's drug  
10 regimen plan of care and the anticipated dosage or range of dosages.

11 SECTION 8. AMENDATORY Section 18, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 18), is amended to read as  
13 follows:

14 Section 18. A. No hospital, physician, or other health care  
15 provider shall bill or attempt to collect any fee or any portion of  
16 a fee for services rendered to an employee due to a work-related  
17 injury or report to any credit-reporting agency any failure of the  
18 employee to make the payment, when a claim for compensation has been  
19 filed under this act and the hospital, physician, or health care  
20 provider has received actual notice given in writing by the employee  
21 or the employee's representative. Actual notice shall be deemed  
22 received by the hospital, physician, or health care provider five  
23 (5) days after mailing by certified mail or sending by facsimile,  
24 electronic mail or other electronic means with receipt of

1 confirmation by the employee or his or her representative to the  
2 hospital, physician, or health care provider.

3 B. The notice shall include:

- 4 1. The name of the employer;
- 5 2. The name of the insurer, if known;
- 6 3. The name of the employee receiving the services;
- 7 4. The general nature of the injury, if known; and
- 8 5. Where a claim has been filed, the claim number, if known.

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

20 D. This section shall not ~~avoid~~ void, modify, or amend any  
21 other section or subsection of this act.

22 E. An order by the Workers' Compensation Commission under this  
23 section shall stay all proceedings for collection.

1       SECTION 9.       AMENDATORY       Section 19, Chapter 208, O.S.L.

2       2013, as amended by Section 4, House Joint Resolution No. 1096, Page  
3       1745, O.S.L. 2014 (85A O.S. Supp. 2018, Section 19), is amended to  
4       read as follows:

5       Section 19.   A.   There is hereby created the Oklahoma Workers'  
6       Compensation Commission, an executive agency of the State of  
7       Oklahoma, which shall have the exclusive responsibility and duty to  
8       carry out the provisions of this act, except as otherwise provided.

9       B.   The Commission shall consist of three (3) full-time  
10       commissioners, each of whom must have been involved in the workers'  
11       compensation field for at least three (3) years, appointed by the  
12       Governor: one of whom is chosen from a slate of three selected by  
13       the Speaker of the House of Representatives, with all three  
14       confirmed by the Senate.   The term of each appointee shall be six  
15       (6) years to administer the provisions of this act.   The Governor  
16       may request a subsequent slate of nominees from the Speaker of the  
17       House of Representatives if a suitable nominee is not found.   Any or  
18       all of the commissioners may be reappointed for additional six-year  
19       terms upon reconfirmation by the Senate.   However, the initial  
20       commissioners shall serve staggered terms of two (2), four (4), and  
21       six (6) years, respectively, as determined by the Governor.   If the  
22       Legislature is not in session at the time of appointment, the  
23       appointment shall be subject to confirmation by the Senate upon  
24       convening of the next regular session of the Legislature.

1 Membership on the Commission shall be a full-time position and no  
2 commissioner shall have any other employment, unless authorized or  
3 excused by law. Each commissioner shall receive a salary equal to  
4 that paid to a district judge of this state; ~~provided however, the~~  
5 ~~commissioners shall not receive any increase in salary as a result~~  
6 ~~of the provisions of Section 1 of this resolution.~~

7 C. The Commission shall have the authority to adopt reasonable  
8 rules within its respective areas of responsibility including the  
9 rules of procedure for administrative hearings, after notice and  
10 public hearing, for effecting the purposes of this act, in  
11 accordance with the Oklahoma Administrative Procedures Act. All  
12 rules, upon adoption, shall be published and be made available to  
13 the public and, if not inconsistent with the law, shall be binding  
14 in the administration of this act.

15 D. The principal office of the Commission shall be situated in  
16 the City of Oklahoma City in quarters assigned by the Office of  
17 Management and Enterprise Services. The Commission shall maintain  
18 and keep open, during reasonable business hours, the office in  
19 Oklahoma City, for the transaction of business, at which office its  
20 official records and papers shall be kept. The Commission or any  
21 commissioner may hold hearings in any city of this state.

22 E. The Governor shall appoint one of the commissioners to be  
23 chair of the Commission. In addition to other duties, the chair of  
24 the Commission shall have the following powers and duties:

1        1. To organize, direct and develop the administrative work of  
2 the administrative law judges, including but not limited to  
3 docketing, clerical, technical and financial work and establishment  
4 of hours of operation;

5        2. To employ administrative staff for the Commission, within  
6 budgetary limitation; and

7        3. Such other duties and responsibilities authorized by law or  
8 as the Commission may prescribe.

9        F. All appeals or disputes arising from actions of the  
10 Commission shall be governed by provisions of this act and the  
11 Commission shall not be subject to the provisions of the Oklahoma  
12 Administrative Procedures Act, except as provided in this act.

13        G. When any commissioner of the Commission is disqualified for  
14 any reason to hear and participate in the determination of any  
15 matter pending before the Commission, the Governor shall appoint a  
16 qualified person to hear and participate in the decision on the  
17 particular matter. The special commissioner so appointed shall have  
18 all authority and responsibility with respect to the particular  
19 matter before the Commission as if the person were a regular  
20 commissioner of the Commission but shall have no authority or  
21 responsibility with respect to any other matter before the  
22 Commission. A person appointed as a special commissioner of the  
23 Commission under the provisions of this subsection shall be entitled  
24 to receive a per diem equal to the annual salary of the

1 commissioners prorated for the number of days he or she serves in  
2 the capacity of a special commissioner of the Commission.  
3 Furthermore, when a vacancy on the Commission occurs or is certain  
4 to occur, the position shall be filled pursuant to the provisions of  
5 this section.

6 SECTION 10. AMENDATORY Section 20, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2018, Section 20), is amended to read as  
8 follows:

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

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

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

21 3. To assess penalties;

22 4. To prescribe rules governing the representation of  
23 employees, employers, and carriers in respect to claims before the  
24 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 11.        AMENDATORY        Section 21, Chapter 208, O.S.L.  
21 2013 (85A O.S. Supp. 2018, Section 21), is amended to read as  
22 follows:  
23  
24



1       Section 21. A. Commissioners shall be considered officers and  
2 shall take the oath prescribed by the Oklahoma Constitution and the  
3 laws of this state.

4       B. 1. A majority of the Workers' Compensation Commission shall  
5 constitute a quorum for the transaction of business, and vacancies  
6 shall not impair the right of the remaining commissioners to  
7 exercise all the powers of the full Commission, so long as a  
8 majority remains.

9       2. Any investigation, inquiry, or hearing which the Commission  
10 is authorized to hold or undertake may be held or undertaken by or  
11 before any one commissioner of the Commission, or appointee acting  
12 for him or her, under authorization of the Commission.

13       C. The Commission shall have a seal for authentication of its  
14 judgments, awards, and proceedings, on which shall be inscribed the  
15 words: "Workers' Compensation Commission, State of Oklahoma".

16       D. Except with respect to the Commission's authority to hear  
17 appeals of decisions from administrative law judges, any reference  
18 in this ~~act~~ title to the Commission's ability to hear and decide the  
19 rights of interested parties under this ~~act~~ title shall not prevent  
20 it from delegating that responsibility to an administrative law  
21 judge.

22       SECTION 12.       AMENDATORY       Section 22, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 22), is amended to read as  
24 follows:

1       Section 22. A. 1. For the purpose of administering the  
2 provisions of this ~~act~~ title, the Workers' Compensation Commission  
3 is authorized:

4           a. to make rules necessary for the administration and  
5 operation of the Commission,

6           b. to appoint and fix the compensation of temporary  
7 technical assistants, medical and legal advisers,  
8 clerical assistants and other officers and employees,  
9 and

10          c. to make such expenditures, including those for  
11 personal service, rent, books, periodicals, office  
12 equipment, and supplies, and for printing and binding  
13 as may be necessary.

14       2. a. ~~Before~~ The Commission shall vote on any substantive  
15 change to any form and the effective date of such  
16 substantive change.

17       b. The Commission shall comply with the provisions of the  
18 Administrative Procedures Act applicable to the filing  
19 and publication requirements for rules before the  
20 adoption, prescription, amendment, modification, or  
21 repeal of any rule, ~~regulation, or form, the~~  
22 ~~Commission shall give at least thirty (30) days'~~  
23 ~~notice of its intended action.~~

1           b.   ~~The notice shall include a statement of the terms or~~  
2           ~~substance of the intended action or description of the~~  
3           ~~subjects and issues involved, and the time, place, and~~  
4           ~~manner in which interested persons may present their~~  
5           ~~views thereon.~~

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

9           3.   ~~The Commission shall afford all interested persons a~~  
10          ~~reasonable opportunity to submit written data, views, or arguments,~~  
11          ~~and, if the Commission in its discretion shall so direct, oral~~  
12          ~~testimony or argument.~~

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

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

20          B.   1.   The Commission may appoint as many persons as may be  
21          necessary to be administrative law judges and in addition may  
22          appoint such examiners, investigators, medical examiners, clerks,  
23          and other employees as it deems necessary to effectuate the  
24          provisions of this ~~act~~ title.

1        2. Employees appointed under this subsection shall receive an  
2 annual salary to be fixed by the Commission.

3        C. Additionally, the Commission shall have the following powers  
4 and duties:

5            1. To hear and approve compromise settlements;

6            2. To review and approve own-risk applications and group self-  
7 insurance association applications;

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

10          4. To contract with an appropriate state governmental entity,  
11 insurance carrier or approved service organization to process,  
12 investigate and pay valid claims against an impaired self-insurer  
13 which fails, due to insolvency or otherwise, to pay its workers'  
14 compensation obligations, charges for which shall be paid from the  
15 proceeds of security posted with the Commission as provided in  
16 Section 38 of this ~~act~~ title;

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

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

21          7. To promulgate necessary rules for administering this ~~act~~  
22 title and develop uniform forms and procedures for use by  
23 administrative law judges. Such rules shall be reviewable by the  
24 Legislature;

1        8. To invest funds on behalf of the Multiple Injury Trust Fund;

2        9. To appoint a Commission Mediator to conduct informal  
3 sessions to attempt to resolve assigned disputes; ~~and~~

4        10. To establish a petty cash fund in an amount not to exceed  
5 Five Hundred Dollars (\$500.00) to be used for the purpose of making  
6 change for persons purchasing printed or electronic materials from  
7 the Commission, paying fees and fines, and transacting other such  
8 business with the Commission. The fund shall be established and  
9 replenished from any monies available to the Commission for  
10 operating expenses and it shall be administered pursuant to the  
11 requirements of Section 195 of Title 62 of the Oklahoma Statutes;  
12 and

13        11. Such other duties and responsibilities authorized by law.

14        D. It shall be the duty of an administrative law judge, under  
15 the rules adopted by the Commission, to hear and determine claims  
16 for compensation and to conduct hearings and investigations and to  
17 make such judgments, decisions, and determinations as may be  
18 required by any rule or judgment of the Commission.

19        SECTION 13.        AMENDATORY        Section 27, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 27), is amended to read as  
21 follows:

22        Section 27. A. The Workers' Compensation Commission shall be  
23 vested with jurisdiction over all claims filed pursuant to the  
24 Administrative Workers' Compensation Act. All claims so filed shall

1 be heard by the administrative law judge sitting without a jury.  
2 The Commission shall have full power and authority to determine all  
3 questions in relation to claims for compensation under the  
4 provisions of the Administrative Workers' Compensation Act. The  
5 Commission, upon application of either party, shall order a hearing.  
6 Upon a hearing, either party may present evidence and be represented  
7 by counsel. Except as provided in this act, the decision of the  
8 administrative law judge shall be final as to all questions of fact  
9 and law. The decision of the administrative law judge shall be  
10 issued within thirty (30) days following the submission of the case  
11 by the parties. The power and jurisdiction of the Commission over  
12 each case shall be continuing and it may, from time to time, make  
13 such modifications or changes with respect to former findings or  
14 orders relating thereto if, in its opinion, it may be justified.

15 B. In addition to the duties set forth in this section, the  
16 administrative law judges shall have the following duties and  
17 powers:

18 1. To hear and determine claims for compensation, to conduct  
19 hearings and investigations, and to make such judgments, decisions,  
20 and determinations as may be required by any rule or judgment of the  
21 Commission;

22 2. To hear and determine challenges to an agreement to  
23 arbitrate under the Workers' Compensation Arbitration Act; and  
24

1       3. ~~To assume duties within the Workers' Compensation Court of~~  
2 ~~Existing Claims as assigned by the Commission; and~~

3       4. To have and exercise all other powers and duties conferred  
4 or imposed by the Commission or this act.

5       SECTION 14.       AMENDATORY       Section 29, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 29), is amended to read as  
7 follows:

8       Section 29. A. Each carrier writing compensation insurance in  
9 this state shall pay to the Workers' Compensation Commission ~~at the~~  
10 ~~time of securing a license to transact business in this state an~~  
11 annual fee of One Thousand Dollars (\$1,000.00) ~~for the privilege of~~  
12 ~~qualifying with the Commission for the writing of compensation~~  
13 ~~insurance.~~

14       B. Each self-insurer shall pay to the Commission an annual fee  
15 of One Thousand Dollars (\$1,000.00) ~~at the time it is approved to~~  
16 ~~self-insure the obligations under this act.~~

17       C. The Commission may assess third-party administrators and  
18 marketing firms an annual fee of One Thousand Dollars (\$1,000.00).

19       D. Fees required pursuant to this section shall be deposited  
20 ~~into~~ to the credit of the Workers' Compensation Commission Revolving  
21 Fund.

22       SECTION 15.       NEW LAW       A new section of law to be codified  
23 in the Oklahoma Statutes as Section 35.1 of Title 85A, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Case management services for an injured employee shall be  
2 provided by a case manager, as defined by paragraph 4 of Section 2  
3 of Title 85A of the Oklahoma Statutes, whose principal place of  
4 business is in the State of Oklahoma. Provided, however, an  
5 insurance carrier may provide case management services by telephone  
6 through its own employees.

7       B. An employer or insurance carrier shall contract for  
8 stenographic services, including but not limited to depositions,  
9 directly with a reporting firm whose principal place of business is  
10 in the State of Oklahoma. The charge for such service shall be  
11 limited to the actual fee of the court reporter.

12       C. An employer or insurance carrier shall contract for language  
13 interpreter services for medical appointments, depositions,  
14 statements, mediations and hearings directly with a language  
15 interpreter whose principal place of business is in the State of  
16 Oklahoma. The charge for such service shall be limited to the  
17 actual fee of the interpreter.

18       D. A court reporter employed by or contracted by the Workers'  
19 Compensation Commission shall be authorized to stenographically  
20 report both joint petition settlements and compromise settlements in  
21 the Workers' Compensation Court of Existing Claims. A court  
22 reporter employed by or contracted by the Court of Existing Claims  
23 shall be authorized to stenographically report both compromise  
24



1 settlements and joint petition settlements under the jurisdiction of  
2 the Commission.

3 SECTION 16. AMENDATORY Section 38, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 38), is amended to read as  
5 follows:

6 Section 38. A. An employer shall secure compensation to  
7 employees under this act in one of the following ways:

8 1. By insuring and keeping insured the payment of compensation  
9 with any stock corporation, mutual association, or other concerns  
10 authorized to transact the business of workers' compensation  
11 insurance in this state. When an insurer issues a policy to provide  
12 workers' compensation benefits under the provisions of this act, it  
13 shall file a notice with the Workers' Compensation Commission  
14 containing the name, address, and principal occupation of the  
15 employer, the number, effective date, and expiration date of the  
16 policy, and such other information as may be required by the  
17 Commission. The notice shall be filed by the insurer within thirty  
18 (30) days after the effective date of the policy. Any insurer who  
19 does not file the notice required by this paragraph shall be subject  
20 to a fine by the Commission of not more than One Thousand Dollars  
21 (\$1,000.00);

22 2. By obtaining and keeping in force guaranty insurance with  
23 any company authorized to do guaranty business in this state. Each  
24 company that issues workers' compensation guaranty insurance shall

1 file a copy of the contract with the Commission within thirty (30)  
2 days after the effective date of the contract. Any company that  
3 does not file a copy of the contract as required by this paragraph  
4 shall be subject to a fine by the Commission of not more than One  
5 Thousand Dollars (\$1,000.00);

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

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

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

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

22 b. one hundred or more employees and One Million Dollars  
23 (\$1,000,000.00) or more in net assets to:  
24

- (1) secure a surety bond payable to the state, or an 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

1 pay the benefits required by the provisions of this act.  
2 Irrevocable letters of credit required by this subsection shall  
3 contain such terms as may be prescribed by the Commission and shall  
4 be issued for the benefit of the state by a financial institution  
5 whose deposits are insured by the Federal Deposit Insurance  
6 Corporation.

7 C. An employer who does not fulfill the requirements of this  
8 section is not relieved of the obligation to pay compensation under  
9 this act. The security required under this section, including any  
10 interest, shall be maintained by the Commission as provided in this  
11 act until each claim for benefits is paid, settled, or lapses under  
12 this act, and costs of administration of such claims are paid.

13 D. Failure on the part of any employer to secure the payment of  
14 compensation provided in this act shall have the effect of enabling  
15 the Commission to assert the rights of an injured employee against  
16 the employer.

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

21 SECTION 17. AMENDATORY Section 40, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 40), is amended to read as  
23 follows:  
24

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

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

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

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

20       b.   The request for a hearing does not need to be in any  
21               particular form but shall specify the grounds on which  
22               the person contests the proposed judgment, the  
23               proposed assessment, or both.

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

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

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

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

19 c. The carrier shall promptly, and no later than five (5)  
20 days before the hearing, respond in writing to the  
21 employer's allegation by providing evidence of  
22 coverage for the period in question or by  
23 affirmatively denying the employer's allegation.  
24

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

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

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

16        C. If an employee injury occurs during a period when an  
17 employer has failed to secure the payment of compensation and the  
18 employer has paid a civil penalty assessed pursuant to this section,  
19 the Commission may, upon application of the injured employee and  
20 hearing before an administrative law judge, award as compensation to  
21 the injured employee an amount from the proceeds of the civil  
22 penalty not to exceed the amount of the civil penalty.  
23  
24

SECTION 18. AMENDATORY Section 45, Chapter 208, O.S.L. 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S. Supp. 2018, Section 45), is amended to read as follows:

Section 45. A. Temporary Total Disability.

1. If the injured employee is temporarily unable to perform his or her job or any alternative work offered by the employer, he or she shall be entitled to receive compensation equal to seventy percent (70%) of the injured employee's average weekly wage, but not to exceed ~~seventy percent (70%)~~ of the state average weekly wage, for ~~one hundred four (104)~~ one hundred fifty-six (156) weeks.

Provided, there shall be no payment for the first three (3) days of the initial period of temporary total disability. If an administrative law judge finds that a consequential injury has occurred and that additional time is needed to reach maximum medical improvement, temporary total disability may continue for a period of not more than an additional fifty-two (52) weeks. Such finding shall be based upon a showing of medical necessity by clear and convincing evidence. An employer shall have the right to recover any overpayment of temporary total disability payments from a subsequent permanent partial disability award if the offset is deemed justified.

2. When the injured employee is released from active medical treatment by the treating physician for all body parts found by the Commission to be injured, or in the event that the employee, without



1 a valid excuse, misses three consecutive medical treatment  
2 appointments, fails to comply with medical orders of the treating  
3 physician, or otherwise abandons medical care, the employer shall be  
4 entitled to terminate temporary total disability by notifying the  
5 employee, or if represented, his or her counsel. If, however, an  
6 objection to the termination is filed by the employee within ten  
7 (10) days of termination, the Commission shall set the matter within  
8 twenty (20) days for a determination if temporary total disability  
9 compensation shall be reinstated. The temporary total disability  
10 shall remain terminated ~~unless the employee proves the existence of~~  
11 ~~a valid excuse for his or her failure to comply~~ until such time as  
12 the employee complies with medical orders of the treating physician  
13 ~~or his or her abandonment of medical care.~~ Notwithstanding the  
14 provisions of this paragraph, benefits under this subsection shall  
15 be permanently terminated by order of the Commission if the employee  
16 is non-compliant or abandons treatment for sixty (60) days, or if  
17 benefits under this subsection have been suspended under this  
18 paragraph at least two times. The administrative law judge may  
19 appoint an independent medical examiner to determine if further  
20 medical treatment is reasonable and necessary. The independent  
21 medical examiner shall not provide treatment to the injured worker,  
22 unless agreed upon by the parties.

23 B. Temporary Partial Disability.  
24

1        1. If the injured employee is temporarily unable to perform his  
2 or her job, but may perform alternative work offered by the  
3 employer, he or she shall be entitled to receive compensation equal  
4 to ~~the greater of~~ seventy percent (70%) of the difference between  
5 the injured employee's average weekly wage before the injury and his  
6 or her weekly wage for performing alternative work after the injury,  
7 but only if his or her weekly wage for performing the alternative  
8 work is less than the temporary total disability rate. The injured  
9 employee's actual earnings plus temporary partial disability  
10 compensation shall not exceed the temporary total disability rate.

11        2. Compensation under this subsection may not exceed fifty-two  
12 (52) weeks.

13        3. If the employee refuses to perform the alternative work  
14 offered by the employee, he or she shall not be entitled to benefits  
15 under subsection A of this section or under this section.

16        C. Permanent Partial Disability.

17        1. A permanent partial disability award or combination of  
18 awards granted an injured worker may not exceed a permanent partial  
19 disability rating of one hundred percent (100%) to any body part or  
20 to the body as a whole. The determination of permanent partial  
21 disability shall be the responsibility of the Commission through its  
22 administrative law judges. Any claim by an employee for  
23 compensation for permanent partial disability must be supported by  
24 competent medical testimony of a medical doctor, osteopathic

1 physician, or chiropractor, and shall be supported by objective  
2 medical findings, as defined in this act. The opinion of the  
3 physician shall include employee's percentage of permanent partial  
4 disability and whether or not the disability is job-related and  
5 caused by the accidental injury or occupational disease. A  
6 physician's opinion of the nature and extent of permanent partial  
7 disability to parts of the body other than scheduled members must be  
8 based solely on criteria established by the ~~current edition~~ Sixth  
9 Edition of the American Medical Association's "Guides to the  
10 Evaluation of Permanent Impairment". A copy of any written  
11 evaluation shall be sent to both parties within seven (7) days of  
12 issuance. Medical opinions addressing compensability and permanent  
13 disability must be stated within a reasonable degree of medical  
14 certainty. Any party may submit the report of an evaluating  
15 physician.

16 2. Permanent partial disability shall not be allowed to a part  
17 of the body for which no medical treatment has been received. A  
18 determination of permanent partial disability made by the Commission  
19 or administrative law judge which is not supported by objective  
20 medical findings provided by a treating physician who is a medical  
21 doctor, doctor of osteopathy, chiropractor or a qualified  
22 independent medical examiner shall be considered an abuse of  
23 discretion.  
24

1        3. The examining physician shall not deviate from the Guides  
2 except as may be specifically provided for in the Guides.

3        4. In cases of permanent partial disability, the compensation  
4 shall be seventy percent (70%) of the employee's average weekly  
5 wage, not to exceed ~~Three Hundred Twenty-three Dollars (\$323.00)~~  
6 Three Hundred Fifty Dollars (\$350.00) per week, for a term not to  
7 exceed a total of three hundred fifty (350) weeks for the body as a  
8 whole.

9        5. ~~Except pursuant to settlement agreements entered into by the~~  
10 ~~employer and employee, payment of a permanent partial disability~~  
11 ~~award shall be deferred and held in reserve by the employer or~~  
12 ~~insurance company if the employee has reached maximum medical~~  
13 ~~improvement and has been released to return to work by his or her~~  
14 ~~treating physician, and then returns to his pre-injury or equivalent~~  
15 ~~job for a term of weeks determined by dividing the total dollar~~  
16 ~~value of the award by seventy percent (70%) of the employee's~~  
17 ~~average weekly wage.~~

18            a. ~~The amount of the permanent partial disability award~~  
19            ~~shall be reduced by seventy percent (70%) of the~~  
20            ~~employee's average weekly wage for each week he works~~  
21            ~~in his pre-injury or equivalent job.~~

22            b. ~~If, for any reason other than misconduct as defined in~~  
23            ~~Section 2 of this act, the employer terminates the~~  
24            ~~employee or the position offered is not the pre-injury~~

1 ~~or equivalent job, the remaining permanent partial~~  
2 ~~disability award shall be paid in a lump sum. If the~~  
3 ~~employee is discharged for misconduct, the employer~~  
4 ~~shall have the burden to prove that the employee~~  
5 ~~engaged in misconduct.~~

6 ~~e. If the employee refuses an offer to return to his pre-~~  
7 ~~injury or equivalent job, the permanent partial~~  
8 ~~disability award shall continue to be deferred and~~  
9 ~~shall be reduced by seventy percent (70%) of the~~  
10 ~~employee's average weekly wage for each week he~~  
11 ~~refuses to return to his pre-injury or equivalent job.~~

12 ~~d. Attorney fees for permanent partial disability awards,~~  
13 ~~as approved by the Commission, shall be calculated~~  
14 ~~based upon the total permanent partial disability~~  
15 ~~award and paid in full at the time of the deferral.~~

16 ~~e. Assessments pursuant to Sections 31, 98, ~~112~~ 205 and~~  
17 ~~~~165~~ 122 of this act ~~act~~ title shall be calculated based~~  
18 ~~upon the amount of the permanent partial disability~~  
19 ~~award and shall be paid at the time of the deferral.~~

20 6. Previous Disability: The fact that an employee has suffered  
21 previous disability or received compensation therefor shall not  
22 preclude the employee from compensation for a later accidental  
23 personal injury or occupational disease. In the event there exists  
24 a previous permanent partial disability, including a previous non-

1 work-related injury or condition which produced permanent partial  
2 disability and the same is aggravated or accelerated by an  
3 accidental personal injury or occupational disease, compensation for  
4 permanent partial disability shall be only for such amount as was  
5 caused by such accidental personal injury or occupational disease  
6 and no additional compensation shall be allowed for the preexisting  
7 disability or impairment. Any such reduction shall not apply to  
8 temporary total disability, nor shall it apply to compensation for  
9 medical treatment.

10       ~~a.~~ If workers' compensation benefits have previously been  
11               awarded through settlement or judicial or  
12               administrative determination in Oklahoma, the  
13               percentage basis of the prior settlement or award  
14               shall conclusively establish the amount of permanent  
15               partial disability determined to be preexisting. If  
16               workers' compensation benefits have not previously  
17               been awarded through settlement or judicial or  
18               administrative determination in Oklahoma, the amount  
19               of preexisting permanent partial disability shall be  
20               established by competent evidence and determined by  
21               the Commission.

22       ~~b. In all cases, the applicable reduction shall be~~  
23       ~~calculated as follows:~~

1           ~~(1) if the preexisting impairment is the result of~~  
2           ~~injury sustained while working for the employer~~  
3           ~~against whom workers' compensation benefits are~~  
4           ~~currently being sought, any award of compensation~~  
5           ~~shall be reduced by the current dollar value~~  
6           ~~attributable under the Administrative Workers'~~  
7           ~~Compensation Act to the percentage of permanent~~  
8           ~~partial disability determined to be preexisting.~~  
9           ~~The current dollar value shall be calculated by~~  
10           ~~multiplying the percentage of preexisting~~  
11           ~~permanent partial disability by the compensation~~  
12           ~~rate in effect on the date of the accident or~~  
13           ~~injury against which the reduction will be~~  
14           ~~applied, and~~

15           ~~(2) in all other cases, the employer against whom~~  
16           ~~benefits are currently being sought shall be~~  
17           ~~entitled to a credit for the percentage of~~  
18           ~~preexisting permanent partial disability.~~

19           7. No payments on any permanent partial disability order shall  
20           begin until payments on any preexisting permanent partial disability  
21           orders have been completed.

22           8. The whole body shall represent a maximum of three hundred  
23           fifty (350) weeks.

1        9. The permanent partial disability rate of compensation for  
2 amputation or permanent total loss of use of a scheduled member  
3 specified in Section 46 of this ~~act~~ title shall be seventy percent  
4 (70%) of the employee's average weekly wage, not to exceed ~~Three~~  
5 ~~Hundred Twenty-three Dollars (\$323.00)~~ Three Hundred Fifty Dollars  
6 (\$350.00), multiplied by the number of weeks set forth for the  
7 member in Section 46 of this ~~act~~ title, regardless of whether the  
8 injured employee is able to return to his or her pre-injury or  
9 equivalent job.

10       10. An injured employee who is eligible for permanent partial  
11 disability under this subsection shall be entitled to receive  
12 vocational rehabilitation services provided by a technology center  
13 or public secondary school offering vocational-technical education  
14 courses, or a member institution of The Oklahoma State System of  
15 Higher Education, which shall include retraining and job placement  
16 to restore the employee to gainful employment. Vocational  
17 rehabilitation services or training shall not extend for a period of  
18 more than fifty-two (52) weeks.

19       D. Permanent Total Disability.

20       1. In case of total disability adjudged to be permanent,  
21 seventy percent (70%) of the employee's average weekly wages, but  
22 not in excess of the state's average weekly wage, shall be paid to  
23 the employee during the continuance of the disability until such  
24 time as the employee reaches the age of maximum Social Security



1 retirement benefits or for a period of fifteen (15) years, whichever  
2 is longer. In the event the claimant dies of causes unrelated to  
3 the injury or illness, benefits shall cease on the date of death.  
4 Provided, however, any person entitled to revive the action shall  
5 receive a one-time lump-sum payment equal to twenty-six (26) weeks  
6 of weekly benefits for permanent total disability awarded the  
7 claimant. If more than one person is entitled to revive the claim,  
8 the lump-sum payment shall be evenly divided between or among such  
9 persons. In the event the Commission awards both permanent partial  
10 disability and permanent total disability benefits, the permanent  
11 total disability award shall not be due until the permanent partial  
12 disability award is paid in full. If otherwise qualified according  
13 to the provisions of this act, permanent total disability benefits  
14 may be awarded to an employee who has exhausted the maximum period  
15 of temporary total disability even though the employee has not  
16 reached maximum medical improvement.

17 2. The Workers' Compensation Commission shall annually review  
18 the status of any employee receiving benefits for permanent total  
19 disability against the last employer. The Commission shall require  
20 the employee to annually file an affidavit under penalty of perjury  
21 stating that he or she is not and has not been gainfully employed  
22 and is not capable of gainful employment. Failure to file such  
23 affidavit shall result in suspension of benefits; provided, however,  
24

1 reinstatement of benefits may occur after proper hearing before the  
2 Commission.

3 E. 1. The Workers' Compensation Commission ~~shall~~ may hire or  
4 contract for a Vocational Rehabilitation Director to oversee the  
5 vocational rehabilitation program of the Commission.

6 2. ~~The Vocational Rehabilitation Director shall help injured~~  
7 ~~workers return to the work force. If the injured employee is unable~~  
8 ~~to return to his or her pre-injury or equivalent position due to~~  
9 ~~permanent restrictions as determined by the treating physician, upon~~  
10 ~~the request of either party, the Vocational Rehabilitation Director~~  
11 ~~shall determine if it is appropriate for a claimant to receive~~  
12 ~~vocational rehabilitation training or services, and will oversee~~  
13 ~~such training. If appropriate, the Vocational Rehabilitation~~  
14 ~~Director shall issue administrative orders, including, but not~~  
15 ~~limited to, an order for a vocational rehabilitation evaluation for~~  
16 ~~any injured employee unable to work for at least ninety (90) days.~~  
17 ~~In addition, the Vocational Rehabilitation Director may assign~~  
18 ~~injured workers to vocational rehabilitation counselors for~~  
19 ~~coordination of recommended services. The cost of the services~~  
20 ~~shall be paid by the employer. All administrative orders are~~  
21 ~~subject to appeal to the full Commission.~~

22 3. ~~There shall be a presumption in favor of ordering vocational~~  
23 ~~rehabilitation services or training for an eligible injured employee~~  
24 ~~under the following circumstances:~~

- a. ~~if the employee's occupation is truck driver or laborer and the medical condition is traumatic brain injury, stroke or uncontrolled vertigo,~~
- b. ~~if the employee's occupation is truck driver or laborer performing high-risk tasks and the medical condition is seizures,~~
- c. ~~if the employee's occupation is manual laborer and the medical condition is bilateral wrist fusions,~~
- d. ~~if the employee's occupation is assembly-line worker and the medical condition is radial head fracture with surgical excision,~~
- e. ~~if the employee's occupation is heavy laborer and the medical condition is myocardial infarction with congestive heart failure,~~
- f. ~~if the employee's occupation is heavy manual laborer and the medical condition is multilevel neck or back fusions greater than two levels,~~
- g. ~~if the employee's occupation is laborer performing overhead work and the medical condition is massive rotator cuff tears, with or without surgery,~~
- h. ~~if the employee's occupation is heavy laborer and the medical condition is recurrent inguinal hernia following unsuccessful surgical repair,~~

- ~~i. if the employee's occupation is heavy manual laborer and the medical condition is total knee replacement or total hip replacement,~~
- ~~j. if the employee's occupation is roofer and the medical condition is calcaneal fracture, medically or surgically treated,~~
- ~~k. if the employee's occupation is laborer of any kind and the medical condition is total shoulder replacement,~~
- ~~l. if the employee's occupation is laborer and the medical condition is amputation of a hand, arm, leg, or foot,~~
- ~~m. if the employee's occupation is laborer and the medical condition is tibial plateau fracture, pilon fracture,~~
- ~~n. if the employee's occupation is laborer and the medical condition is ankle fusion or knee fusion,~~
- ~~o. if the employee's occupation is driver or heavy equipment operator and the medical condition is unilateral industrial blindness, or~~
- ~~p. if the employee's occupation is laborer and the medical condition is 3-, 4-, or 5-level positive discogram of the cervical spine or lumbar spine, medically treated.~~

1       4. Upon the request of either party, ~~or by order of an~~  
2 administrative law judge, ~~the Vocational Rehabilitation Director~~  
3 ~~shall assist the Workers' Compensation Commission in determining~~  
4 determine if it is appropriate for a claimant to receive vocational  
5 rehabilitation training or services. If appropriate, the  
6 administrative law judge shall refer the employee to a qualified  
7 expert for evaluation of the practicability of, need for and kind of  
8 rehabilitation services or training necessary and appropriate in  
9 order to restore the employee to gainful employment. The cost of  
10 the evaluation shall be paid by the employer. ~~Following the~~  
11 ~~evaluation, if the employee refuses the services or training ordered~~  
12 ~~by the administrative law judge, or fails to complete in good faith~~  
13 ~~the vocational rehabilitation training ordered by the administrative~~  
14 ~~law judge, then the cost of the evaluation and services or training~~  
15 ~~rendered may, in the discretion of the administrative law judge, be~~  
16 ~~deducted from any award of benefits to the employee which remains~~  
17 ~~unpaid by the employer.~~

18       3. Upon receipt of such report, and after affording all parties  
19 an opportunity to be heard, the administrative law judge shall order  
20 that any rehabilitation services or training, recommended in the  
21 report, or such other rehabilitation services or training as the  
22 administrative law judge may deem necessary, provided the employee  
23 elects to receive such services, shall be provided at the expense of  
24 the employer. Except as otherwise provided in this subsection,

1 refusal to accept rehabilitation services by the employee shall in  
2 no way diminish any benefits allowable to an employee.

3 ~~5.~~ 4. The administrative law judge may order vocational  
4 rehabilitation before the injured employee reaches maximum medical  
5 improvement, if the treating physician believes that it is likely  
6 that the employee's injury will prevent the employee from returning  
7 to his or her former employment. In granting early benefits for  
8 vocational rehabilitation, the Commission shall consider temporary  
9 restrictions and the likelihood that such rehabilitation will return  
10 the employee to gainful employment earlier than if such benefits are  
11 granted after the permanent partial disability hearing in the claim.

12 ~~6.~~ 5. Vocational rehabilitation services or training shall not  
13 extend for a period of more than fifty-two (52) weeks. A request  
14 for vocational rehabilitation services or training shall be filed  
15 with the Commission by an interested party not later than sixty (60)  
16 days from the date of receiving permanent ~~restrictions~~ disability  
17 that ~~prevent~~ prevents the injured employee from returning to his or  
18 her pre-injury or equivalent position.

19 ~~7.~~ 6. If rehabilitation requires residence at or near the  
20 facility or institution which is away from the employee's customary  
21 residence, reasonable cost of the employee's board, lodging, travel,  
22 tuition, books and necessary equipment in training shall be paid for  
23 by the insurer in addition to weekly compensation benefits to which  
24

1 the employee is otherwise entitled under the Administrative Workers'  
2 Compensation Act.

3 ~~8.~~ 7. During the period when an employee is actively and in  
4 good faith being evaluated or participating in a retraining or job  
5 placement program for purposes of evaluating permanent total  
6 disability status, the employee shall be entitled to receive  
7 benefits at the same rate as the employee's temporary total  
8 disability benefits for an additional fifty-two (52) weeks. All  
9 tuition related to vocational rehabilitation services shall be paid  
10 by the employer or the employer's insurer on a periodic basis  
11 directly to the facility providing the vocational rehabilitation  
12 services or training to the employee. ~~The employer or employer's~~  
13 ~~insurer may deduct the amount paid for tuition from compensation~~  
14 ~~awarded to the employee.~~

15 F. Disfigurement.

16 1. If an injured employee incurs serious and permanent  
17 disfigurement to any part of the body, the Commission may award  
18 compensation to the injured employee in an amount not to exceed  
19 Fifty Thousand Dollars (\$50,000.00).

20 2. No award for disfigurement shall be entered until twelve  
21 (12) months after the injury unless the treating physician deems the  
22 wound or incision to be fully healed.  
23  
24

1        3. An injured employee shall not be entitled to compensation  
2 under this subsection if he or she receives an award for permanent  
3 partial disability to the same part of the body.

4        G. Benefits for a single-event injury shall be determined by  
5 the law in effect at the time of injury. Benefits for a cumulative  
6 trauma injury or occupational disease or illness shall be determined  
7 by the law in effect at the time the employee knew or reasonably  
8 should have known that the injury, occupational disease or illness  
9 was related to work activity. Benefits for death shall be  
10 determined by the law in effect at the time of death.

11        SECTION 19.        AMENDATORY        Section 46, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 46), is amended to read as  
13 follows:

14        Section 46. A. An injured employee who is entitled to receive  
15 permanent partial disability compensation under Section 45 of this  
16 ~~act~~ title shall receive compensation for each part of the body in  
17 accordance with the number of weeks for the scheduled loss set forth  
18 below.

19        1. Arm amputated at the elbow, or between the elbow and  
20 shoulder, two hundred seventy-five (275) weeks;

21        2. Arm amputated between the elbow and wrist, two hundred  
22 twenty (220) weeks;

23        3. Leg amputated at the knee, or between the knee and the hip,  
24 two hundred seventy-five (275) weeks;



1        4. Leg amputated between the knee and the ankle, two hundred  
2 twenty (220) weeks;

3        5. Hand amputated, two hundred twenty (220) weeks;

4        6. Thumb amputated, sixty-six (66) weeks;

5        7. First finger amputated, thirty-nine (39) weeks;

6        8. Second finger amputated, thirty-three (33) weeks;

7        9. Third finger amputated, twenty-two (22) weeks;

8        10. Fourth finger amputated, seventeen (17) weeks;

9        11. Foot amputated, two hundred twenty (220) weeks;

10       12. Great toe amputated, thirty-three (33) weeks;

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

12       14. Eye enucleated, in which there was useful vision, two  
13 hundred seventy-five (275) weeks;

14       15. Loss of hearing of one ear, one hundred ten (110) weeks;

15       16. Loss of hearing of both ears, three hundred thirty (330)  
16 weeks; and

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

19       B. The permanent partial disability rate of compensation for  
20 amputation or permanent total loss of use of a scheduled member  
21 specified in this section shall be seventy percent (70%) of the  
22 employee's average weekly wage, not to exceed ~~Three Hundred Twenty-~~  
23 ~~three Dollars (\$323.00)~~ Three Hundred Fifty Dollars (\$350.00),  
24 multiplied by the number of weeks as set forth in this section,

1 regardless of whether or not the injured employee is able to return  
2 to his or her pre-injury job.

3 C. Other cases: In cases in which the Workers' Compensation  
4 Commission finds an injury to a part of the body not specifically  
5 covered by the foregoing provisions of this section, the employee  
6 may be entitled to compensation for permanent partial disability.  
7 The compensation ordered paid shall be seventy percent (70%) of the  
8 employee's average weekly wage, not to exceed ~~Three Hundred Twenty-~~  
9 ~~three Dollars (\$323.00)~~ Three Hundred Fifty Dollars (\$350.00) for  
10 the number of weeks which the partial disability of the employee  
11 bears to three hundred fifty (350) weeks.

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

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

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

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

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

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

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

6 H. The sum of all permanent partial disability awards,  
7 excluding awards against the Multiple Injury Trust Fund, shall not  
8 exceed three hundred fifty (350) weeks.

9 SECTION 20. AMENDATORY Section 47, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 47), is amended to read as  
11 follows:

12 Section 47. A. Time of death. If death does not result within  
13 one (1) year from the date of the accident or within the first three  
14 (3) years of the period for compensation payments fixed by the  
15 compensation judgment, a rebuttable presumption shall arise that the  
16 death did not result from the injury.

17 B. Common law spouse. A common law spouse shall not be  
18 entitled to benefits under this section unless he or she obtains an  
19 order from a court with competent jurisdiction ruling that a common  
20 law marriage existed between the decedent and the surviving spouse.

21 C. Beneficiaries - Amounts. If an injury or occupational  
22 illness causes death, weekly income benefits shall be payable as  
23 follows:  
24

1        1. If there is a surviving spouse, a lump-sum payment of One  
2        Hundred Thousand Dollars (\$100,000.00) and seventy percent (70%) of  
3        the lesser of the deceased employee's average weekly wage and the  
4        state average weekly wage. In addition to the benefits theretofore  
5        paid or due, two (2) years' indemnity benefit in one lump sum shall  
6        be payable to a surviving spouse upon remarriage;

7        2. If there is a surviving spouse and a child or children, a  
8        lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and  
9        fifteen percent (15%) of the lesser of the deceased employee's  
10       average weekly wage and the state average weekly wage to each child.  
11       If there are more than two children, each child shall receive a pro  
12       rata share of Fifty Thousand Dollars (\$50,000.00) and thirty percent  
13       (30%) of the deceased employee's average weekly wage;

14       3. If there is a child or children and no surviving spouse, a  
15       lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and  
16       fifty percent (50%) of the lesser of the deceased employee's average  
17       weekly wage and the state average weekly wage to each child. If  
18       there are more than two children, each child shall receive a pro  
19       rata share of one hundred percent (100%) of the lesser of the  
20       deceased employee's average weekly wage and the state average weekly  
21       wage. With respect to the lump-sum payment, if there are more than  
22       six children, each child shall receive a pro rata share of One  
23       Hundred Fifty Thousand Dollars (\$150,000.00);

1        4. If there is no surviving spouse or children, each legal  
2 guardian, if financially dependent on the employee at the time of  
3 death, shall receive twenty-five percent (25%) of the lesser of the  
4 deceased employee's average weekly wage and the state average weekly  
5 wage until the earlier of death, becoming eligible for Social  
6 Security, obtaining full-time employment, or five (5) years from the  
7 date benefits under this section begin; and

8        5. The employer shall pay the actual funeral expenses, not  
9 exceeding the sum of Ten Thousand Dollars (\$10,000.00).

10       D. The weekly income benefits payable to the surviving spouse  
11 under this section shall continue while the surviving spouse remains  
12 unmarried. In no event shall this spousal weekly income benefit be  
13 diminished by the award to other beneficiaries. The weekly income  
14 benefits payable to any child under this section shall terminate on  
15 the earlier of death, marriage, or reaching the age of eighteen  
16 (18). However, if the child turns eighteen (18) and is:

17       1. Enrolled as a full-time student in high school or is being  
18 schooled by other means pursuant to the Oklahoma Constitution;

19       2. Enrolled as a full-time student in any accredited  
20 institution of higher education or vocational or technology  
21 education; or

22       3. Physically or mentally incapable of self-support,  
23 then he or she may continue to receive weekly income benefits under  
24 this section until the earlier of reaching the age of twenty-three

1 (23) or, with respect to paragraphs 1 and 2 of this subsection, no  
2 longer being enrolled as a student, and with respect to paragraph 3  
3 of this subsection, becoming capable of self-support.

4 E. If any member of the class of beneficiaries who receive a  
5 pro rata share of weekly income benefits becomes ineligible to  
6 continue to receive benefits, the remaining members of the class  
7 shall receive adjusted weekly income benefits equal to the new class  
8 size.

9 F. To receive benefits under this section, a beneficiary or his  
10 or her guardian, if applicable, shall file a proof of loss form with  
11 the Commission. All questions of dependency shall be determined as  
12 of the time of the injury. The employer shall initiate payment of  
13 benefits within fifteen (15) days of the Commission's determination  
14 of the proper beneficiaries. The Commission shall appoint a  
15 guardian ad litem to represent known and unknown minor children and  
16 the guardian ad litem shall be paid a reasonable fee for his or her  
17 services.

18 SECTION 21. AMENDATORY Section 50, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2018, Section 50), is amended to read as  
20 follows:

21 Section 50. A. The employer shall promptly provide an injured  
22 employee with medical, surgical, hospital, optometric, podiatric,  
23 and nursing services, along ~~any~~ with any medicine, crutches,  
24 ambulatory devices, artificial limbs, eyeglasses, contact lenses,

1 hearing aids, and other apparatus as may be reasonably necessary in  
2 connection with the injury received by the employee. The employer  
3 shall have the right to choose the treating physician.

4 B. If the employer fails or neglects to provide medical  
5 treatment within five (5) days after actual knowledge is received of  
6 an injury, the injured employee may select a physician to provide  
7 medical treatment at the expense of the employer; provided, however,  
8 that the injured employee, or another in the employee's behalf, may  
9 obtain emergency treatment at the expense of the employer where such  
10 emergency treatment is not provided by the employer.

11 C. Diagnostic tests shall not be repeated sooner than six (6)  
12 months from the date of the test unless agreed to by the parties or  
13 ordered by the Commission for good cause shown.

14 D. Unless recommended by the treating doctor at the time  
15 claimant reaches maximum medical improvement or by an independent  
16 medical examiner, continuing medical maintenance shall not be  
17 awarded by the Commission. The employer or insurance carrier shall  
18 not be responsible for continuing medical maintenance or pain  
19 management treatment that is outside the parameters established by  
20 the Physician Advisory Committee or ODG. The employer or insurance  
21 carrier shall not be responsible for continuing medical maintenance  
22 or pain management treatment not previously ordered by the  
23 Commission or approved in advance by the employer or insurance  
24 carrier.

1 E. An employee claiming or entitled to benefits under this act,  
2 shall, if ordered by the Commission or requested by the employer or  
3 insurance carrier, submit himself or herself for medical  
4 examination. If an employee refuses to submit himself or herself to  
5 examination, his or her right to prosecute any proceeding under this  
6 act shall be suspended, and no compensation shall be payable for the  
7 period of such refusal.

8 F. For compensable injuries resulting in the use of a medical  
9 device, ongoing service for the medical device shall be provided in  
10 situations including, but not limited to, medical device battery  
11 replacement, ongoing medication refills related to the medical  
12 device, medical device repair, or medical device replacement.

13 G. The employer shall reimburse the employee for the actual  
14 mileage in excess of twenty (20) miles round-trip to and from the  
15 employee's home to the location of a medical service provider for  
16 all reasonable and necessary treatment, for an evaluation of an  
17 independent medical examiner and for any evaluation made at the  
18 request of the employer or insurance carrier. The rate of  
19 reimbursement for such travel expense shall be the official  
20 reimbursement rate as established by the State Travel Reimbursement  
21 Act. In no event shall the reimbursement of travel for medical  
22 treatment or evaluation exceed six hundred (600) miles round trip.

23 H. Fee Schedule.  
24



1       1. ~~The Commission shall conduct a review of the Fee Schedule~~  
2 ~~every two (2) years.~~ The Fee Schedule shall establish the maximum  
3 rates that medical providers shall be reimbursed for medical care  
4 provided to injured employees, including, but not limited to,  
5 charges by physicians, dentists, counselors, hospitals, ambulatory  
6 and outpatient facilities, clinical laboratory services, diagnostic  
7 testing services, and ambulance services, and charges for durable  
8 medical equipment, prosthetics, orthotics, and supplies. The most  
9 current Fee Schedule established by the Administrator of the  
10 Workers' Compensation Court prior to ~~the effective date of this~~  
11 ~~section~~ February 1, 2014, shall remain in effect, unless or until  
12 the Legislature approves the Commission's proposed Fee Schedule.

13       2. Reimbursement for medical care shall be prescribed and  
14 limited by the Fee Schedule ~~as adopted by the Commission, after~~  
15 ~~notice and public hearing, and after approval by the Legislature by~~  
16 ~~joint resolution.~~ The director of the Employees Group Insurance  
17 Division of the Office of Management and Enterprise Services shall  
18 provide the Commission such information as may be relevant for the  
19 development of the Fee Schedule. The Commission shall develop the  
20 Fee Schedule in a manner in which quality of medical care is assured  
21 and maintained for injured employees. The Commission shall give due  
22 consideration to additional requirements for physicians treating an  
23 injured worker under this act, including, but not limited to,  
24 communication with claims representatives, case managers, attorneys,

1 and representatives of employers, and the additional time required  
2 to complete forms for the Commission, insurance carriers, and  
3 employers.

4       3. In making adjustments to the Fee Schedule, the Commission  
5 shall use, as a benchmark, the reimbursement rate for each Current  
6 Procedural Terminology (CPT) code provided for in the fee schedule  
7 published by the Centers for Medicare and Medicaid Services of the  
8 U.S. Department of Health and Human Services for use in Oklahoma  
9 (Medicare Fee Schedule) on the effective date of this section,  
10 workers' compensation fee schedules employed by neighboring states,  
11 the latest edition of "Relative Values for Physicians" (RVP), usual,  
12 customary and reasonable medical payments to workers' compensation  
13 health care providers in the same trade area for comparable  
14 treatment of a person with similar injuries, and all other data the  
15 Commission deems relevant. For services not valued by CMS, the  
16 Commission shall establish values based on the usual, customary and  
17 reasonable medical payments to health care providers in the same  
18 trade area for comparable treatment of a person with similar  
19 injuries.

20           a. No reimbursement shall be allowed for any magnetic  
21 resonance imaging (MRI) unless the MRI is provided by  
22 an entity that meets Medicare requirements for the  
23 payment of MRI services or is accredited by the  
24 American College of Radiology, the Intersocietal

1 Accreditation Commission or the Joint Commission on  
2 Accreditation of Healthcare Organizations. For all  
3 other radiology procedures, the reimbursement rate  
4 shall be the lesser of the reimbursement rate allowed  
5 by the 2010 Oklahoma Fee Schedule and two hundred  
6 seven percent (207%) of the Medicare Fee Schedule.

7 b. For reimbursement of medical services for Evaluation  
8 and Management of injured employees as defined in the  
9 Fee Schedule adopted by the Commission, the  
10 reimbursement rate shall not be less than one hundred  
11 fifty percent (150%) of the Medicare Fee Schedule.

12 c. Any entity providing durable medical equipment,  
13 prosthetics, orthotics or supplies shall be accredited  
14 by a CMS-approved accreditation organization. If a  
15 physician provides durable medical equipment,  
16 prosthetics, orthotics, prescription drugs, or  
17 supplies to a patient ancillary to the patient's  
18 visit, reimbursement shall be no more than ten percent  
19 (10%) above cost.

20 d. The Commission shall develop a reasonable stop-loss  
21 provision of the Fee Schedule to provide for adequate  
22 reimbursement for treatment for major burns, severe  
23 head and neurological injuries, multiple system  
24

1 injuries, and other catastrophic injuries requiring  
2 extended periods of intensive care.

3 4. The right to recover charges for every type of medical care  
4 for injuries arising out of and in the course of covered employment  
5 as defined in this act shall lie solely with the Commission. When a  
6 medical care provider has brought a claim to the Commission to  
7 obtain payment for services, a party who prevails in full on the  
8 claim shall be entitled to reasonable attorney fees.

9 5. Nothing in this section shall prevent an employer, insurance  
10 carrier, group self-insurance association, or certified workplace  
11 medical plan from contracting with a provider of medical care for a  
12 reimbursement rate that is greater than or less than limits  
13 established by the Fee Schedule.

14 6. A treating physician may not charge more than Four Hundred  
15 Dollars (\$400.00) per hour for preparation for or testimony at a  
16 deposition or appearance before the Commission in connection with a  
17 claim covered by the Administrative Workers' Compensation Act.

18 7. The Commission's review of medical and treatment charges  
19 pursuant to this section shall be conducted pursuant to the Fee  
20 Schedule in existence at the time the medical care or treatment was  
21 provided. The judgment approving the medical and treatment charges  
22 pursuant to this section shall be enforceable by the Commission in  
23 the same manner as provided in this act for the enforcement of other  
24 compensation payments.

1        8. Charges for prescription drugs dispensed by a pharmacy shall  
2 be limited to ninety percent (90%) of the average wholesale price of  
3 the prescription, plus a dispensing fee of Five Dollars (\$5.00) per  
4 prescription. "Average wholesale price" means the amount determined  
5 from the latest publication designated by the Commission.

6 Physicians shall prescribe and pharmacies shall dispense generic  
7 equivalent drugs when available. If the National Drug Code, or  
8 "NDC", for the drug product dispensed is for a repackaged drug, then  
9 the maximum reimbursement shall be the lesser of the original  
10 labeler's NDC and the lowest-cost therapeutic equivalent drug  
11 product. Compounded medications shall be billed by the compounding  
12 pharmacy at the ingredient level, with each ingredient identified  
13 using the applicable NDC of the drug product, and the corresponding  
14 quantity. Ingredients with no NDC area are not separately  
15 reimbursable. Payment shall be based on a sum of the allowable fee  
16 for each ingredient plus a dispensing fee of Five Dollars (\$5.00)  
17 per prescription.

18        9. When medical care includes prescription drugs dispensed by a  
19 physician or other medical care provider and the NDC for the drug  
20 product dispensed is for a repackaged drug, then the maximum  
21 reimbursement shall be the lesser of the original labeler's NDC and  
22 the lowest-cost therapeutic equivalent drug product. Payment shall  
23 be based upon a sum of the allowable fee for each ingredient plus a  
24

1 dispensing fee of Five Dollars (\$5.00) per prescription. Compounded  
2 medications shall be billed by the compounding pharmacy.

3 10. Implantables are paid in addition to procedural  
4 reimbursement paid for medical or surgical services. A  
5 manufacturer's invoice for the actual cost to a physician, hospital  
6 or other entity of an implantable device shall be adjusted by the  
7 physician, hospital or other entity to reflect, at the time  
8 implanted, all applicable discounts, rebates, considerations and  
9 product replacement programs and shall be provided to the payer by  
10 the physician or hospital as a condition of payment for the  
11 implantable device. If the physician, or an entity in which the  
12 physician has a financial interest other than an ownership interest  
13 of less than five percent (5%) in a publically traded company,  
14 provides implantable devices, this relationship shall be disclosed  
15 to patient, employer, insurance company, third-party commission,  
16 certified workplace medical plan, case managers, and attorneys  
17 representing claimant and defendant. If the physician, or an entity  
18 in which the physician has a financial interest other than an  
19 ownership interest of less than five percent (5%) in a ~~publically~~  
20 publicly traded company, buys and resells implantable devices to a  
21 hospital or another physician, the markup shall be limited to ten  
22 percent (10%) above cost.

23 11. Payment for medical care as required by this act shall be  
24 due within forty-five (45) days of the receipt by the employer or

1 insurance carrier of a complete and accurate invoice, unless the  
2 employer or insurance carrier has a good-faith reason to request  
3 additional information about such invoice. Thereafter, the  
4 Commission may assess a penalty up to twenty-five percent (25%) for  
5 any amount due under the Fee Schedule that remains unpaid on the  
6 finding by the Commission that no good-faith reason existed for the  
7 delay in payment. If the Commission finds a pattern of an employer  
8 or insurance carrier willfully and knowingly delaying payments for  
9 medical care, the Commission may assess a civil penalty of not more  
10 than Five Thousand Dollars (\$5,000.00) per occurrence.

11 12. If an employee fails to appear for a scheduled appointment  
12 with a physician, the employer or insurance company shall pay to the  
13 physician a reasonable charge, to be determined by the Commission,  
14 for the missed appointment. In the absence of a good-faith reason  
15 for missing the appointment, the Commission shall order the employee  
16 to reimburse the employer or insurance company for the charge.

17 13. Physicians providing treatment under this act shall  
18 disclose under penalty of perjury to the Commission, on a form  
19 prescribed by the Commission, any ownership or interest in any  
20 health care facility, business, or diagnostic center that is not the  
21 physician's primary place of business. The disclosure shall include  
22 any employee leasing arrangement between the physician and any  
23 health care facility that is not the physician's primary place of  
24 business. A physician's failure to disclose as required by this

1 section shall be grounds for the Commission to disqualify the  
2 physician from providing treatment under this act.

3 14. a. Beginning on the effective date of this act and  
4 subject to the availability of Commission funding, the  
5 Commission shall conduct an evaluation of the Fee  
6 Schedule, which shall include and update of the list  
7 of Current Procedural Terminology (CPT) codes, a line  
8 item adjustment or renewal of all rates, and amendment  
9 as needed to the rules applicable to the Fee Schedule.

10 b. The Commission shall contract with an external  
11 consultant with knowledge of workers' compensation fee  
12 schedules to review regional and nationwide  
13 comparisons of Oklahoma's Fee Schedule rates and date  
14 and market for medical services. The consultant shall  
15 receive written and oral comment from employers,  
16 workers' compensation medical service and insurance  
17 providers, self-insureds, group self-insurance  
18 associations of this state and the public. The  
19 consultant shall submit a report of its findings and a  
20 proposed amended Fee Schedule to the Commission.

21 c. The Commission shall adopt the proposed amended Fee  
22 Schedule in whole or in part and make any additional  
23 updates or adjustments. The Commission shall submit a  
24 proposed updated and adjusted Fee Schedule to the



1           President Pro Tempore of the Senate, the Speaker of  
2           the House of Representatives and the Governor. The  
3           proposed Fee Schedule shall become effective on July 1  
4           following the legislative session, unless disapproved  
5           by Joint Resolution of the Legislature during the  
6           session in which a proposed Fee Schedule is submitted.

7           d. Beginning on the effective date of this act and  
8           subject to the availability of Commission funding, an  
9           external evaluation shall be conducted and a proposed  
10           amendment Fee Schedule shall be submitted to the  
11           Legislature for approval during the 2020 legislative  
12           session. Thereafter, an external evaluation shall be  
13           conducted and a proposed amended Fee Schedule shall be  
14           submitted to the Legislature every five (5) years.

15           I. Formulary. The Commission by rule shall adopt a closed  
16           formulary. Rules adopted by the Commission shall allow an appeals  
17           process for claims in which a treating doctor determines and  
18           documents that a drug not included in the formulary is necessary to  
19           treat an injured employee's compensable injury. The Commission by  
20           rule shall require the use of generic pharmaceutical medications and  
21           clinically appropriate over-the-counter alternatives to prescription  
22           medications unless otherwise specified by the prescribing doctor, in  
23           accordance with applicable state law.

1       SECTION 22.       AMENDATORY       Section 53, Chapter 208, O.S.L.

2   2013 (85A O.S. Supp. 2018, Section 53), is amended to read as  
3 follows:

4       Section 53.   A.   An injured employee claiming to be entitled to  
5 benefits under this act shall submit to physical examination and  
6 treatment by another qualified physician, designated or approved by  
7 the Commission, as the Commission may require from time to time if  
8 reasonable and necessary.

9       B.   In cases where the Commission directs examination or  
10 treatment, proceedings shall be suspended, and no compensation shall  
11 be payable for any period during which the employee refuses to  
12 submit to examination and treatment or otherwise obstructs the  
13 examination or treatment.

14       C.   Failure of the employee to obey a judgment of the Commission  
15 for an examination or treatment ~~for a period of one (1) month from~~  
16 ~~the date of the judgment~~ shall bar the right of the claimant to  
17 further temporary total disability compensation in respect to the  
18 injury.

19       SECTION 23.       AMENDATORY       Section 60, Chapter 208, O.S.L.

20   2013 (85A O.S. Supp. 2018, Section 60), is amended to read as  
21 follows:

22       Section 60.   The Physician Advisory Committee may recommend the  
23 adoption of a method or system to evaluate permanent disability that  
24 shall deviate from, or be used in place of or in combination with

1 the Guides. Such recommendation shall be made to the Workers'  
2 Compensation Commission which may adopt the recommendation in part  
3 or in whole. The adopted method or system shall be submitted by the  
4 Executive Director of the Commission to the Governor, the Speaker of  
5 the House of Representatives and the President Pro Tempore of the  
6 Senate within the first ten (10) legislative days of a regular  
7 session of the Legislature. Such method or system so submitted  
8 shall be subject to disapproval by joint or concurrent resolution of  
9 the Legislature during the legislative session in which submitted.  
10 If disapproved, the existing method of determining permanent partial  
11 disability shall continue in effect. If the Legislature takes no  
12 action on the method or system submitted by the Executive Director,  
13 the method or system shall become operative thirty (30) days  
14 following the adjournment of the Legislature.

15 SECTION 24. AMENDATORY Section 62, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 62), is amended to read as  
17 follows:

18 Section 62. A. Notwithstanding the provisions of Section 45 of  
19 this ~~act~~ title, if an employee suffers a nonsurgical soft tissue  
20 injury, temporary total disability compensation shall not exceed  
21 eight (8) weeks, regardless of the number of parts of the body to  
22 which there is a nonsurgical soft tissue injury. An employee who is  
23 treated with an injection or injections shall be entitled to an  
24 extension of an additional eight (8) weeks. For purposes of this

1 section, an injection shall not include facet injections or  
2 intravenous injections. An employee who has been recommended by a  
3 treating physician for surgery for a soft tissue injury may petition  
4 the Workers' Compensation Commission for one extension of temporary  
5 total disability compensation and the Commission may order an  
6 extension, not to exceed sixteen (16) additional weeks. If the  
7 surgery is not performed within thirty (30) days of the approval of  
8 the surgery by the employer, its insurance carrier, or an order of  
9 the Commission authorizing the surgery, and the delay is caused by  
10 the employee acting in bad faith, the benefits for the extension  
11 period shall be terminated and the employee shall reimburse the  
12 employer any temporary total disability compensation he or she  
13 received beyond eight (8) weeks. An epidural steroid injection, or  
14 any procedure of the same or similar physical invasiveness, shall  
15 not be considered surgery.

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

23 1. Injury to or disease of the spine, spinal discs, spinal  
24 nerves or spinal cord, where corrective surgery is performed;

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

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

3. Any joint replacement.

SECTION 25. AMENDATORY Section 63, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2018, Section 63), is amended to read as follows:

Section 63. A. Within ten (10) days after the date of receipt of notice or of knowledge of injury or death, the employer shall send to the Workers' Compensation Commission a report setting forth:

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

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

1 prescribe. However, an employer may refuse to provide any  
2 information that it deems privileged or confidential.

3 C. Any report provided for in subsection A or B of this section  
4 shall not be evidence of any fact stated in the report in any  
5 proceeding with respect to the injury or death on account of which  
6 the report is made. Any such report shall not be made available to  
7 the public without authorization for a specific purpose as approved  
8 by the Commission, and any such report shall be exempt from the  
9 provisions of Section 24A.5 of Title 51 of the Oklahoma Statutes.

10 D. The mailing of any report in a stamped envelope, properly  
11 addressed, within the time prescribed in subsection A or B of this  
12 section, shall be in compliance with this section. In addition, the  
13 Commission shall establish a means of electronic delivery of any  
14 report or other information required by this section.

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

18 2. Whenever the employer has failed or refused to comply as  
19 provided in this section, the Commission may serve on the employer a  
20 proposed judgment declaring the employer to be in violation of this  
21 act and containing the amount, if any, of the civil penalty to be  
22 assessed against the employer under this section.

23 F. An employer may contest a proposed judgment of the  
24 Commission issued under subsection E of this section by filing with

1 the Commission, within twenty (20) days of receipt of the proposed  
2 judgment, a written request for a hearing. If a written request for  
3 hearing is not filed with the Commission within this time, the  
4 proposed judgment, proposed penalty, or both, shall be a final  
5 judgment of the Commission. The request for a hearing does not need  
6 to be in any particular form but shall specify the grounds on which  
7 the person contests the proposed judgment, the proposed assessment,  
8 or both. A proposed judgment by the Commission under this section  
9 shall be prima facie correct, and the burden is on the employer to  
10 prove that the proposed judgment is incorrect.

11 G. Hearings conducted under this section shall proceed as  
12 provided in Sections 69 through 78 of this ~~act~~ title.

13 H. If an employer fails to pay any civil penalty assessed  
14 against the employer after a judgment issued under this section has  
15 become final by operation of law, the Commission may petition the  
16 district court of the county where the employer's principal place of  
17 business is located for an order enjoining the employer from  
18 engaging in further employment or conduct of business until such  
19 time as the employer makes all required reports and pays all civil  
20 penalties.

21 SECTION 26. AMENDATORY Section 66, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 66), is amended to read as  
23 follows:  
24

1       Section 66. A. As used in this act, unless the context  
2 otherwise requires:

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

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

7       B. In the absence of ~~conclusive~~ a preponderance of the evidence  
8 in favor of the claim, disability or death from silicosis or  
9 asbestosis shall be presumed not to be due to the nature of any  
10 occupation within the provision of this section unless during the  
11 ten (10) years immediately preceding the date of disablement the  
12 employee has been exposed to the inhalation of silica dust or  
13 asbestos dust over a period of not less than five (5) years, two (2)  
14 years of which shall have been in this state, under a contract of  
15 employment performed in this state. However, if the employee has  
16 been employed by the same employer during the entire five-year  
17 period, his or her right to compensation against the employer shall  
18 not be affected by the fact that he or she had been employed during  
19 any part of the period outside of this state.

20       C. Except as otherwise provided in this section, compensation  
21 for disability from uncomplicated silicosis or asbestosis shall be  
22 payable in accordance with the provisions of Sections 45 and 48 of  
23 this ~~act~~ title.



1 D. 1. In case of disability or death from silicosis or  
2 asbestosis complicated with tuberculosis of the lungs, compensation  
3 shall be payable as for uncomplicated silicosis or asbestosis,  
4 provided that the silicosis or asbestosis was an essential factor in  
5 the causing of disability or death.

6 2. In case of disability or death from silicosis or asbestosis  
7 complicated with any other disease, or from any other disease  
8 complicated with silicosis or asbestosis, the compensation shall be  
9 reduced as provided in subsection C of Section 65 of this ~~act~~ title.

10 ~~E. 1. When an employee, though not actually disabled, is found~~  
11 ~~by the Commission to be affected by silicosis or asbestosis to such~~  
12 ~~a degree as to make it unduly hazardous for him or her to continue~~  
13 ~~in an employment involving exposure to the hazards of the disease,~~  
14 ~~the Commission may order that he or she be removed from his or her~~  
15 ~~employment. In such a case, or in case he or she has already been~~  
16 ~~discharged from the employment and is unemployed, he or she shall be~~  
17 ~~entitled to compensation until he or she can obtain steady~~  
18 ~~employment in some other suitable occupation in which there are no~~  
19 ~~hazards of the disease.~~

20 ~~2. When in any case the forced change of employment shall, in~~  
21 ~~the opinion of the Commission, require that the employee be given~~  
22 ~~special training in order to qualify him or her for another~~  
23 ~~occupation, the employer liable for compensation shall pay for the~~  
24 ~~vocational rehabilitation and training provided for in this act.~~

SECTION 27. AMENDATORY Section 67, Chapter 208, O.S.L.  
2013 (85A O.S. Supp. 2018, Section 67), is amended to read as  
follows:

Section 67. A. ~~1.~~ Except as otherwise provided in this  
section, notice of disability resulting from an occupational disease  
or cumulative trauma shall be the same as in cases of accidental  
injury.

~~2.~~ B. Written notice shall be given to the employer of an  
occupational disease or cumulative trauma by the employee, or a  
representative of the employee in the case of incapacity or death,  
within six (6) months after the first distinct manifestation of the  
disease or cumulative trauma or within six (6) months after death.

~~B. An award or denial of award of compensation for an  
occupational disease or cumulative trauma may be reviewed and  
compensation increased, reduced, or terminated where previously  
awarded, or awarded where previously denied, only on proof of fraud  
or undue influence or of change of condition, and then only on  
application by a party in interest made not later than one (1) year  
after the denial of award or, where compensation has been awarded,  
after the award or the date when the last payment was made under the  
award, except in cases of silicosis or asbestosis, where the statute  
of limitations shall be two (2) years.~~

SECTION 28. AMENDATORY Section 69, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2018, Section 69), is amended to read as follows:

Section 69. A. Time for Filing.

1. A claim for benefits under this act, other than an occupational disease, shall be barred unless it is filed with the Workers' Compensation Commission within one (1) year from the date of the injury; or, if the employee has received benefits under this title for the injury, six (6) months from the date of the last issuance of such benefits. ~~If during the one-year period following the filing of the claim the employee receives no weekly benefit compensation and receives no medical treatment resulting from the alleged injury, the claim shall be barred thereafter.~~ For purposes of this section, the date of the injury shall be defined as the date an injury is caused by an accident as set forth in paragraph 9 of Section 2 of this ~~act~~ title.

2. a. A claim for compensation for disability on account of injury which is either an occupational disease or occupational infection shall be barred unless filed with the Commission within two (2) years from the date of the last injurious exposure to the hazards of the disease or infection.
- b. A claim for compensation for disability on account of silicosis or asbestosis shall be filed with the

Commission within one (1) year after the time of disablement, and the disablement shall occur within three (3) years from the date of the last injurious exposure to the hazard of silicosis or asbestosis.

c. A claim for compensation for disability on account of a disease condition caused by exposure to X-rays, radioactive substances, or ionizing radiation only shall be filed with the Commission within two (2) years from the date the condition is made known to an employee following examination and diagnosis by a medical doctor.

3. A claim for compensation on account of death shall be barred unless filed with the Commission within two (2) years of the date of such a death.

4. ~~If within six (6) months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim~~ a claim for benefits has been timely filed under paragraph 1 of this subsection and the employee does not:

a. make a good faith request for a hearing to resolve a dispute regarding the right to receive benefits, including medical treatment, under this title within six (6) months of the date the claim is filed, or

b. receive or seek benefits, including medical treatment, under this title for a period of six (6) months,

1 ~~then on motion by the employer, the claim may, on motion and after~~  
2 ~~hearing, shall~~ be dismissed with prejudice.

3 ~~B. Time for Filing Additional Compensation.~~

4 ~~1. In cases in which any compensation, including disability or~~  
5 ~~medical, has been paid on account of injury, a claim for additional~~  
6 ~~compensation shall be barred unless filed with the Commission within~~  
7 ~~one (1) year from the date of the last payment of disability~~  
8 ~~compensation or two (2) years from the date of the injury, whichever~~  
9 ~~is greater.~~

10 ~~2. The statute of limitations provided in this subsection shall~~  
11 ~~not apply to claims for the replacement of medicine, crutches,~~  
12 ~~ambulatory devices, artificial limbs, eyeglasses, contact lenses,~~  
13 ~~hearing aids, and other apparatus permanently or indefinitely~~  
14 ~~required as the result of a compensable injury, when the employer or~~  
15 ~~carrier previously furnished such medical supplies, but replacement~~  
16 ~~of such items shall not constitute payment of compensation so as to~~  
17 ~~toll the statute of limitations.~~

18 ~~C. A claim for additional compensation shall specifically state~~  
19 ~~that it is a claim for additional compensation. Documents which do~~  
20 ~~not specifically request additional benefits shall not be considered~~  
21 ~~a claim for additional compensation.~~

22 ~~D. If within six (6) months after the filing of a claim for~~  
23 ~~additional compensation no bona fide request for a hearing has been~~  
24 ~~made with respect to the claim, the claim shall be dismissed without~~

1 ~~prejudice to the refiling of the claim within the limitation period~~  
2 ~~specified in subsection B of this section.~~

3 ~~E.~~ Failure to File. Failure to file a claim within the period  
4 prescribed in subsection A ~~or B~~ of this section shall not be a bar  
5 to the right to benefits hereunder unless objection to the failure  
6 is made at the first hearing on the claim in which all parties in  
7 interest have been given a reasonable notice and opportunity to be  
8 heard by the Commission.

9 ~~F.~~ C. Persons under Disability.

10 1. Notwithstanding any statute of limitation provided for in  
11 this act, when it is established that failure to file a claim by an  
12 injured employee or his or her dependents was induced by fraud, the  
13 claim may be filed within one (1) year from the time of the  
14 discovery of the fraud.

15 2. ~~Subsections~~ Subsection A ~~and B~~ of this section shall not  
16 apply to a mental incompetent or minor so long as the person has no  
17 guardian or similar legal representative. The limitations  
18 prescribed in ~~subsections~~ subsection A ~~and B~~ of this section shall  
19 apply to the mental incompetent or minor from the date of the  
20 appointment of a guardian or similar legal representative for that  
21 person, and when no guardian or similar representative has been  
22 appointed, to a minor on reaching the age of majority.

23 ~~G.~~ D. A latent injury or condition shall not delay or toll the  
24 limitation periods specified in this section. This subsection shall

1 not apply to the limitation period for occupational diseases  
2 specified in paragraph 2 of subsection A of this section.

3 SECTION 29. AMENDATORY Section 71, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 71), is amended to read as  
5 follows:

6 Section 71. A. Notice. Within ten (10) days after a claim for  
7 compensation has been filed, the Workers' Compensation Commission  
8 shall notify the employer and any other interested person of the  
9 filing of the claim.

10 B. ~~Investigation~~ - Hearing.

11 1. The Commission shall assign the claim to an administrative  
12 law judge who shall hold a hearing on application of any interested  
13 party, or on its own motion.

14 2. An application for a hearing shall clearly set forth the  
15 specific issues of fact or law in controversy and the contentions of  
16 the party applying for the hearing.

17 3. If any party is not represented by a lawyer, the  
18 administrative law judge shall define the issues to be heard.

19 4. If a hearing on the claim is ordered, the administrative law  
20 judge shall give the claimant and other interested parties ten (10)  
21 days' notice of the hearing served personally on the claimant and  
22 other parties, or by registered mail, facsimile, electronic mail or  
23 by other electronic means with receipt of confirmation. The hearing  
24 ~~shall~~ may be held in ~~Tulsa or Oklahoma County~~ any county of this

1 state, as determined by the Commission. No hearing or trial shall  
2 be continued absent extraordinary circumstances as determined by the  
3 Commission.

4 5. The award, together with the statement of the findings of  
5 fact and other matters pertinent to the issues, shall be filed with  
6 the record of the proceedings, and a copy of the award shall  
7 immediately be sent to the parties in or to counsels of record, if  
8 any.

9 C. Evidence and Construction.

10 1. a. At the hearing the claimant and the employer may each  
11 present evidence relating to the claim. Evidence may  
12 be presented by any person authorized in writing for  
13 such purpose. The evidence may include verified  
14 medical reports which shall be accorded such weight as  
15 may be warranted when considering all evidence in the  
16 case.

17 b. Any determination of the existence or extent of  
18 physical impairment shall be supported by objective  
19 and measurable physical or mental findings.

20 2. When deciding any issue, administrative law judges and the  
21 Commission shall determine, on the basis of the record as a whole,  
22 whether the party having the burden of proof on the issue has  
23 established it by a preponderance of the evidence.



1        3. Administrative law judges, the Commission, and any reviewing  
2 courts shall strictly construe the provisions of this act.

3        4. In determining whether a party has met the burden of proof  
4 on an issue, administrative law judges and the Commission shall  
5 weigh the evidence impartially and without giving the benefit of the  
6 doubt to any party.

7        D. Judgment. The judgment denying the claim or making the  
8 award shall be filed in the office of the Commission, and a copy  
9 shall be sent by registered mail, facsimile, electronic mail or by  
10 other means with receipt of confirmation to the claimant and to the  
11 employer or to their attorneys.

12        E. No compensation for disability of an injured employee shall  
13 be payable for any period beyond his or her death; provided,  
14 however, ~~an~~ if an injured employee is awarded compensation for  
15 permanent partial disability by final order and then dies, a revivor  
16 action may be brought by the injured employee's spouse, minor child  
17 or children under a disability as defined by Section 67 of this  
18 title, but limited to the number of weeks of disability awarded to  
19 the injured employee minus the number of weeks of benefits paid for  
20 the permanent partial disability to the injured worker at the time  
21 of the death of the injured employee. An award of compensation for  
22 permanent partial disability may be made after the death of the  
23 injured employee ~~for the period of disability preceding death.~~ Such  
24 revivor action may be brought only by the injured employee's spouse,

1 minor child or children under a disability as defined by Section 67  
2 of this title.

3 SECTION 30. AMENDATORY Section 78, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 78), is amended to read as  
5 follows:

6 Section 78. A. Any party feeling aggrieved by the judgment,  
7 decision, or award made by the administrative law judge may, within  
8 ten (10) days of issuance, appeal to the Workers' Compensation  
9 Commission. After hearing arguments, the Commission may reverse or  
10 modify the decision only if it determines that the decision was  
11 against the clear weight of the evidence or contrary to law. All  
12 such proceedings of the Commission shall be recorded by a court  
13 reporter, if requested by any party. Any judgment of the Commission  
14 which reverses a decision of the administrative law judge shall  
15 contain specific findings relating to the reversal.

16 B. The appellant shall pay a filing fee of One Hundred Seventy-  
17 five Dollars (\$175.00) to the Commission at the time of filing his  
18 or her appeal. The fee shall be deposited ~~in~~ to the credit of the  
19 Workers' Compensation Commission Revolving Fund.

20 C. The judgment, decision or award of the Commission shall be  
21 final and conclusive on all questions within its jurisdiction  
22 between the parties unless an action is commenced in the Supreme  
23 Court of this state to review the judgment, decision or award within  
24 twenty (20) days of being sent to the parties. Any judgment,

1 decision or award made by an administrative law judge shall be  
2 stayed until all appeal rights have been waived or exhausted. The  
3 Supreme Court may modify, reverse, remand for rehearing, or set  
4 aside the judgment or award only if it was:

- 5 1. In violation of constitutional provisions;
- 6 2. In excess of the statutory authority or jurisdiction of the  
7 Commission;
- 8 3. Made on unlawful procedure;
- 9 4. Affected by other error of law;
- 10 5. Clearly erroneous in view of the reliable, material,  
11 probative and substantial competent evidence;
- 12 6. Arbitrary or capricious;
- 13 7. Procured by fraud; or
- 14 8. Missing findings of fact on issues essential to the  
15 decision.

16 This action shall be commenced by filing with the Clerk of the  
17 Supreme Court a certified copy of the judgment, decision or award of  
18 the Commission attached to the petition by the complaint which shall  
19 specify why the judgment, decision or award is erroneous or illegal.  
20 The proceedings shall be heard in a summary manner and shall have  
21 precedence over all other civil cases in the Supreme Court, except  
22 preferred Corporation Commission appeals. The Supreme Court shall  
23 require the appealing party to file within forty-five (45) days from  
24 the date of the filing of an appeal or a judgment appealed from, a

1 transcript of the record of the proceedings before the Commission,  
2 or such later time as may be granted by the Supreme Court on  
3 application and for good cause shown. The action shall be subject  
4 to the law and practice applicable to other civil actions cognizable  
5 in the Supreme Court.

6 D. A fee of One Hundred Dollars (\$100.00) per appeal to the  
7 Supreme Court shall be paid to the Commission and deposited ~~in~~ to  
8 the credit of the Workers' Compensation Commission Revolving Fund as  
9 costs for preparing, assembling, indexing and transmitting the  
10 record for appellate review. This fee shall be paid by the party  
11 taking the appeal. If more than one party to the action files an  
12 appeal from the same judgment, decision or award, the fee shall be  
13 paid by the party whose petition in error commences the principal  
14 appeal.

15 SECTION 31. AMENDATORY Section 80, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 80), is amended to read as  
17 follows:

18 Section 80. A. A final order for permanent disability is a  
19 final adjudication of all issues pending in the claim unless  
20 reserved in the order or by operation of law. Except where a joint  
21 petition settlement has been approved, the Workers' Compensation  
22 Commission may reopen for review any compensation judgment, award,  
23 or decision. Such review ~~may be done at any time~~ based on a change  
24 of physical condition must be requested by the filing of a Request

1 for Rehearing within six (6) months of termination of the  
2 compensation period fixed in the original compensation judgment or  
3 award from the date of the last order in which monetary benefits  
4 were awarded or active medical treatment was provided, on the  
5 Commission's own motion or on the application of any party in  
6 interest, on the ground of a change in physical condition or on  
7 proof of erroneous wage rate and unless filed within such period of  
8 time shall be forever barred. A change of condition shall be proved  
9 with objective medical evidence which must be filed within thirty  
10 (30) days of the filing of the Request for Rehearing. On review,  
11 the Commission may make a judgment or award terminating, continuing,  
12 decreasing, or increasing for the future the additional compensation  
13 previously awarded and medical treatment, subject to the maximum  
14 limits provided for in this act. An order denying an application to  
15 reopen a claim shall not extend the period of time set out in this  
16 title for reopening the claim. A failure to comply with a medical  
17 treatment plan ordered by the Commission shall bar the reopening of  
18 a claim.

19 B. The review and subsequent ~~judgment or~~ award shall be made in  
20 accordance with the procedure prescribed in Sections 69 through 78  
21 of this ~~act~~ title. No review shall affect any compensation paid  
22 under a prior order, judgment or award.

1 C. The Commission may correct any clerical error in any  
2 compensation judgment or award within one (1) year from the date of  
3 its issuance.

4 D. Aging and the effects of aging on a compensable injury are  
5 not to be considered in determining whether there has been a change  
6 in physical condition. Aging or the effect of aging on a  
7 compensable injury shall not be considered in determining permanent  
8 disability under this section or any other section in this act.

9 SECTION 32. AMENDATORY Section 82, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 82), is amended to read as  
11 follows:

12 Section 82.

13 A. 1. a. Each party shall be responsible for its legal services  
14 and litigation expenses. Fees for legal services  
15 ~~rendered in a claim shall not be valid unless approved~~  
16 may be reviewed by the Workers' Compensation  
17 Commission.

18 b. An attorney representing an injured employee may only  
19 recover attorney fees up to ten percent (10%) of any  
20 temporary total disability or temporary partial  
21 disability compensation and twenty percent (20%) of  
22 any permanent partial disability, permanent total  
23 disability, or death compensation awarded to an  
24 injured employee by the Commission from a controverted

1 claim. If the employer makes a written offer to  
2 settle permanent partial disability, permanent total  
3 disability, or death compensation and that offer is  
4 rejected, the employee's attorney may not recover  
5 attorney fees in excess of thirty percent (30%) of the  
6 difference between the amount of any award and the  
7 settlement offer.

8 (1) Attorney fees may not be collected for recovery  
9 on noncontroverted claims.

10 (2) Attorney fees shall not be awarded on medical  
11 benefits or services.

12 (3) The fee for legal services rendered by an  
13 attorney representing an employee in connection  
14 with a change of physician requested by the  
15 injured employee, controverted by the employer,  
16 and awarded by the Commission, shall be Two  
17 Hundred Dollars (\$200.00).

18 (4) Attorney fees may include not more than ten  
19 percent (10%) of the value, or reasonable  
20 estimate thereof, of vocational rehabilitation  
21 services.

22 c. A "controverted claim" means that ~~there has been a~~  
23 ~~contested hearing before the Commission over the~~  
24 employer or the employer's insurance carrier has

1           controverted whether there has been a compensable  
2           injury or whether the employee is entitled to  
3           temporary total disability, temporary partial  
4           disability, permanent partial disability, permanent  
5           total disability, or death compensation. A request  
6           for a change in physician shall not trigger a  
7           controverted claim for purposes of recovering any  
8           attorney fees except the fees under division 3 of  
9           subparagraph b of this paragraph. A controverted  
10          claim shall not exist if the employee or his or her  
11          representative has withheld pertinent information in  
12          his or her possession related to the claim from the  
13          employer or has violated the provisions of Section 6  
14          of this ~~act~~ title.

15          2. ~~Any person who or entity that brings a controverted claim~~  
16 ~~against the State Treasurer, as a custodian of the Multiple Injury~~  
17 ~~Trust Fund, shall provide notice of the claim to the Commission.~~  
18 ~~Thereafter, the Commission shall direct fees for legal services be~~  
19 ~~paid from the Fund, in addition to any compensation award. The fees~~  
20 ~~shall be authorized only on the difference between the amount of~~  
21 ~~compensation controverted and the amount awarded from the Fund.~~

22          3. In any case where attorney fees are allowed by the  
23 Commission, the limitations expressed in subparagraph b of paragraph  
24 1 of this subsection shall apply.



1       4. 3. Medical providers may voluntarily contract with the  
2 attorney for the employee to recover disputed charges, and the  
3 ~~provider~~ attorney may charge a reasonable fee for the cost of  
4 collection.

5       B. An attorney representing an employee under this act may not  
6 recover fees for services except as expressly provided in this  
7 section.

8       SECTION 33.       AMENDATORY       Section 86, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 86), is amended to read as  
10 follows:

11       Section 86. A. 1. Each employer desiring to controvert an  
12 employee's right to compensation ~~shall~~ may file with the Workers'  
13 Compensation Commission on or before the fifteenth day following  
14 notice of the alleged injury or death a statement on a form  
15 prescribed by the Commission that the right to compensation is  
16 controverted and the grounds for the controversion, the names of the  
17 claimant, employer, and carrier, if any, and the date and place of  
18 the alleged injury or death.

19       2. Failure to file the statement of controversion shall not  
20 preclude the employer's ability to controvert the claim or cause it  
21 to waive any defenses. The employer can make additional defenses  
22 not included in the initial notice at any time.

23       B. If an employer is unable to obtain sufficient medical  
24 information as to the alleged injury or death within fifteen (15)

1 days following receipt of notice, although the employer has acted in  
2 good faith and with all due diligence, the employer may apply in  
3 writing for an extension of time for making payment of the first  
4 installment or controverting the claim. This written application is  
5 to be postmarked within the fifteen-day period. The Commission may,  
6 in its discretion, grant the extension and fix the additional time  
7 to be allowed. Filing of application for an extension shall not be  
8 deemed to be a controversion of the claim.

9 C. The provisions in subsection B of this section shall not  
10 apply in cases where the physician is an employee of, on retainer  
11 with, or has a written contract to provide medical services for the  
12 employer.

13 SECTION 34. AMENDATORY Section 87, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2018, Section 87), is amended to read as  
15 follows:

16 Section 87. If the employer or carrier and the injured employee  
17 desire to settle the claim, they shall file a joint petition for  
18 settlement with the Workers' Compensation Commission. After the  
19 joint petition has been filed, the Commission shall order that all  
20 workers' compensation claims between the parties covered by the  
21 joint petition have been settled. No appeal shall lie from a  
22 judgment or award denying a joint petition.

23

24

1       SECTION 35.       AMENDATORY       Section 89, Chapter 208, O.S.L.

2   2013 (85A O.S. Supp. 2018, Section 89), is amended to read as  
3 follows:

4       Section 89. If the employer has made advance payments for  
5 compensation, the employer shall be entitled to be reimbursed out of  
6 any unpaid installment or installments of compensation due. If the  
7 injured employee receives full wages during disability, he or she  
8 shall not be entitled to compensation during the period. Any wages  
9 paid by the employer, over the statutory temporary disability  
10 maximum, shall be deducted from the permanent partial disability  
11 award. Such deduction shall be made after any such applicable  
12 attorney fee and any such assessment made pursuant to Sections 45  
13 and 46 of this ~~act~~ title have been paid. Provided, however, no  
14 wages paid by the employer in excess of the statutory temporary  
15 disability maximum, pursuant to a collective bargaining agreement,  
16 shall be deducted from any benefit otherwise available under this  
17 title.

18       SECTION 36.       AMENDATORY       Section 94, Chapter 208, O.S.L.

19   2013 (85A O.S. Supp. 2018, Section 94), is amended to read as  
20 follows:

21       Section 94. An employee who is incarcerated shall not be  
22 eligible to receive ~~medical or disability~~ indemnity benefits under  
23 this ~~act~~ title. Any medical benefits available to an incarcerated  
24

1 employee shall be limited by other provisions of this title in the  
2 same manner as for all injured employees.

3 SECTION 37. AMENDATORY Section 101, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 101), is amended to read as  
5 follows:

6 Section 101. A. On or before the first day of July each year,  
7 the Workers' Compensation Commission shall prepare, make public and  
8 submit a report for the prior calendar year to the Governor, the  
9 President Pro Tempore of the Senate, the Speaker of the House of  
10 Representatives, and each member of the Legislature, containing a  
11 statement of the number of awards made and the causes of the  
12 accidents leading to the injuries for which the awards were made,  
13 total work load data of the administrative law judges, including a  
14 detailed report of the work load and judgments written by each  
15 judge, a detailed statement of the expenses of the Commission,  
16 together with any other matter which the Commission deems proper to  
17 report.

18 B. After public hearing and consultation with representatives  
19 of employers, insurance carriers, and employees, the Commission  
20 shall implement, with the assistance of the Insurance Commissioner,  
21 ~~by July 1, 2014,~~ an electronic data interchange (EDI) system that  
22 provides relevant data concerning the Oklahoma workers' compensation  
23 system and the delivery of benefits to injured workers on a  
24 timetable to be reasonably determined by the Commission.

1 C. To assist the Commission in developing and implementing the  
2 EDI system, there is hereby created the Oklahoma Workers'  
3 Compensation Electronic Data Interchange Advisory Committee. ~~Within~~  
4 ~~thirty (30) days of the effective date of this act, the~~ The Governor  
5 shall appoint five persons to serve as members of the advisory  
6 committee, one of whom shall be selected by the Governor as chair.  
7 The chair shall provide adequate notice of meetings of the advisory  
8 committee and public hearings as required by law.

9 SECTION 38. AMENDATORY Section 105, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 105), is amended to read as  
11 follows:

12 Section 105. A. No employee of the Workers' Compensation  
13 Commission shall be competent to testify on any matter concerning  
14 any information the employee has received through the performance of  
15 the employee's duties under the provisions of this act, except for  
16 employees in the Compliance Division regarding their investigations,  
17 custodians of the Commission's records, or if the Commission or any  
18 of its employees are a named party in the matter.

19 B. The commissioners and employees of the Commission shall not  
20 solicit employment for any attorney or physician nor shall they  
21 recommend or refer any claimant or employer to an attorney or  
22 physician. If any employee of the Commission makes such a  
23 solicitation, recommendation or reference, that person, upon  
24 conviction, shall be guilty of a misdemeanor punishable, for each

1 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)  
2 or by imprisonment in the county jail not to exceed one (1) year, or  
3 by both such fine and imprisonment. The Commission shall  
4 immediately terminate the employment of any employee who is guilty  
5 of such solicitation, recommendation or reference. A commissioner  
6 guilty of such solicitation, recommendation or reference shall be  
7 subject to removal from office.

8 C. No administrative law judge shall engage in any ex parte  
9 communication with any party to an action pending before the  
10 Commission or with any witness or medical provider regarding the  
11 merits of a specific matter pending before the judge for resolution.  
12 Any violation of this provision shall subject the judge to  
13 disqualification from the action or matter upon presentation of an  
14 application for disqualification.

15 SECTION 39. AMENDATORY Section 152, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 109), is amended to read as  
17 follows:

18 Section 109. A. The Workers' Compensation Commission shall  
19 establish a workers' compensation counselor or ombudsman program to  
20 assist injured workers, employers and persons claiming death  
21 benefits in obtaining benefits under this act. A special effort  
22 shall be made to equip counselors or ombudsmen with sufficient  
23 resources to assist injured workers through the system without the  
24 necessity of retaining legal representation.

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

8 C. The Commission shall ~~mail a notice to the injured worker~~  
9 ~~within ten (10) days of the filing of an Employer's First Notice of~~  
10 ~~Injury. The notice shall advise the injured worker of~~ publish on  
11 the Commission's website the availability of the services of the  
12 Commission's counselor or ombudsman program and of the availability  
13 of mediation and other forms of alternative dispute resolution to  
14 assist the injured worker. ~~The Commission shall provide additional~~  
15 ~~information as the Commission may determine necessary.~~

16 D. The Commission shall develop a program that provides for  
17 annual training for own-risk employers and claims representatives  
18 handling workers' compensation claims in Oklahoma. The training  
19 shall include information about the alternative dispute resolution  
20 program, including counselor and ombudsman programs, mediation, and  
21 other services provided by the Commission.

22 SECTION 40. AMENDATORY Section 158, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 115), is amended to read as  
24 follows:

1       Section 115. A. If the employee and employer shall reach an  
2 agreement for the full, final and complete settlement of any issue  
3 of a claim pursuant to this act, a form designated as "Joint  
4 Petition" shall be signed by both the employer and employee, or  
5 representatives thereof, and shall be approved by the Workers'  
6 Compensation Commission or an administrative law judge, and filed  
7 with the Workers' Compensation Commission. In cases in which the  
8 employee is not represented by legal counsel, the Commission or an  
9 administrative law judge shall have jurisdiction to approve a full,  
10 final and complete settlement of any issue upon the filing of an  
11 Employer's First Notice of Injury. There shall be no requirement  
12 for the filing of an Employee's First Notice of Claim for  
13 Compensation to effect such settlement in cases in which the  
14 employee is not represented by legal counsel.

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

22       C. In the absence of fraud, a Joint Petition shall be deemed  
23 binding upon the parties thereto and a final adjudication of all  
24 rights pursuant to this ~~act~~ title or the workers' compensation law



1 in effect at the time of the injury or final order of the Workers'  
2 Compensation ~~Court~~ Commission. An official record shall be made by  
3 an official Commission reporter of the testimony taken to effect the  
4 Joint Petition.

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

15 E. If an employee has not filed a claim for compensation and  
16 the employer and the injured employee reach a final agreement as to  
17 the facts with relation to an injury and the resulting disability  
18 for which compensation is claimed under the Administrative Workers'  
19 Compensation Act, a memorandum of such agreement in a form  
20 prescribed by the Commission shall be filed with the Commission by  
21 the employer.

22 SECTION 41. AMENDATORY Section 161, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 118), is amended to read as  
24 follows:

1       Section 118. A. A filing fee of One Hundred Forty Dollars  
2 (\$140.00) per case, including any Joint Petition authorized by this  
3 ~~act~~ title, shall be collected by the Workers' Compensation  
4 Commission and assessed as costs to be paid by the party against  
5 whom any award becomes final, to be deposited as follows:

6       1. One Hundred Five Dollars (\$105.00) to the credit of the  
7 Workers' Compensation Commission Revolving Fund ~~created by this act~~;

8       2. Ten Dollars (\$10.00) to the credit of the Attorney General's  
9 Workers' Compensation Fraud Unit Revolving Fund created by Section  
10 19.2 of Title 74 of the Oklahoma Statutes; and

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

18       B. A fee of One Hundred Thirty Dollars (\$130.00) per action to  
19 reopen any case pursuant to Section 32 of this ~~act~~ title shall be  
20 collected by the Commission and assessed as costs to be paid by the  
21 party that reopens the case. The fee collected pursuant to this  
22 subsection shall be deposited to the credit of the Workers'  
23 Compensation Commission Revolving Fund for purposes of implementing  
24 the provisions of this ~~act~~ title, including strengthening and

1 providing additional funding for the Attorney General's Workers'  
2 Compensation Fraud Unit, providing counseling services pursuant to  
3 the workers' compensation counselor or ombudsman program and safety  
4 in the workplace.

5 SECTION 42. AMENDATORY Section 162, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 119), is amended to read as  
7 follows:

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

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

16 SECTION 43. AMENDATORY Section 163, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 120), is amended to read as  
18 follows:

19 Section 120. A. Except as otherwise provided by state or  
20 federal law and subject to the provisions of this section, an  
21 employer may inquire about previous workers' compensation claims  
22 paid to an employee while the employee was employed by a previous  
23 employer. If the employee fails to answer truthfully about any  
24 previous permanent partial disability awards made pursuant to

workers' compensation claims, the employee shall be subject to discharge by the employer.

B. 1. All requests made to the Workers' Compensation Commission for information on ~~prior~~ workers' compensation claims involving a worker, including written inquiries about prior claims and requests to access a worker's compensation claim file, must be in writing, on a form prescribed by the Commission, and accompanied by a fee of One Dollar (\$1.00) per search request, not to exceed One Dollar (\$1.00) per claims record of a particular worker. The fee shall be deposited to the credit of the Workers' Compensation Commission Revolving Fund. The form shall require identification of the person requesting the information, and the person for whom a search is being made if different from the requester. The form must contain an affidavit signed by the requester under penalty of perjury that the information sought is not requested for a purpose in violation of state or federal law. The form must be used by all repositories of archived Court claim files. All request forms shall be maintained by the Commission as a public record, together with a record of a worker's written authorization permitting a search indexed by the worker's Social Security number as required by Section 3113 of Title 74 of the Oklahoma Statutes. The request forms and authorizations shall be indexed alphabetically by the last name of the worker.

2. This subsection shall not apply:

- a. to requests for claims information made by a public officer or by a public employee in the performance of his or her duties on behalf of a governmental entity or as may be allowed by law,
- b. to requests for claims information made by an insurer, self-insured employer, third-party claims administrator, or a legal representative thereof, when necessary to process or defend a workers' compensation claim,
- c. when a worker or the worker's representative requests review of the worker's claims information,
- d. when the disclosure is made for educational or research purposes and in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim,
- e. to requests for claims information made by a health care or rehabilitation provider or the provider's legal representative when necessary to process payment of health care or rehabilitation services rendered to a worker, and
- f. to requests for claims information made by an employer or personnel service company, including but not limited to an individual or entity, where the worker executes a written authorization permitting the search

1 and designating the employer or personnel service  
2 company as the worker's representative for that  
3 purpose; however, nothing in this subparagraph shall  
4 relieve the employer or personnel service company from  
5 complying with the requirements of utilizing the form  
6 set forth in paragraph 1 of this subsection.

7 SECTION 44. AMENDATORY Section 164, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 121), is amended to read as  
9 follows:

10 Section 121. A. There is hereby created an Advisory Council on  
11 Workers' Compensation.

12 B. The voting membership of the Advisory Council shall consist  
13 of nine (9) members. Any member serving on the effective date of  
14 this section shall serve the remainder of his or her term. The  
15 chair of the Workers' Compensation Commission shall be an ex officio  
16 nonvoting member.

17 1. The Governor shall appoint three members representing  
18 employers in this state, one of whom shall be from a list of  
19 nominees provided by the predominant statewide broad-based business  
20 organization.

21 2. The Speaker of the House of Representatives shall appoint  
22 three members representing employees in this state, one of whom  
23 shall be from a list of nominees provided by the most representative  
24 labor organization in the state.

1        3. The President Pro Tempore of the Senate shall appoint three  
2 members, two who are attorneys representing the legal profession in  
3 this state, one of whom shall be an attorney who practices primarily  
4 in the area of defense of workers' compensation claims, and one of  
5 whom shall be an attorney who primarily represents claimants, and a  
6 medical doctor or doctor of osteopathy actively engaged in the  
7 treatment of injured workers.

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

9        1. The term of office for three positions, one each appointed  
10 by the Governor, the President Pro Tempore of the Senate and the  
11 Speaker of the House of Representatives shall expire on January 1,  
12 2015;

13        2. The term of office for three positions, one each appointed  
14 by the Governor, the President Pro Tempore of the Senate and the  
15 Speaker of the House of Representatives shall expire on January 1,  
16 2016; and

17        3. The term of office for three positions, one each appointed  
18 by the Governor, the President Pro Tempore of the Senate and the  
19 Speaker of the House of Representatives shall expire on January 1,  
20 2017.

21        D. Thereafter, successors in office shall be appointed for a  
22 three-year term. Members shall be eligible to succeed themselves in  
23 office.  
24

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

3 F. The chair and the vice-chair of the Advisory Council shall  
4 be appointed by the Governor.

5 G. Members shall receive their traveling and other necessary  
6 expenses incurred in the performance of their duties as provided in  
7 the State Travel Reimbursement Act.

8 H. Meetings of the Advisory Council shall be quarterly or as  
9 called by the chair or upon petition by a majority of the voting  
10 members. The presence of five voting members constitutes a quorum.  
11 No action shall be taken by the Advisory Council without the  
12 affirmative vote of at least five members.

13 I. The Commission shall provide office supplies and personnel  
14 of the Commission to carry out any of the duties that have been  
15 entrusted to the Advisory Council.

16 J. The Advisory Council shall analyze and review the workers'  
17 compensation system, the reports of the Commission, and trends in  
18 the field of workers' compensation. The Advisory Council may  
19 recommend improvements and proper responses to developing trends.  
20 The Advisory Council shall report its findings annually to the  
21 Governor, the Chief Justice of the Supreme Court, the President Pro  
22 Tempore of the Senate, and the Speaker of the House of  
23 Representatives.  
24



1 K. In addition to other duties required by this section, the  
2 Advisory Council shall consult with the ~~Court~~ Commission regarding  
3 oversight of independent medical examiners as provided in Section 45  
4 of this ~~act~~ title.

5 ~~L. The Advisory Council shall review the Oklahoma Treatment~~  
6 ~~Guidelines as provided in the Workers' Compensation Code, and report~~  
7 ~~the findings of such review to the Commission as provided in this~~  
8 ~~act.~~

9 SECTION 45. AMENDATORY Section 165, Chapter 208, O.S.L.  
10 2013, as amended by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.  
11 Supp. 2018, Section 122), is amended to read as follows:

12 Section 122. A. The Workers' Compensation Commission Revolving  
13 Fund established by Section ~~2~~ 28.1 of this ~~act~~ title shall be used  
14 for the costs of administering this act and for other purposes as  
15 authorized by law.

16 B. For the purpose of providing funds for the Workers'  
17 Compensation Commission Revolving Fund established by Section 28.1  
18 of this title, ~~for the Workers' Compensation Administrative Fund~~  
19 ~~created in Section 5 of this act~~, for the Multiple Injury Trust Fund  
20 ~~created in~~ established by Section 28 of this title, and to fund  
21 other provisions within this title, the following tax rates shall  
22 apply:

23 1. Each mutual or interinsurance association, stock company,  
24 CompSource Oklahoma or other insurance carrier writing workers'

1 compensation insurance in this state shall pay to the Oklahoma Tax  
2 Commission an assessment at a rate of one percent (1%) of all gross  
3 direct premiums written during each quarter of the calendar year for  
4 workers' compensation insurance on risks located in this state after  
5 deducting from such gross direct premiums, return premiums,  
6 unabsorbed portions of any deposit premiums, policy dividends,  
7 safety refunds, savings and other similar returns paid or credited  
8 to policyholders. Such payments to the Tax Commission shall be made  
9 not later than the fifteenth day of the month following the close of  
10 each quarter of the calendar year in which such gross direct premium  
11 is collected or collectible. Contributions made by insurance  
12 carriers and CompSource Oklahoma, under the provisions of this  
13 section, shall be considered for the purpose of computing workers'  
14 compensation rates; and

15       2. When an employer is authorized to become a self-insurer, the  
16 Commission shall so notify the Tax Commission, giving the effective  
17 date of such authorization. The Tax Commission shall then assess  
18 and collect from the employers carrying their own risk an assessment  
19 at the rate of two percent (2%) of the total compensation for  
20 permanent total disability awards, permanent partial disability  
21 awards and death benefits paid out during each quarter of the  
22 calendar year by the employers. Such assessment shall be payable by  
23 the employers and collected by the Tax Commission according to the  
24

1 provisions of this section regarding payment and collection of the  
2 assessment created in paragraph 1 of this subsection.

3 C. It shall be the duty of the Tax Commission to collect the  
4 payments provided for in this title. The Tax Commission is hereby  
5 authorized to bring an action for the recovery of any delinquent or  
6 unpaid payments required in this section. The Tax Commission may  
7 also enforce payments by proceeding in accordance with the  
8 provisions of Section 98 of this title.

9 D. The Tax Commission shall pay monthly to the State Treasurer  
10 to the credit of the Multiple Injury Trust Fund all monies collected  
11 under the provisions of this section less the annual amounts which  
12 shall be apportioned by the Oklahoma Tax Commission as follows:

13 1. To be funded first, Five Million Dollars (\$5,000,000.00)  
14 shall be payable in equal monthly installments to the credit of the  
15 Workers' Compensation Commission Revolving Fund established in  
16 Section ~~2~~ 28.1 of this ~~act~~ title for the fiscal year ending ~~June 30,~~  
17 ~~2016,~~ and Three Million Dollars (\$3,000,000.00) for the fiscal year  
18 ~~ending June 30, 2017~~ 2020, and for all subsequent years to be used  
19 to implement the provisions of this title; and

20 2. ~~Four Million Dollars (\$4,000,000.00)~~ Two Million Five  
21 Hundred Thousand Dollars (\$2,500,000.00) shall be payable in equal  
22 monthly installments to the credit of the Workers' Compensation  
23 Administrative Fund established in Section ~~5~~ 401.1 of this ~~act~~ title  
24 for the fiscal year ending ~~June 30, 2016,~~ ~~Three Million Five Hundred~~

1 ~~Thousand Dollars (\$3,500,000.00) for the fiscal year ending June 30,~~  
2 ~~2017, Three Million Five Hundred Thousand Dollars (\$3,500,000.00)~~  
3 ~~for the fiscal year ending June 30, 2018, Three Million Dollars~~  
4 ~~(\$3,000,000.00) for the fiscal year ending June 30, 2019, and Two~~  
5 ~~Million Five Hundred Thousand Dollars (\$2,500,000.00) for the fiscal~~  
6 ~~year ending June 30, 2020. Monies deposited in the Workers'~~  
7 ~~Compensation Administrative Fund shall be used by the Workers'~~  
8 ~~Compensation Court of Existing Claims to implement provisions~~  
9 ~~provided for in this title.~~

10 E. The refund provisions of Sections 227 through 229 of Title  
11 68 of the Oklahoma Statutes shall be applicable to any payments made  
12 pursuant to this section.

13 SECTION 46. AMENDATORY Section 167, Chapter 208, O.S.L.  
14 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.  
15 Supp. 2018, Section 124), is amended to read as follows:

16 Section 124. A. 1. All unexpended funds, assets, property,  
17 records, ~~personnel~~ and any outstanding contractual financial  
18 obligations and encumbrances of the Workers' Compensation Court  
19 ~~before February 1, 2014, are hereby~~ shall be deemed transferred to  
20 the Workers' Compensation Commission at the close of business on  
21 June 30, 2020. ~~The~~ All remaining personnel transferred of the  
22 Workers' Compensation Court of Existing Claims shall, upon the  
23 opening of business on July 1, 2020, become nonclassified employees  
24 of the Workers' Compensation Commission. ~~retain~~ The transferred

1 employees shall be treated as new employees of the Workers'  
2 Compensation Commission for the purpose of the transfer of leave,  
3 sick and annual time earned and any retirement and longevity  
4 benefits which have accrued during their employment with the state.  
5 ~~The~~ Such transfers shall be subject to the laws of this state and  
6 the policies of the Workers' Compensation and the salaries of  
7 employees who are transferred shall ~~not be reduced as a direct and~~  
8 ~~immediate result of the transfer~~ be subject to increase or decrease  
9 by the Commission. ~~There shall be no reduction in force as a result~~  
10 ~~of the transfer~~ The Commission shall, at its discretion, be  
11 authorized to implement a reduction in force of transferred  
12 employees or offer voluntary buyouts to any of the Commission's  
13 employees or the transferred employees from funds transferred  
14 pursuant to Section 401.1 of this title.

15       2. Any unexpended funds, including interest thereon, held by  
16 the State Treasurer in an interest-bearing division special account  
17 maintained by the Workers' Compensation Court before February 1,  
18 2014, from which a self-insured employer's workers' compensation  
19 obligations are paid following nonpayment by the self-insured  
20 employer for any reason, including insolvency, shall be transferred  
21 to the Workers' Compensation Commission. Such funds shall be  
22 expended by the Commission only for the purpose of paying workers'  
23 compensation obligations of the self-insured employer, and costs  
24

1 related to the administration of such obligations, to the extent of  
2 the availability of such funds.

3 B. 1. All unexpended funds, assets, property, and records and  
4 any outstanding financial obligations and encumbrances of the  
5 Workers' Compensation Self-insurance Guaranty Fund Board before  
6 February 1, 2014, are hereby transferred to the Self-insurance  
7 Guaranty Fund Board created ~~in the Administrative Workers'~~  
8 ~~Compensation Act~~ by this title.

9 2. Any unexpended funds, including interest thereon, held by  
10 the State Treasurer in the Workers' Compensation Self-insurance  
11 Guaranty Fund before February 1, 2014, shall be transferred to the  
12 Self-insurance Guaranty Fund Board created by the Administrative  
13 Workers' Compensation Act. Such funds shall be expended by the  
14 Board only as authorized in the Administrative Workers' Compensation  
15 Act.

16 3. Any claim existing or action or proceeding pending by,  
17 against or before the Workers' Compensation Self-insurance Guaranty  
18 Fund Board when the Board ceased existence may be continued as if  
19 the Self-insurance Guaranty Fund Board was not created, or the Self-  
20 insurance Guaranty Fund Board may be substituted in the matter. The  
21 Self-insurance Guaranty Fund Board shall be responsible and liable  
22 for all liabilities and obligations of the Workers' Compensation  
23 Self-insurance Guaranty Fund Board.

1 C. All property and records of the Physician Advisory Committee  
2 before February 1, 2014, are hereby transferred to the Physician  
3 Advisory Committee created in the Administrative Workers'  
4 Compensation Act.

5 D. All property and records of the Advisory Council on Workers'  
6 Compensation before February 1, 2014, are hereby transferred to the  
7 Advisory Council on Workers' Compensation created in the  
8 Administrative Workers' Compensation Act.

9 E. All unexpended funds, assets, property, records, personnel  
10 and any outstanding financial obligations and encumbrances of the  
11 Multiple Injury Trust Fund before February 1, 2014, are hereby  
12 transferred to the Multiple Injury Trust Fund created in the  
13 Administrative Workers' Compensation Act. The personnel transferred  
14 shall retain leave, sick and annual time earned and any retirement  
15 and longevity benefits which have accrued during their employment  
16 with the state. The salaries of employees who are transferred shall  
17 not be reduced as a direct and immediate result of the transfer.  
18 There shall be no reduction-in-force as a result of the transfer.

19 F. The Director of the Office of Management and Enterprise  
20 Services is hereby directed to coordinate the transfer of funds,  
21 allotments, purchase orders, outstanding financial obligations or  
22 encumbrances provided for in subsections A and E of this section,  
23 and the transfer of funds, outstanding financial obligations or  
24 encumbrances provided for in subsection B of this section.

SECTION 47. AMENDATORY Section 121, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2018, Section 300), is amended to read as follows:

Section 300. Sections ~~121~~ 300 through ~~149~~ 328 of this ~~act~~ title shall be known and may be cited as the "Workers' Compensation Arbitration Act".

SECTION 48. AMENDATORY Section 125, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2018, Section 304), is amended to read as follows:

Section 304. A. Except as otherwise provided in subsections B and C of this section and in the laws of this state outside of this ~~act~~ title, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this act to the extent permitted by law.

B. Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

1. Waive or agree to vary the effect of the requirements of subsection A of Section ~~126~~ 305, subsection A of Section ~~127~~ 306, Section ~~128~~ 307, subsection A or B of Section ~~138~~ 317, Section ~~147~~ 326 or Section ~~149~~ 328 of this ~~act~~ title;

2. Agree to unreasonably restrict the right to notice of the initiation of an arbitration proceeding under Section ~~130~~ 309 of this ~~act~~ title;



1        3. Agree to unreasonably restrict the right to disclosure of  
2 any facts by an arbitrator under Section ~~133~~ 312 of this ~~act~~ title;

3        4. Waive the right of a party to an agreement to arbitrate to  
4 be represented by a lawyer at any proceeding or hearing under  
5 Section ~~137~~ 316 of this ~~act~~ title; or

6        5. Agree to conduct arbitration proceedings outside of this  
7 state.

8        C. A party to an agreement to arbitrate or to an arbitration  
9 proceeding may not waive, or the parties may not vary the effect of,  
10 the requirements of this section or subsection A or C of Section ~~124~~  
11 304, Sections ~~128, 135 and 139~~ 307, 314 and 318, subsection D or E  
12 of Section ~~141~~ 320, Sections ~~143, 144 and 145~~ 322, 323 and 324, or  
13 subsection A or B of Section ~~146~~ 325 of this ~~act~~ title.

14        SECTION 49.        AMENDATORY        Section 126, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2018, Section 305), is amended to read as  
16 follows:

17        Section 305. A. Except as otherwise provided in Section ~~150~~  
18 107 of this ~~act~~ title, an application for judicial relief under this  
19 act shall be made by application and motion to the Workers'  
20 Compensation Commission and heard in the manner provided by law or  
21 rule of the Commission for making and hearing motions.

22        B. Unless a civil action involving the agreement to arbitrate  
23 is pending, notice of an initial application and motion to the  
24 Commission under this act shall be served in the manner provided by

1 law for the service of a summons in the filing of a civil action.  
2 Otherwise, notice of the motion shall be given in the manner  
3 provided by law or rule of court for serving motions in pending  
4 cases.

5 SECTION 50. AMENDATORY Section 128, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 307), is amended to read as  
7 follows:

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

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

14 2. If the refusing party opposes the motion, the Commission  
15 shall proceed summarily to decide the issue and order the parties to  
16 arbitrate unless it finds that there is no enforceable agreement to  
17 arbitrate. The Commission may also assess costs against the party  
18 opposing the motion if it concludes the opposition was not brought  
19 in good faith to be deposited in the Workers' Compensation  
20 Commission Revolving Fund created by the Administrative Workers'  
21 Compensation Act in Section 28.1 of this title.

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

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

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

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

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

19 SECTION 51. AMENDATORY Section 133, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 312), is amended to read as  
21 follows:

22 Section 312. A. Before accepting appointment, an individual  
23 who is requested to serve as an arbitrator, after making a  
24 reasonable inquiry, shall disclose to the parties to the arbitration

1 agreement, the parties to the arbitration proceeding, and any other  
2 arbitrators any known facts that a reasonable person would consider  
3 likely to affect the impartiality of the arbitrator in the  
4 arbitration proceeding, including but not limited to:

5 1. A financial or personal interest in the outcome of the  
6 arbitration proceeding; and

7 2. An existing or past relationship with any of the parties to  
8 the agreement to arbitrate or the arbitration proceeding, their  
9 counsel or representatives, a witness, or another arbitrator.

10 B. An arbitrator has a continuing obligation to disclose to the  
11 parties to the arbitration agreement, the arbitration proceeding,  
12 and to any other arbitrators any facts that the arbitrator learns  
13 after accepting appointment which a reasonable person would consider  
14 likely to affect the impartiality of the arbitrator.

15 C. If an arbitrator discloses a conflict under subsection A or  
16 B of this section, any party to the arbitration agreement or the  
17 arbitration proceeding may have the arbitrator removed by filing a  
18 notice of conflict with the Workers' Compensation Commission. If a  
19 notice of conflict is not filed within ten (10) days of disclosure  
20 of the conflict, the parties waive their rights to have any order or  
21 award entered vacated under Section ~~144~~ 323 of this ~~act~~ title.

22 SECTION 52. AMENDATORY Section 134, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 313), is amended to read as  
24 follows:

1       Section 313. If there is more than one arbitrator, the powers  
2 of an arbitrator shall be exercised by a majority of the  
3 arbitrators, but all of them shall conduct the hearing under Section  
4 ~~136~~ 315 of this ~~act~~ title.

5       SECTION 53.       AMENDATORY       Section 135, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 314), is amended to read as  
7 follows:

8       Section 314. A. Arbitrators and arbitration organizations  
9 providing services under this act are immune from civil liability to  
10 the same extent as a judge of a court of this state acting in a  
11 judicial capacity.

12       B. The immunity afforded by this section supplements any  
13 immunity under other law.

14       C. The failure of an arbitrator to make a disclosure required  
15 by Section ~~133~~ 312 of this ~~act~~ title shall not cause any loss of  
16 immunity under this section.

17       D. An arbitrator or representative of an arbitration  
18 organization is not competent to testify in a judicial,  
19 administrative, or similar proceeding and may not be required to  
20 produce records as to any statement, conduct, decision, or ruling  
21 occurring during the arbitration proceeding, to the same extent as a  
22 judge of a court of this state acting in a judicial capacity. This  
23 subsection shall not apply to:  
24

1        1. The extent necessary to determine the claim of an  
2 arbitrator, arbitration organization, or representative of the  
3 arbitration organization against a party to the arbitration  
4 proceeding; or

5        2. A hearing on an application and motion to vacate an award  
6 under ~~paragraphs~~ paragraph 1 or 2 of subsection A of Section ~~144~~ 323  
7 of this ~~act~~ title if the movant establishes prima facie that a  
8 ground for vacating the award exists.

9        E. If a person commences a civil action against an arbitrator,  
10 arbitration organization, or representative of an arbitration  
11 organization arising from the services of the arbitrator,  
12 organization, or representative or if a person seeks to compel an  
13 arbitrator or a representative of an arbitration organization to  
14 testify or produce records in violation of subsection D of this  
15 section, and the court decides that the arbitrator, arbitration  
16 organization, or representative of an arbitration organization is  
17 immune from civil liability or that the arbitrator or representative  
18 of the organization is not competent to testify, the court shall  
19 award to the arbitrator, organization, or representative reasonable  
20 attorney fees and other reasonable expenses of litigation.

21        SECTION 54.        AMENDATORY        Section 137, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 316), is amended to read as  
23 follows:  
24

1       Section 316. A. A party to an arbitration proceeding may be  
2 represented by a lawyer.

3       B. Each party shall be responsible for payment of his or her  
4 legal fees incurred during arbitration, except as provided for in  
5 Section ~~142~~ 321 of this ~~act~~ title.

6       C. The employee's attorney may not recover legal fees in excess  
7 of the limits described in Section 82 of this ~~act~~ title.

8       SECTION 55.       AMENDATORY       Section 139, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 318), is amended to read as  
10 follows:

11       Section 318. If an arbitrator makes a pre-award ruling in favor  
12 of a party, the party may request the arbitrator to incorporate the  
13 ruling into an award under Section ~~140~~ 319 of this ~~act~~ title. A  
14 prevailing party may make an application and motion to the  
15 Commission for an expedited judgment to confirm the award under  
16 Section ~~143~~ 322 of this ~~act~~ title, in which case the Workers'  
17 Compensation Commission shall summarily decide the motion. The  
18 Commission shall issue a judgment to confirm the award unless the  
19 ~~court~~ Commission vacates, modifies, or corrects the award under  
20 Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title.

21       SECTION 56.       AMENDATORY       Section 141, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 320), is amended to read as  
23 follows:  
24

1       Section 320. A. On motion by a party to an arbitration  
2 proceeding, the arbitrator may modify or correct an award:

3       1. On a ground stated in paragraph 1 or 3 of subsection A of  
4 Section ~~145~~ 324 of this ~~act~~ title;

5       2. Because the arbitrator has not made a final and definite  
6 award upon a claim submitted by the parties to the arbitration  
7 proceeding; or

8       3. To clarify the award.

9       B. A motion under subsection A of this section shall be made  
10 and notice given to all parties within twenty (20) days after the  
11 award is issued to the parties.

12       C. A party to the arbitration proceeding shall give notice of  
13 any objection to the motion within ten (10) days after receipt of  
14 the motion.

15       D. If a motion to the Workers' Compensation Commission is  
16 pending under Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title, the  
17 Commission may submit the claim to the arbitrator to consider  
18 whether to modify or correct the award:

19       1. On a ground stated in paragraph 1 or 3 of subsection A of  
20 Section ~~145~~ 324 of this ~~act~~ title;

21       2. Because the arbitrator has not made a final and definite  
22 award upon a claim submitted by the parties to the arbitration  
23 proceeding; or

24       3. To clarify the award.



1 E. An award modified or corrected under this section is subject  
2 to Sections ~~143, 144 and 145~~ 322, 323 and 324 of this ~~act~~ title.

3 SECTION 57. AMENDATORY Section 142, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 321), is amended to read as  
5 follows:

6 Section 321. A. An arbitrator may award benefits set forth in  
7 Sections 45, 46, 47 and 51 of this ~~act~~ title.

8 B. An arbitrator may award reasonable attorney fees and other  
9 reasonable expenses of arbitration if the arbitrator finds that a  
10 party was not acting in good faith throughout the arbitration.

11 C. As to all remedies other than those authorized by  
12 subsections A and B of this section, an arbitrator may order such  
13 remedies as the arbitrator considers just and appropriate under the  
14 circumstances of the arbitration proceeding. The fact that such a  
15 remedy could not or would not be granted by the Workers'  
16 Compensation Commission is not a ground for refusing to confirm an  
17 award under Section ~~143~~ 322 of this ~~act~~ title or for vacating an  
18 award under Section ~~144~~ 323 of this ~~act~~ title.

19 D. An arbitrator's expenses and fees, together with other  
20 expenses, shall be paid by the employer.

21 E. If an arbitrator awards relief under subsection A of this  
22 section, the arbitrator shall specify in the award the basis in fact  
23 justifying and the basis in law authorizing the award.  
24

SECTION 58. AMENDATORY Section 143, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 322), is amended to read as follows:

Section 322. After a party to an arbitration proceeding receives notice of an award, the party may make an application and motion to the Workers' Compensation Commission for a judgment confirming the award at which time the Commission shall issue a confirming judgment unless the award is modified or corrected under Section ~~141 or 145~~ 320 or 324 of this ~~act~~ title or is vacated under Section ~~144~~ 323 of this ~~act~~ title.

SECTION 59. AMENDATORY Section 144, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 323), is amended to read as follows:

Section 323. A. On an application and motion to the court by a party to an arbitration proceeding, the Workers' Compensation Commission shall vacate an award made in the arbitration proceeding if:

1. The award was procured by corruption, fraud, or other undue means;

2. There was:

- a. evident partiality by an arbitrator appointed as a neutral arbitrator,
- b. corruption by an arbitrator, or

1           c.    misconduct by an arbitrator prejudicing the rights of  
2                   a party to the arbitration proceeding;

3           3.    An arbitrator refused to postpone the hearing upon showing  
4 of sufficient cause for postponement, refused to consider evidence  
5 material to the controversy, or otherwise conducted the hearing  
6 contrary to Section ~~136~~ 315 of this ~~act~~ title, so as to prejudice  
7 substantially the rights of a party to the arbitration proceeding;

8           4.    An arbitrator exceeded his or her powers under this act;

9           5.    The arbitration was conducted without proper notice of the  
10 initiation of an arbitration as required in Section ~~130~~ 309 of this  
11 ~~act~~ title so as to prejudice substantially the rights of a party to  
12 the arbitration proceeding; or

13          6.    It is determined that an arbitrator did not disclose a  
14 conflict under Section ~~133~~ 312 of this ~~act~~ title.

15          B.    An application and motion under this section shall be filed  
16 within thirty (30) days after the movant receives notice of the  
17 award or within thirty (30) days after the movant receives notice of  
18 a modified or corrected award, unless the movant alleges that the  
19 award was procured by corruption, fraud, or other undue means, in  
20 which case the motion shall be made within ninety (90) days after  
21 the ground is known or by the exercise of reasonable care would have  
22 been known by the movant.

23          C.    If the Commission vacates an award it may order a rehearing.  
24 If the award is vacated on a ground stated in paragraph 1, 2 or 6 of

1 subsection A of this section, the rehearing shall be before a new  
2 arbitrator. If the award is vacated on a ground stated in paragraph  
3 3, 4 or 5 of subsection A of this section, the rehearing may be  
4 before the arbitrator who made the award or the arbitrator's  
5 successor. The arbitrator shall render the decision in the  
6 rehearing within the same time as that provided in subsection B of  
7 Section ~~140~~ 319 of this ~~act~~ title for an award.

8 D. If the Commission denies a motion to vacate an award, it  
9 shall confirm the award unless a motion to modify or correct the  
10 award is pending.

11 SECTION 60. AMENDATORY Section 148, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 327), is amended to read as  
13 follows:

14 Section 327. ~~A.~~ A party may appeal the following actions to  
15 the district court as provided in Section ~~149~~ 328 of this ~~act~~ title:

- 16 1. An order denying a motion to compel arbitration;
- 17 2. An order granting a motion to stay arbitration;
- 18 3. An order confirming or denying confirmation of an award;
- 19 4. An order modifying or correcting an award;
- 20 5. An order vacating an award without directing a rehearing; or
- 21 6. A final judgment entered under the Workers' Compensation  
22 Arbitration Act.

SECTION 61. AMENDATORY Section 169, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2018, Section 400), is amended to read as follows:

Section 400. A. The Workers' Compensation Court shall be renamed the Workers' Compensation Court of Existing Claims for the purpose of hearing disputes relating to claims that arise before February 1, 2014. The Court shall consist of the existing judges for the remainder of his or her term. Each judge of the Court shall continue to serve as the appointment to a designated numbered position on the Court. The positions shall be numbered one through ten. The terms of the judges by position number shall expire on the following dates:

Position 1 shall expire 7-1-14.

Position 2 shall expire 7-1-14.

Position 3 shall expire 7-1-14.

Position 4 shall expire 7-1-20.

Position 5 shall expire 7-1-20.

Position 6 shall expire 7-1-16.

Position 7 shall expire 7-1-16.

Position 8 shall expire 7-1-20.

Position 9 shall expire 7-1-20.

Position 10 shall expire 7-1-14.

Provided, judges who are serving unexpired terms on the Workers' Compensation Court on the effective date of this section shall serve

1 on the Court created by this section until their respective terms  
2 expire as provided in this act. Thereafter, each position shall be  
3 dissolved. After a judge serves this term, such judge shall be  
4 eligible to reapply for an administrative law judge with the  
5 Workers' Compensation Commission.

6 B. When a vacancy on the Court occurs or is certain to occur,  
7 the Workers' Compensation Commission shall assign administrative law  
8 judges from the Commission to assist in the duties of the Workers'  
9 Compensation Court of Existing Claims.

10 ~~B.~~ C. A judge may be removed for cause by the Court on the  
11 Judiciary prior to the expiration of his or her term.

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

16 E. 1. The Governor shall appoint from among the judges of the  
17 Court of Existing Claims a presiding judge who shall serve for a  
18 two-year term ending June 30, 2020. The presiding judge serving on  
19 the effective date of this act shall serve the remainder of the  
20 term. If a presiding judge resigns the office during the term, the  
21 Governor shall appoint a new presiding judge to serve the remainder  
22 of the term.

23 2. The presiding judge shall:  
24

- a. preside at all meetings of the judges of the Court as may be necessary,
- b. perform supervisory duties as the needs of the Court may require,
- c. preside at all hearings before the Court en banc and at all conferences at which appeals and other matters are considered,
- d. make all procedural rulings for the Court except those to be made in the course of hearings before a single judge,
- e. assign or direct the assignment of cases to the several judges for hearing at locations the presiding judge shall designate,
- f. direct and supervise the work of all Court employees,
- g. provide oversight for all administrative affairs of the Court including, but not limited to, personnel, budget and financial management,
- h. perform other duties as may be necessary to operate the Court in an efficient manner.

3. For any period during which the presiding judge is disqualified, disabled or absent, the presiding judge may designate another judge to act as presiding judge.

F. The chief administrative officer of the Court of Existing Claims shall be the Administrator of the Court of Existing Claims,

1 who shall be subject to the general supervision of the presiding  
2 judge of the Court, subject to the general administrative authority  
3 of the Chief Justice of the Supreme Court. The Administrator shall  
4 be appointed by the Governor with the advice and consent of the  
5 Senate. The Administrator shall serve a term at the pleasure of the  
6 Governor until June 30, 2020. The salary of the Administrator shall  
7 be ninety percent (90%) of the authorized salary of a judge of the  
8 Court.

9 ~~D.~~ G. The Court shall operate by the rules adopted by the  
10 Workers' Compensation Court prior to the effective date of this act.

11 ~~E.~~ H. The Court is hereby designated and confirmed as a court  
12 of record, with respect to any matter within the limits of its  
13 jurisdiction, and within such limits the judges thereof shall  
14 possess the powers and prerogatives of the judges of the other  
15 courts of record of this state, including the power to punish for  
16 contempt those persons who disobey a subpoena, or refuse to be sworn  
17 or to answer as a witness, when lawfully ordered to do so.

18 ~~F.~~ I. The principal office of the Court shall be situated in  
19 the City of Oklahoma City in quarters assigned by the Office of  
20 Management and Enterprise Services. The Court may hold hearings in  
21 any city of this state.

22 ~~G.~~ J. All county commissioners and presiding district judges of  
23 this state shall make quarters available for the conducting of  
24 hearings by a judge of the Court upon request by the Court.



1       ~~H.~~ K. Judges of the Workers' Compensation Court of Existing  
2 Claims may punish for direct contempt pursuant to Sections 565,  
3 565.1 and 566 of Title 21 of the Oklahoma Statutes.

4       ~~H.~~ L. The Court shall be vested with jurisdiction over all  
5 claims filed pursuant to the Workers' Compensation Code or previous  
6 statute in effect on the date of an injury that occurred before  
7 February 1, 2014. All claims so filed shall be heard by the judge  
8 sitting without a jury. The Court shall have full power and  
9 authority to determine all questions in relation to payment of  
10 claims for compensation under the provisions of the Workers'  
11 Compensation Code or previous statute in effect on the date of an  
12 injury that occurred before February 1, 2014. The Court, upon  
13 application of either party, shall order a hearing. Upon a hearing,  
14 either party may present evidence and be represented by counsel.  
15 The decision of the Court shall be final as to all questions of fact  
16 and law; provided, the decision of the Court may be appealed to the  
17 ~~Commission~~ Court en banc or the Supreme Court as provided by the  
18 Workers' Compensation Code or previous statute in effect on the date  
19 of an injury that occurred before February 1, 2014. In the event  
20 that an insufficient number of active judges are available to  
21 comprise the three-judge en banc panel, retired or former judges of  
22 the district court, Workers' Compensation Court or Workers'  
23 Compensation Court of Existing Claims may be designated by the Chief  
24 Justice of the Supreme Court as eligible to serve on such panel.

1 The decision of the Court shall be issued within ~~sixty (60)~~ thirty  
2 (30) days following the submission of the case by the parties. The  
3 power and jurisdiction of the Court over each case shall be  
4 continuing and it may, from time to time, make such modifications or  
5 changes with respect to former findings or orders relating thereto  
6 if, in its opinion, it may be justified.

7 ~~J. Any appeal of an order by the Workers' Compensation Court of~~  
8 ~~Existing Claims shall be heard by the Commission en banc. The~~  
9 ~~Commission shall review the decision using an abuse of discretion~~  
10 ~~standard of review. Orders by the Commission may be appealed in~~  
11 ~~accordance with Section 78 of this act.~~

12 ~~K. To protect the integrity of the transition from the Workers'~~  
13 ~~Compensation Court to the administrative system created by this act,~~  
14 ~~and to protect all rights and privileges of parties to claims~~  
15 ~~adjudicated by the Workers' Compensation Court, the Commission shall~~  
16 ~~retain all remedies and responsibilities of the Workers'~~  
17 ~~Compensation Court for as long as cases involving claims for~~  
18 ~~compensation accruing before the effective date of this act but~~  
19 ~~filed thereafter or which were pending before or adjudicated by the~~  
20 ~~Workers' Compensation Court shall remain open.~~

21 ~~L. M.~~ For an injury occurring before ~~the effective date of~~  
22 ~~this act~~ February 1, 2014, all benefits and procedures to obtain  
23 benefits shall be determined by the workers' compensation law of  
24 this state in effect on the date of the injury. ~~Administrative law~~

~~judges of the Commission shall enforce all final orders of the  
Workers' Compensation Court in a manner to secure for all parties  
the due process and equal protection guarantees of the Constitution  
of the State of Oklahoma.~~

M. N. All accrued rights and penalties incurred pursuant to a  
final order of the Workers' Compensation Court shall be preserved.  
~~Administrative law judges of the Commission shall be authorized to  
issue orders and conduct legal proceedings to enforce all such  
accrued rights and penalties incurred.~~ No accrued right, penalty  
incurred, or proceeding begun by virtue of a statute repealed by  
this act shall be abrogated by the terms of this act.

O. The Court of Existing Claims shall be deemed dissolved at  
the close of business on June 30, 2020.

SECTION 62. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 400.1 of Title 85A, unless there  
is created a duplication in numbering, reads as follows:

A. Beginning July 1, 2020, there shall be created two Workers'  
Compensation Magistrate Judge full-time positions.

B. The term of any Workers' Compensation Magistrate Judge shall  
be two years with the first terms beginning on July 1, 2020 and  
ending June 30, 2022. A judge may be removed for cause by the Court  
on the Judiciary prior to the expiration of his or her term.

C. Beginning on or before July 1, 2021, and on or before July 1  
of each odd numbered year thereafter, the Chief Justice shall review

1 the caseload of each Workers' Compensation Magistrate Judge and  
2 shall authorize a number, not to exceed two (2) total, of additional  
3 full-time or part-time Workers' Compensation Magistrate Judge  
4 positions needed to timely handle the projected caseload for the  
5 next two (2) fiscal years beginning July 1 of the following even  
6 numbered year. At the time of authorization, the Chief Justice  
7 shall provide written notice of such authorization to the Speaker of  
8 the House of Representatives, the President Pro Tempore of the  
9 Senate, and the Governor. The notice shall include the number of  
10 positions authorized, the number of active case files that cause an  
11 order to be issued before each existing judge for the preceding  
12 year, any expected increase or decrease in such caseloads, and the  
13 estimated yearly appropriation needed to pay for the compensation  
14 and travel costs of any such Magistrate Judge and any three-judge en  
15 banc panels set forth in subsection N of this section.

16 D. When a vacancy for a Workers' Compensation Magistrate Judge  
17 occurs or is certain to occur, or for initial appointments, the  
18 Judicial Nominating Commission shall choose and submit to the  
19 Governor and the Chief Justice of the Supreme Court the names of  
20 three (3) persons for each appointment, each of whom has previously  
21 notified the Commission in writing that he or she will serve as a  
22 judge if appointed. The Governor shall appoint one of the nominees  
23 with the advice and consent of the Senate. If the Governor fails to  
24 do so within sixty (60) days, the Chief Justice of the Supreme Court

1 shall appoint one of the nominees with the advice and consent of the  
2 Senate, the appointment to be certified to the Secretary of State.  
3 Appointments by the Governor to fill a position for a term  
4 commencing July 1 shall be made by April 15. If the April 15  
5 deadline cannot be met, the Governor shall notify the President Pro  
6 Tempore of the Senate of the date when the appointment is expected  
7 to be made. If the Senate fails to confirm within nine (90) days,  
8 the Governor may select from the two remaining nominees or request  
9 three additional nominees from the Judicial Nominating Commission.

10 E. A Workers' Compensation Magistrate Judge shall have been  
11 licensed to practice law in this state for a period of not less than  
12 five (5) years and shall have not less than five (5) years of  
13 workers' compensation experience prior to appointment. Each judge,  
14 before entering upon the duties of office, shall take and subscribe  
15 to an oath of office and file the same with the Secretary of State.

16 F. Workers' Compensation Magistrate Judges shall be employees  
17 of the Supreme Court. The salary for any full-time Workers'  
18 Compensation Magistrate Judge shall be equal to that paid to a  
19 District Judge. The compensation for any part-time Workers'  
20 Compensation Magistrate Judge shall be commensurate with the time  
21 worked. No Worker's Compensation Magistrate Judge shall engage in  
22 the private practice of law during the term in office.

23 G. Any proceeding before a Workers' Compensation Magistrate  
24 Judge shall operate by Rule 2 through Rule 66 as set forth in Title

1 85 of the Oklahoma Statutes as they existed on the date of the  
2 Governor's signature upon passage of this act. After July 1, 2020,  
3 such rules may be amended by the Supreme Court.

4 H. Any proceeding before a Workers' Compensation Magistrate  
5 Judge shall be designated and confirmed as though before a court of  
6 record, with respect to any matter within the limits of its  
7 jurisdiction, and within such limits the judge shall possess the  
8 powers and prerogatives of a judge of the other courts of record of  
9 this state, including the power to punish for contempt a person who  
10 disobeys a subpoena or refuses to be sworn or to answer as a witness  
11 when lawfully ordered to do so.

12 I. The Workers' Compensation Commission shall, at no cost to  
13 the Supreme Court, provide a designated courtroom for each Workers'  
14 Compensation Magistrate Judge in either Oklahoma City or Tulsa where  
15 hearings before the Magistrate Judge shall occur, and shall provide  
16 use of a courtroom in Oklahoma City where hearings before the three-  
17 judge en banc panel shall occur.

18 J. The Workers' Compensation Commission shall, at no cost to  
19 the Supreme Court, provide for each Workers' Compensation Magistrate  
20 Judge an office in either Oklahoma City or Tulsa and shall provide  
21 to the Worker's Compensation Magistrate Judges and the three-judge  
22 en banc panel assistance of the Commission's order writers, court  
23 reports and other support personnel and office supplies, in a manner  
24 sufficient for the Workers' Compensation Magistrate Judges and the

1 three-judge en banc panel to reasonably perform their duties.

2 Neither a Workers' Compensation Magistrate Judge nor the three-judge  
3 en banc panel shall be authorized to employ administrative staff.

4 K. A Workers' Compensation Magistrate Judge may punish for  
5 direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21  
6 of the Oklahoma Statutes.

7 L. The decision of a Workers' Compensation Magistrate Judge  
8 shall be issued within thirty (30) days following the submission of  
9 the case by the parties.

10 M. The Supreme Court shall through the Workers' Compensation  
11 Magistrate Judges have jurisdiction over all claims arising under or  
12 filed pursuant to the Workers' Compensation Code or previous statute  
13 in effect on the date of an injury that occurred before February 1,  
14 2014. All claims so filed shall be heard by a Workers' Compensation  
15 Magistrate Judge without a jury. A Workers' Compensation Magistrate  
16 Judge shall have full power and authority to determine all questions  
17 in relation to payment of a claim for compensation under the  
18 provisions of the Workers' Compensation Code or previous statute in  
19 effect on the date of an injury that occurred before February 1,  
20 2014. The Workers' Compensation Magistrate Judge, upon application  
21 of either party, shall order a hearing at which either party may  
22 present evidence and be represented by counsel. The decision of the  
23 Workers' Compensation Magistrate Judge shall be final as to all  
24 questions of fact and law; provided, the decision of the Workers'

1 Compensation Magistrate Judge may be appealed to a three-judge en  
2 banc panel selected pursuant to subsection N of this section or the  
3 Supreme Court as provided by the Workers' Compensation Code or  
4 previous statute in effect on the date of an injury that occurred  
5 before February 1, 2014.

6 N. The three-judge en banc review panel shall be made upon any  
7 combination of the Senior Justice, Senior Judges or Active Retired  
8 Judges as set forth in Section 1104B of Title 20 of the Oklahoma  
9 Statutes, with preference among those given to Active Retired Judges  
10 who are former judges of the Workers' Compensation Court or the  
11 Court of Existing Claims and Workers' Compensation Magistrate  
12 Judges; provided, however, in no event shall a Workers' Compensation  
13 Magistrate Judge review his or her own decision. Compensation of  
14 any en banc review panel member who is not a Workers' Compensation  
15 Magistrate Judge shall be as set forth in Section 1104B of Title 20  
16 of the Oklahoma Statutes. The Chief Justice of the Supreme Court  
17 shall select judges to serve on such panel as needed.

18 O. The power and jurisdiction of the Workers' Compensation  
19 Magistrate Judge over each case shall be continuing and the Judge  
20 may make such modifications or changes with respect to former  
21 findings or others relating thereto, if, in his or her opinion, it  
22 may be justified.

23 P. Beginning on July 1, 2020, all pleadings, forms, filings or  
24 applications and all orders arising from any cause of action under



1 the Workers' Compensation Code or which relate to any matter before  
2 a Workers' Compensation Magistrate Judge or an en banc three-judge  
3 panel shall be filed with the clerk of the Workers' Compensation  
4 Commission and docketed before the appropriate judge or panel by the  
5 Workers' Compensation docketing personnel. Each case shall be  
6 assigned by the clerk of the Commission to a Workers' Compensation  
7 Magistrate Judge by algorithm. Notices shall be given by the  
8 Commission in accordance with notice requirements of the Workers'  
9 Compensation Code. Any fee or other amount due to the Court of  
10 Existing Claims regarding any claim shall be payable to the Workers'  
11 Compensation Commission and deposited into the Worker's Compensation  
12 Commission Revolving Fund. Any other support matters previously  
13 handled by the Court of Existing Claims pursuant to the Workers'  
14 Compensation Code shall be handled by the Workers' Compensation  
15 Commission. The Workers' Compensation Commission shall be  
16 authorized to promulgate administrative rules to further carry out  
17 the terms of this subsection.

18 SECTION 63. AMENDATORY Section 5, Chapter 344, O.S.L.  
19 2015 (85A O.S. Supp. 2018, Section 401.1), is amended to read as  
20 follows:

21 Section 401.1. A. There is hereby created in the State  
22 Treasury a revolving fund for the Workers' Compensation Court of  
23 Existing Claims to be designated the "Workers' Compensation  
24 Administrative Fund". The fund shall be a continuing fund, not

1 subject to fiscal year limitations, and shall consist of all monies  
2 received by the Workers' Compensation Court of Existing Claims from  
3 revenues apportioned pursuant to Section 122 of Title 85A of the  
4 Oklahoma Statutes. All monies accruing to the credit of said fund  
5 are hereby appropriated and may be budgeted and expended by the  
6 Workers' Compensation Court of Existing Claims for the purpose of  
7 funding the operations of the Court, for administering the  
8 provisions of Titles 85 and 85A of the Oklahoma Statutes, and for  
9 any other purpose related to the Administrative Workers'  
10 Compensation Act that the Court deems appropriate. Expenditures  
11 from said fund shall be made upon warrants issued by the State  
12 Treasurer against claims filed as prescribed by law with the  
13 Director of the Office of Management and Enterprise Services for  
14 approval and payment.

15 B. On June 30, 2020, the Workers' Compensation Administrative  
16 Fund created by subsection A of this section shall terminate and the  
17 contents thereof shall be transferred to the Workers' Compensation  
18 Commission Revolving Fund created by Section 28.1 of this title.

19 SECTION 64. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 401.2 of Title 85A, unless there  
21 is created a duplication in numbering, reads as follows:

22 There is hereby created in the State Treasury a revolving fund  
23 for the Supreme Court to be designated the "Supreme Court Workers'  
24 Compensation Administrative Fund". The fund shall be a continuing

1 fund, not subject to fiscal year limitations, and shall consist of  
2 all monies received by the Supreme Court from revenues apportioned  
3 are pursuant to Section 122 of Title 85A of the Oklahoma Statutes.  
4 All monies accruing to the credit of said fund are hereby  
5 appropriated and may be budgeted and expended by the Supreme Court  
6 for the purpose of paying employment and travel expenses of Workers'  
7 Compensation Magistrate Judges and compensation and travel expenses  
8 of any three-judge en banc panel.

9 SECTION 65. AMENDATORY 25 O.S. 2011, Section 307, as  
10 last amended by Section 1, Chapter 252, O.S.L. 2018 (25 O.S. Supp.  
11 2018, Section 307), is amended to read as follows:

12 Section 307. A. No public body shall hold executive sessions  
13 unless otherwise specifically provided in this section.

14 B. Executive sessions of public bodies will be permitted only  
15 for the purpose of:

16 1. Discussing the employment, hiring, appointment, promotion,  
17 demotion, disciplining or resignation of any individual salaried  
18 public officer or employee;

19 2. Discussing negotiations concerning employees and  
20 representatives of employee groups;

21 3. Discussing the purchase or appraisal of real property;

22 4. Confidential communications between a public body and its  
23 attorney concerning a pending investigation, claim, or action if the  
24 public body, with the advice of its attorney, determines that

1 disclosure will seriously impair the ability of the public body to  
2 process the claim or conduct a pending investigation, litigation, or  
3 proceeding in the public interest;

4 5. Permitting district boards of education to hear evidence and  
5 discuss the expulsion or suspension of a student when requested by  
6 the student involved or the student's parent, attorney or legal  
7 guardian;

8 6. Discussing matters involving a specific handicapped child;

9 7. Discussing any matter where disclosure of information would  
10 violate confidentiality requirements of state or federal law;

11 8. Engaging in deliberations or rendering a final or  
12 intermediate decision in an individual proceeding pursuant to  
13 Article II of the Administrative Procedures Act;

14 9. Discussing matters involving safety and security at state  
15 penal institutions or correctional facilities used to house state  
16 inmates;

17 10. Discussing contract negotiations involving contracts  
18 requiring approval of the Board of Corrections, which shall be  
19 limited to members of the public body, the attorney for the public  
20 body, and the immediate staff of the public body. No person who may  
21 profit directly or indirectly by a proposed transaction which is  
22 under consideration may be present or participate in the executive  
23 session; or

24 11. Discussing the following:

- a. the investigation of a plan or scheme to commit an act of terrorism,
- b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
- c. plans for deterrence or prevention of or protection from an act of terrorism,
- d. plans for response or remediation after an act of terrorism,
- e. information technology of the public body but only if the discussion specifically identifies:
  - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
  - (2) system configuration information,
  - (3) security monitoring and response equipment placement and configuration,
  - (4) specific location or placement of systems, components or devices,
  - (5) system identification numbers, names, or connecting circuits,
  - (6) business continuity and disaster planning, or response plans, or

(7) investigation information directly related to security penetrations or denial of services, or f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

~~5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;~~

~~6.~~ The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would

1 interfere with the development of patents, copyrights, products, or  
2 services;

3 6. The Workers' Compensation Commission for the purposes  
4 specified in Section 19 of Title 85A of the Oklahoma Statutes;

5 7. A review committee, as provided for in Section 855 of Title  
6 62 of the Oklahoma Statutes;

7 8. The Child Death Review Board for purposes of receiving and  
8 conferring on matters pertaining to materials declared confidential  
9 by law;

10 9. The Domestic Violence Fatality Review Board as provided in  
11 Section 1601 of Title 22 of the Oklahoma Statutes;

12 10. The Opioid Overdose Fatality Review Board, as provided in  
13 Section ~~2~~ 2-1001 of ~~this act~~ Title 63 of the Oklahoma Statutes;

14 11. All nonprofit foundations, boards, bureaus, commissions,  
15 agencies, trusteeships, authorities, councils, committees, public  
16 trusts, task forces or study groups supported in whole or part by  
17 public funds or entrusted with the expenditure of public funds for  
18 purposes of conferring on matters pertaining to economic  
19 development, including the transfer of property, financing, or the  
20 creation of a proposal to entice a business to remain or to locate  
21 within their jurisdiction if public disclosure of the matter  
22 discussed would interfere with the development of products or  
23 services or if public disclosure would violate the confidentiality  
24 of the business;

1        12. The Oklahoma Indigent Defense System Board for purposes of  
2 discussing negotiating strategies in connection with making possible  
3 counteroffers to offers to contract to provide legal representation  
4 to indigent criminal defendants and indigent juveniles in cases for  
5 which the System must provide representation pursuant to the  
6 provisions of the Indigent Defense System Act; and

7        13. The Quality Investment Committee for purposes of discussing  
8 applications and confidential materials pursuant to the terms of the  
9 Oklahoma Quality Investment Act.

10        D. Except as otherwise specified in this subsection, an  
11 executive session for the purpose of discussing the purchase or  
12 appraisal of real property shall be limited to members of the public  
13 body, the attorney for the public body and the immediate staff of  
14 the public body. No landowner, real estate salesperson, broker,  
15 developer or any other person who may profit directly or indirectly  
16 by a proposed transaction concerning real property which is under  
17 consideration may be present or participate in the executive  
18 session, unless they are operating under an existing agreement to  
19 represent the public body.

20        E. No public body may go into an executive session unless the  
21 following procedures are strictly complied with:

22        1. The proposed executive session is noted on the agenda as  
23 provided in Section 311 of this title;  
24



1        2. The executive session is authorized by a majority vote of a  
2 quorum of the members present and the vote is a recorded vote; and

3        3. Except for matters considered in executive sessions of the  
4 State Banking Board and the Oklahoma Savings and Loan Board, and  
5 which are required by state or federal law to be confidential, any  
6 vote or action on any item of business considered in an executive  
7 session shall be taken in public meeting with the vote of each  
8 member publicly cast and recorded.

9        F. A willful violation of the provisions of this section shall:

10       1. Subject each member of the public body to criminal sanctions  
11 as provided in Section 314 of this title; and

12       2. Cause the minutes and all other records of the executive  
13 session, including tape recordings, to be immediately made public.

14       SECTION 66.        REPEALER        Section 15, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2018, Section 15), is hereby repealed.

16       SECTION 67.        REPEALER        Sections 107, 108, 109, 110, as  
17 amended by Section 4, Chapter 390, O.S.L. 2015, 111, 112, as amended  
18 by Section 5, Chapter 390, O.S.L. 2015, 113, 114, 115, 116, 117,  
19 118, as amended by Section 6, Chapter 390, O.S.L. 2015, 119 and 120,  
20 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 200, 201,  
21 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212 and 213), are  
22 hereby repealed.

23       SECTION 68. It being immediately necessary for the preservation  
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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