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ENROLLED SENATE

BILL NO. 878 By: Sykes, Anderson, Holt and Branan
of the Senate

and

Sullivan, Tibbs and Hall of the House

An Act relating to workers' compensation; creating
the Workers' Compensation Code; providing short
title; providing for exclusive liability for certain
injury; defining term; providing that specified issue
is question of law; authorizing certain action under
specified circumstances; prohibiting extension of
immunity to certain persons; construing provisions;
providing for exclusive remedy; creating Workers' Compensation
Court; specifying makeup of Court; authorizing certain
reapplication; establishing procedures to fill certain vacancies;
requiring Senate confirmation of certain appointments; providing
eligibility requirements for certain appointments; establishing
jurisdiction of Court; authorizing adoption of rules; providing
procedures for approval and publication of rules; providing
responsibilities and duties of Court; authorizing Governor to
appoint presiding judge of Court; establishing term and
eligibility requirements for presiding judge; establishing duties
of presiding judge; creating position of Administrator of Court;
requiring Governor to appoint Administrator; requiring Senate

1 confirmation of Administrator; establishing term and salary of
2 Administrator; establishing duties of Administrator; restricting
3 certain actions of employees of Court; establishing penalty;
4 defining terms; provides for computation of time; requiring
5 employers to pay certain compensation; provides for jurisdiction
6 for injuries occurring outside this state; exempting certain
7 employees from act; exempting certain injuries from act;
8 establishing requirements for provision of certain benefits by
9 public entities; applying provisions to certain private employers;
10 establishing requirements of liability for persons or entities
11 other than immediate employer; specifying laws governing benefit
12 determinations; establishing liability for benefits for
13 occupational disease; establishing liability for benefits for
14 cumulative trauma; requiring claims to be filed within certain
15 time periods; providing procedures for dismissal of certain
16 claims; requiring establishment of workers' compensation counselor
17 or ombudsman program; requiring certain notice; authorizing
18 mediation for certain claims; establishing procedures for certain
19 mediation; establishing eligibility requirements for mediators;
20 requiring record and report of certain injuries; establishing
21 procedures for certain reports; requiring posting of certain
22 notice; establishing notification procedures for certain injury;
23 requiring Administrator to provide certain notice forms; providing
24 procedures for commencement of certain claims, answers and
25 defenses; providing for assignment and venue of certain cases;
26 authorizing videoconferencing of certain hearings; requiring
27 provision of medical care upon notice of injury; establishing

1 procedures for selection of physician; defining term; requiring
2 adherence to certain guidelines in the provision of medical
3 treatment; requiring suspension of benefits under certain
4 circumstances; authorizing certain travel reimbursement; requiring
5 development of certain medical fee schedule; requiring certain
6 notice and hearing; establishing certain requirements for medical
7 fee schedule; establishing jurisdiction over disputed medical
8 charges; limiting charges for prescription drugs; defining term;
9 providing for reimbursement for prescription drugs; requiring
10 certain financial disclosure; establishing procedures for certain
11 reimbursement; providing for change of physician under a certified
12 workplace medical plan; establishing certification requirements
13 for workplace medical plans; authorizing certain independent
14 contracting with certified workplace medical plans; authorizing
15 certain premium reduction; requiring implementation of site visit
16 protocol for inspection of medical plans; requiring adoption of
17 certain rules; requiring creation and maintenance of list of
18 independent medical examiners; establishing requirements for
19 independent medical examiners; establishing procedures for
20 utilization of independent medical examiners; authorizing case
21 management under certain circumstances; establishing eligibility
22 requirements and procedures for utilization of case managers;
23 providing formulas for calculation of average weekly wages;
24 establishing requirements for compensation for temporary total
25 disability benefits; establishing requirements for compensation
26 for temporary partial disability benefits; defining term;
27 establishing requirements for evaluation of permanent partial

1 impairment; establishing requirements for compensation for
2 permanent partial impairment benefits; establishing requirements
3 for compensation for disfigurement; requiring furnishing,
4 maintenance and repair of certain devices under specified
5 circumstances; establishing requirements for compensation for
6 permanent total disability benefits; establishing requirements for
7 compensation of death benefits to beneficiaries; requiring the
8 provision of physical and vocational rehabilitation under certain
9 circumstances; establishing requirements for certain
10 rehabilitation services; requiring hiring or contracting for
11 Vocational Rehabilitation Director; establishing procedures for
12 obtaining certain rehabilitation services; requiring certain
13 evaluation; establishing procedures for certain settlements;
14 establishing certain appellate procedures; requiring payment of
15 certain fee; prohibiting employer from taking certain actions
16 under specified circumstances; providing for liability for certain
17 damages; limiting certain damage awards; authorizing certain
18 benefits for change of condition or consequential injury;
19 establishing jurisdiction for claims for certain legal services;
20 establishing guidelines for claims for certain legal services;
21 requiring assessment of certain penalties under specified
22 circumstances; directing payment of awards for permanent partial
23 impairment; requiring periodic installments of certain awards;
24 establishing requirements for certain payments; establishing
25 procedures for enforcement of certain awards and orders; providing
26 for subrogation of certain claims; making certain agreements for
27 payment of premiums invalid; creating misdemeanor; exempting

1 certain compensation and benefits from assignment or execution;
2 directing payment of certain benefits upon death of claimant;
3 authorizing lien for certain purposes; providing ways for
4 employers to secure workers' compensation obligations; providing
5 penalties; establishing certain hearing procedures; creating
6 misdemeanor; providing penalties; prohibiting administrator of
7 group self-insurance association from certain conduct; requiring
8 certain provisions in certain insurance policies; creating the
9 Individual Self-Insured Guaranty Fund Board; establishing duties
10 of Board; stating composition of Board; requiring establishment of
11 Fund in State Treasury; providing funding sources for certain
12 Fund; requiring Tax Commission to collect certain payments;
13 establishing requirements for certain Fund; stating exceptions;
14 providing sunset provisions; creating the Group Self-Insurance
15 Association Guaranty Fund Board; establishing duties of Board;
16 stating composition of Board; requiring establishment of Fund in
17 State Treasury; providing funding sources for certain Fund;
18 requiring Tax Commission to collect certain payments; establishing
19 requirements for certain Fund; stating exceptions; providing
20 sunset provisions; creating the Workers' Compensation Self-
21 Insurance Guaranty Fund; requiring certain participation in Fund;
22 stating composition of Board; establishing duties of Board;
23 stating purpose of certain Fund; specifying procedures for
24 expenditures from Fund; providing funding sources for Fund;
25 providing procedures for determining specified assessments for
26 funding under certain circumstances; providing definition;
27 requiring assessment to be paid within specified time period;

1 setting forth penalties for assessment payment defaults; requiring
2 collection of certain assessments by tax commission; authorizing
3 tax commission to bring recovery action for certain unpaid
4 assessments; exempting certain entities from assessments;
5 requiring tax commission to determine Fund balance at specified
6 times; providing duties of court administrator when determining
7 impairment of self-insure; stating rights of Workers' Compensation
8 Self-Insurance Guaranty Fund Board in certain proceedings;
9 providing for lapse of certain funds and boards to be succeeded by
10 the Workers' Compensation Self-Insurance Guaranty Fund; exempting
11 specified workers' compensation personnel from certain liability;
12 requiring court administrator to make certain annual report;
13 requiring implementation of certain electronic data interchange
14 system; creating the Oklahoma Workers' Compensation Electronic
15 Data Interchange Advisory Committee; providing for certain fees;
16 providing for deposit of fees; creating the Administrator of
17 Workers' Compensation Revolving Fund; providing for expenditures
18 from and credits to fund; requiring employer compliance for
19 requests for specified information or testimony; providing for
20 prosecution or punishment for perjury under certain circumstances;
21 authorizing inquiry by employer into prior compensation claims of
22 employee by previous employer; stating exceptions; authorizing
23 discharge of employee under circumstances; providing procedure for
24 accessing a workers' compensation claim file; stating exceptions
25 to procedure; requiring Administrator to provide certain website
26 within specified time period; creating the Physician Advisory

27 Committee; providing for appointment of membership; providing

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1 qualifications of members; setting terms of membership; stating
2 duties of committee; providing procedure for adopting Oklahoma
3 Treatment Guidelines; binding court to certain treatment
4 guidelines; providing certain reimbursements to members; requiring
5 minimum number of meetings; providing for quorum; providing for
6 simple majority; providing office supplies and personnel;
7 requiring certain entities to provide requested data; exempting
8 members from liability under certain circumstances; creating the
9 Advisory Council on Workers' Compensation; providing ex officio
10 nonvoting members; providing for appointment of membership;
11 providing qualifications of members; setting terms of membership;
12 providing certain reimbursements to members; providing for
13 meetings; providing for quorum; providing for voting; providing
14 office supplies and personnel; setting forth duties of council;
15 defining term; stating application of certain provisions relating
16 to Multiple Injury Trust Fund claim adjudications on or after
17 certain date; creating the Multiple Injury Trust Fund; providing
18 funding sources; requiring the Oklahoma Tax Commission to assess
19 and collect certain assessment from specified entities at stated
20 rate from certain awards; providing procedures for other entities
21 to determine and pay assessments; defining terms; requiring
22 certain entities to provide information as deemed necessary by
23 Administrator; providing for notice of assessment rate; providing
24 effective dates of rates; providing maximum assessment rate;
25 providing for insufficient fund obligations; authorizing
26 expenditure of certain monies by fund; authorizing tax commission

27 to bring actions for recovery of certain funds; authorizing

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1 administrative penalties against certain entities for specified
2 actions; setting forth duties of State Treasurer relating to fund;
3 authorizing investment of certain investments and refunds;
4 requiring tax commission to pay certain monies to specified
5 entities for certain uses; requiring promulgation of certain
6 rules; authorizing Multiple Injury Trust Fund to enter into
7 certain agreements; directing payment of certain monies; providing
8 for payment of subsequent injuries under certain circumstances;
9 stating degree of liability of employer; stating compensation rate
10 for certain disability awards; stating payment periods for certain
11 awards; stating accrual dates of certain awards; providing
12 abatement of certain awards; authorizing compromise of claim under
13 certain circumstances; authorizing certain types of payments;
14 setting amount and procedure for certain attorney fees;
15 authorizing certain payments to surviving spouse under certain
16 circumstances; setting statute of limitation for certain claims;
17 prohibiting attorney from certain representation; charging
18 CompSource with administration and protection of Multiple Injury
19 Trust Fund; granting standing to CompSource in certain cases;
20 authorizing Supreme Court review of certain awards; requiring
21 treasurer to allocate certain funds under certain circumstances;
22 creating the Workers' Compensation Administration Fund; stating
23 use of funds; requiring expenditure of funds pursuant to
24 legislative appropriation; providing source of funds; requiring
25 certain declaration on specified documents; providing for benefit

26 payments where certain disagreements exist among carrier
27 liability; making certain orders unappealable; requiring court to

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1 promulgate certain rules; requiring certain reimbursements under
2 certain circumstances; requiring specified persons and entities to
3 give written permission for examination of certain information;
4 construing provision; granting certain subpoena power; providing
5 procedure for issuing subpoenas; defining term; stating
6 application of certain court determination; transferring certain
7 funds, assets, property, records and other obligations; requiring
8 retention of certain employee benefits; prohibiting certain salary
9 reductions and reduction in force; limiting use of funds;
10 directing certain entity to coordinate specified transfers;
11 prohibiting consideration of certain benefits in determining
12 certain compensation; prohibiting certain agreements; prohibiting
13 termination of certain insurance upon certain actions; repealing
14 85 O.S. 2001, Sections 1, 1.1, as amended by Section 7, Chapter 1,
15 1st Extraordinary Session, O.S.L. 2005, 1.2, as amended by Section
16 1, Chapter 453, O.S.L. 2010, 1.2A, 1.3, as amended by Section 8,
17 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 2b, 2e, 2.1,
18 2.2, 2.3, 2.4, 2.5, 2.6, as last amended by Section 1, Chapter 84,
19 O.S.L. 2010, 2.7, 3, as last amended by Section 1, Chapter 452,
20 O.S.L. 2010, 3.1, 3.4, 3.5, as amended by Section 10, Chapter 1,
21 1st Extraordinary Session, O.S.L. 2005, 3.6, as amended by Section
22 1, Chapter 403, O.S.L. 2010, 3.7, as amended by Section 1 of
23 Enrolled House Bill No. 2038 of the 1st Session of the 53rd
24 Oklahoma Legislature, 3.8, 3.9, as last amended by Section 2,
25 Chapter 403, O.S.L. 2010, 3.10, as last amended by Section 3,

26 Chapter 403, O.S.L. 2010, 3.11, 4, 5, as amended by Section 13,
27 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 6, 6.1, 7, 9,

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1 11, as last amended by Section 2, Chapter 452, O.S.L. 2010, 12, as
2 last amended by Section 3, Chapter 452, O.S.L. 2010, 13, 14, as
3 last amended by Section 4, Chapter 452, O.S.L. 2010, 14.1, 14.2
4 and 14.3, as amended by Sections 16 and 17, Chapter 1, 1st
5 Extraordinary Session, O.S.L. 2005, 15, 16, as amended by Section
6 18, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 17, as last
7 amended by Section 19, Chapter 1, 1st Extraordinary Session,
8 O.S.L. 2005, 21, 22, as last amended by Section 5, Chapter 452,
9 O.S.L. 2010, 22.1, 24.1, as amended by Section 21, Chapter 1, 1st
10 Extraordinary Session, O.S.L. 2005, 24.2, 24.3, 25, 26, as amended
11 by Section 22, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,
12 27.1, 28, 30, as amended by Section 23, Chapter 1, 1st
13 Extraordinary Session, O.S.L. 2005, 41, 41.1, 42, as amended by
14 Section 1, Chapter 236, O.S.L. 2010, 43 and 44, as amended by
15 Sections 24 and 25, Chapter 1, 1st Extraordinary Session, O.S.L.
16 2005, 45, 46, 47, 47.1, 48, as amended by Section 26, Chapter 1,
17 1st Extraordinary Session, O.S.L. 2005, 48.1, 49, 61, as amended
18 by Section 78, Chapter 264, O.S.L. 2006, 61.1, 61.2, 63, 63.1, as
19 amended by Section 3, Chapter 414, O.S.L. 2010, 63.2, 63.3, 63.4,
20 64, as last amended by Section 79, Chapter 264, O.S.L. 2006, 65,
21 as amended by Section 80, Chapter 264, O.S.L. 2006, 65.2, 65.3,
22 66.1, 66.2, 67.1, 69.5, 80, 81, 84, 85, 92, 93, as amended by
23 Section 4, Chapter 403, O.S.L. 2010, 93.2, as amended by Section
24 5, Chapter 403, O.S.L. 2010, 95, 101, 103, 104, 106, 107, 109,

25 110, as amended by Section 1, Chapter 338, O.S.L. 2002, 112, 122,
26 171 and 172, as amended by Sections 27 and 28, Chapter 1, 1st
27 Extraordinary Session, O.S.L. 2005, 173, as last amended by

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1 Section 29, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,
2 173.1, 173.2, 173.3, 174, 175, as last amended by Section 30,
3 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 176, 177, 178,
4 179, 180, 201, as amended by Section 6, Chapter 403, O.S.L. 2010,
5 201.1, as last amended by Section 6, Chapter 452, O.S.L. 2010,
6 201.2, 203 and 211 (85 O.S. Supp. 2010, Sections 1.1, 1.2, 1.3,
7 2.6, 3, 3.5, 3.6, 3.9, 3.10, 5, 11, 12, 14, 14.2, 14.3, 16, 17,
8 22, 24.1, 26, 30, 42, 43, 44, 48, 61, 63.1, 64, 65, 93, 93.2, 110,
9 171, 172, 173, 175, 201 and 201.1), which relate to workers'
10 compensation; providing for recodification; and providing for
11 codification.

12 SUBJECT: Workers' Compensation Code

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

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

18 This act shall be known and may be cited as the "Workers'
19 Compensation Code".

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

24 A. The liability prescribed in this act shall be exclusive

25 and in place of all other liability of the employer and any of his
26 or her employees, at common law or otherwise, for such injury,
27 loss of services, or death, to the employee, or the spouse,

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1 personal representative, parents, or dependents of the employee,
2 or any other person, except in the case of an intentional tort, or
3 where the employer has failed to secure the payment of
4 compensation for the injured employee.

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

12 C. If an employer has failed to secure the payment of
13 compensation for his or her injured employee as provided for in
14 Section 51 of this act, an injured employee, or his or her legal
15 representatives if death results from the injury, may maintain an
16 action in the district court for damages on account of such
17 injury, and in such action the defendant may not plead or prove as
18 a defense that the injury was caused by the negligence of a fellow
19 servant, or that the employee assumed the risk of his or her
20 employment, or that the injury was due to the contributory
21 negligence of the employee.

22 D. The immunity created by the provisions of this section
23 shall not extend to action against another employer, or its

24 employees, on the same job as the injured or deceased worker where
25 such other employer does not stand in the position of an
26 intermediate or principal employer to the immediate employer of
27 the injured or deceased worker.

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

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

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

22 H. For the purpose of extending the immunity of this
23 section, any operator or owner of an oil or gas well or other

24 operation for exploring for, drilling for, or producing oil or gas
25 shall be deemed to be an intermediate or principal employer for
26 services performed at a drill site or location with respect to
27 injured or deceased workers whose immediate employer was hired by

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1 such operator or owner at the time of such injury.

2 I. If the employer has failed to secure the payment of
3 compensation as provided in Section 51 of this act or in the case
4 of an intentional tort, the injured employee or his or her legal
5 representative may maintain an action either in the Workers'
6 Compensation Court or in the district court, but not both.

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

11 A. There is hereby created the Workers' Compensation Court
12 which shall consist of ten (10) judges, notwithstanding any
13 reduction in the number of judges by operation of law before the
14 effective date of this act. Each judge of the Court shall be
15 appointed to a designated numbered position on the Court. The
16 positions shall be numbered one through ten, no more than seven of
17 which shall be permanently assigned to the Oklahoma City location
18 of the Workers' Compensation Court and no less than three of which
19 shall be permanently assigned to the Tulsa location of the
20 Workers' Compensation Court. The initial terms of the judges by
21 position number shall expire on the following dates:

22 Position 1 shall expire 7-1-14.

23 Position 2 shall expire 7-1-14.
24 Position 3 shall expire 7-1-14.
25 Position 4 shall expire 7-1-12.
26 Position 5 shall expire 7-1-12.
27 Position 6 shall expire 7-1-16.

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1 Position 7 shall expire 7-1-16.
2 Position 8 shall expire 7-1-12.
3 Position 9 shall expire 7-1-12.
4 Position 10 shall expire 7-1-14.

5 Provided, judges who are serving unexpired terms on the
6 Workers' Compensation Court on the effective date of this act
7 shall serve on the Court created by this section until their
8 respective terms expire as provided in this act. Thereafter, each
9 position shall be filled by a judge appointed to serve an eight-
10 year term. Judges serving unexpired terms on the effective date
11 of this act shall be eligible upon expiration of such terms for
12 appointment to one term of eight (8) years pursuant to this
13 section. After a judge serves an eight-year term, such judge
14 shall be eligible to reapply for an additional term.

15 When a vacancy on the Court occurs or is certain to occur,
16 or for initial appointments to the Court, the Judicial Nominating
17 Commission shall choose and submit to the Governor and the Chief
18 Justice of the Supreme Court the names of three persons for each
19 appointment, each of whom has previously notified the Commission
20 in writing that he or she will serve as a judge if appointed. The
21 Governor shall appoint one of the nominees to fill the vacancy
22 with the advice and consent of the Senate. If the Governor fails

23 to do so within sixty (60) days, the Chief Justice of the Supreme
24 Court shall appoint one of the nominees with the advice and
25 consent of the Senate, the appointment to be certified to the
26 Secretary of State. Appointments by the Governor to fill a
27 position for a term commencing July 1 shall be made by April 15.

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1 If the April 15 deadline cannot be met, the Governor shall notify
2 the President Pro Tempore of the Senate of the date when the
3 appointment is expected to be made. If the Senate fails to
4 confirm within ninety (90) days, the Governor may select from the
5 two remaining nominees or request three additional nominees from
6 the Judicial Nominating Commission.

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

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

21 D. The Court shall have the authority to adopt reasonable

22 rules within its respective areas of responsibility including the
23 rules of procedure for the Court en banc, after notice and public
24 hearing, for effecting the purposes of the Workers' Compensation
25 Code. All of the judges of the Court shall be present at all
26 meetings wherein rules are adopted or amended. All rules, upon
27 adoption, shall be submitted to the Supreme Court, which shall

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1 either approve or disapprove them within thirty (30) days. All
2 rules, upon approval by the Supreme Court, shall be published and
3 be made available to the public and, if not inconsistent with the
4 law, shall be binding in the administration of the Workers'
5 Compensation Code.

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

13 F. The principal office of the Court shall be situated in
14 the City of Oklahoma City in quarters assigned by the Department
15 of Central Services. The Court may hold hearings in any city of
16 this state. The Tulsa location of the Workers' Compensation Court
17 shall not be closed without the approval of the Legislature.

18 G. All county commissioners and presiding district judges
19 of this state shall make quarters available for the conducting of
20 hearings by a judge of the Court upon request by the Court.

21 H. The judges of the Court shall determine the

22 qualifications necessary for the position of Administrator. The
23 qualifications shall be submitted to the Chief Justice of the
24 Supreme Court for approval, disapproval or modification.

25 I. Judges of the Workers' Compensation Court may punish for
26 direct contempt pursuant to Sections 565, 565.1 and 566 of Title
27 21 of the Oklahoma Statutes.

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1 J. The Court shall be vested with jurisdiction over all
2 claims filed pursuant to the Workers' Compensation Code. All
3 claims so filed shall be heard by the judge sitting without a
4 jury. The Court shall have full power and authority to determine
5 all questions in relation to payment of claims for compensation
6 under the provisions of the Workers' Compensation Code. The
7 Court, upon application of either party, shall order a hearing.
8 Upon a hearing, either party may present evidence and be
9 represented by counsel. Except as provided in Section 40 of this
10 act, the decision of the Court shall be final as to all questions
11 of fact and law. The decision of the Court shall be issued within
12 sixty (60) days following the submission of the case by the
13 parties. The power and jurisdiction of the Court over each case
14 shall be continuing and it may, from time to time, make such
15 modifications or changes with respect to former findings or orders
16 relating thereto if, in its opinion, it may be justified.

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

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

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1 to serve the remainder of the term.

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

19 SECTION 5. NEW LAW A new section of law to be
20 codified in the Oklahoma Statutes as Section 305 of Title 85,

21 unless there is created a duplication in numbering, reads as
22 follows:

23 A. The chief administrative officer of the Workers'
24 Compensation Court shall be the Administrator of the Workers'
25 Compensation Court, who shall be subject to the general
26 supervision of the presiding judge of the Court, subject to the
27 general administrative authority of the Chief Justice of the

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1 Supreme Court.

2 B. The person serving as Administrator on the effective
3 date of this act shall be appointed by the Governor with the
4 advice and consent of the Senate. The Administrator shall serve
5 at the pleasure of the Governor.

6 C. The salary of the Administrator shall be ninety percent
7 (90%) of the authorized salary of a judge of the Court.

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

12 A. In addition to other duties, the Administrator of the
13 Workers' Compensation Court, subject to approval of the presiding
14 judge, shall organize, direct and develop the administrative work
15 of the Workers' Compensation Court, including docketing, clerical,
16 technical and financial work, establish hours of operation, and
17 perform such other duties relating to matters within the purview
18 of the Court. The Administrator shall employ other employees of
19 the Court, within budgetary limitation, necessary to carry out the

20 work and orders of the Court in an efficient and expedient manner.

21 B. The Administrator shall have the following powers and
22 duties:

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

25 2. To review and approve own-risk applications and group
26 self-insurance associations applications;

27 3. To monitor own-risk, self-insurer and group self-

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1 insurance programs in accordance with the rules of the Court;

2 4. To contract with an appropriate state governmental
3 entity, insurance carrier or approved service organization to
4 process, investigate and pay valid claims against an impaired
5 self-insurer, charges for which shall be paid from the proceeds of
6 security posted with the Administrator as provided in Section 51
7 of this act;

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

10 6. To hear and determine claims concerning disputed medical
11 bills;

12 7. To promulgate necessary rules subject to the approval of
13 the presiding judge; and

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

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

20 A. No employee of the Administrator of the Workers'
21 Compensation Court shall be competent to testify on any matter
22 before a court concerning any information the employee has
23 received through the performance of the employee's duties under
24 the provisions of the Workers' Compensation Code.

25 B. The Administrator and employees of the Administrator
26 shall not solicit employment for any attorney or physician nor
27 shall they recommend or refer any claimant or employer to an

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1 attorney or physician. If the Administrator or any employee of
2 the Administrator makes such a solicitation, recommendation or
3 reference, that person, upon conviction, shall be guilty of a
4 misdemeanor punishable, for each offense, by a fine of not more
5 than One Thousand Dollars (\$1,000.00) or by imprisonment not to
6 exceed one (1) year, or by both such fine and imprisonment. The
7 Administrator shall immediately terminate the employment of any
8 employee who is guilty of such solicitation, recommendation or
9 reference. An Administrator or judge of the Workers' Compensation
10 Court guilty of such solicitation, recommendation or reference
11 shall be subject to removal from office.

12 C. No judge of the Court shall engage in any ex parte
13 communication with any party to an action pending before the Court
14 or with any witness or medical provider regarding the merits of a
15 specific matter pending before the judge for resolution. Any
16 violation of this provision shall subject the judge to
17 disqualification from the action or matter upon presentation of an
18 application for disqualification.

19 D. An attorney and counselor shall not deduct or withhold
20 any portion of a judgment from a court of law, settlement proceeds
21 of a client, or any monies held in trust for a client for the
22 purpose of donating or contributing funds or monies to a political
23 fund, political action committee, campaign of any kind, or
24 candidate for state, federal or local office.

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

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1 follows:

2 As used in the Workers' Compensation Code:

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

6 2. "Administrator" means the Administrator of the Workers'
7 Compensation Court;

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

17 4. "Brother" or "sister" means a sibling of the employee
18 under eighteen (18) years of age, eighteen (18) years of age or

19 over and physically or mentally incapable of self-support,
20 eighteen (18) years of age or over and actually dependent and
21 brothers and sisters by adoption;

22 5. "Case management" means the ongoing coordination, by a
23 case manager, of health care services provided to an injured or
24 disabled worker, including, but not limited to systematically
25 monitoring the treatment rendered and the medical progress of the
26 injured or disabled worker; ensuring that any treatment plan
27 follows all appropriate treatment protocols, utilization controls

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1 and practice parameters; assessing whether alternative health care
2 services are appropriate and delivered in a cost-effective manner
3 based upon acceptable medical standards; and ensuring that the
4 injured or disabled worker is following the prescribed health care
5 plan;

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

- 13 a. Certified Disability Management Specialist (CDMS),
- 14 b. Certified Case Manager (CCM),
- 15 c. Certified Rehabilitation Registered Nurse (CRRN),
- 16 d. Case Manager - Certified (CMC),
- 17 e. Certified Occupational Health Nurse (COHN), or

18 f. Certified Occupational Health Nurse Specialist
19 (COHN-S);

20 7. "Certified workplace medical plan" means an organization
21 of health care providers or any other entity, certified by the
22 State Commissioner of Health, that is authorized to enter into a
23 contractual agreement with a self-insured employer, group self-
24 insurance association plan, an employer's workers' compensation
25 insurance carrier or an insured, which shall include any member of
26 an approved group self-insured association, policyholder or public
27 entity, regardless of whether such entity is insured by CompSource

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1 Oklahoma, to provide medical care under the Workers' Compensation
2 Code. Certified plans shall only include such plans which provide
3 medical services and payment for services on a fee-for-service
4 basis to medical providers and shall not include other plans which
5 contract in some other manner, such as capitated or prepaid plans;

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

18 acknowledged child born out of wedlock;

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

22 10. a. "Compensable injury" means any injury or
23 occupational illness, causing internal or external harm to the
24 body, which arises out of and in the course of employment if such
25 employment was the major cause of the specific injury or illness.
26 An injury, other than cumulative trauma, is compensable only if it
27 is caused by a specific incident and is identifiable by time,

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1 place and occurrence unless it is otherwise defined as compensable
2 in this act. A compensable injury must be established by
3 objective medical evidence. The employee has the burden of proof
4 to establish by a preponderance of the evidence that such
5 unexpected or unforeseen injury was in fact caused by the
6 employment. There is no presumption from the mere occurrence of
7 such unexpected or unforeseen injury that the injury was in fact
8 caused by the employment.

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

17 comparison to the usual work of the employee, or alternately, that
18 some unusual incident occurred which is found to have been the
19 major cause of the physical harm.

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

27 d. "Compensable injury" includes personal property

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1 which is established by objective medical evidence to be medically
2 necessary and which replaces or improves normal physical function
3 of the body, such as artificial dentures, artificial limbs, glass
4 eyes, eye glasses and other prostheses which are placed in or on
5 the body and is damaged as a result of the injury.

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

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

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

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

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

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

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

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

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

14 17. "Employee" means any person engaged in the employment
15 of an employer covered by the terms of the Workers' Compensation

16 Code except for such persons as may be excluded elsewhere in this
17 act. Provided, any person excluded as an employee may, if
18 otherwise qualified, be eligible for benefits under the Workers'
19 Compensation Code if specifically covered by any policy of
20 insurance covering benefits under the Workers' Compensation Code.
21 "Employee" shall also include a member of the Oklahoma National
22 Guard while in the performance of duties only while in response to
23 state orders and any authorized voluntary or uncompensated worker,
24 rendering services as a firefighter, peace officer or emergency
25 management worker. "Employee" shall also include a participant in
26 a sheltered workshop program which is certified by the United
27 States Department of Labor;

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

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

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

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

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

24 23. "Impaired self-insurer" means a private self-insurer or
25 group self-insurance association that fails to pay its workers'
26 compensation obligations, or is financially unable to do so and is
27 the subject of any proceeding under the Federal Bankruptcy Reform

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1 Act of 1978, and any subsequent amendments or is the subject of
2 any proceeding in which a receiver, custodian, liquidator,
3 rehabilitator, trustee or similar officer has been appointed by a
4 court of competent jurisdiction to act in lieu of or on behalf of
5 the self-insurer;

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

8 25. "Independent medical examiner" means a licensed
9 physician authorized to serve as a medical examiner pursuant to
10 this act;

11 26. "Insurance carrier" shall include CompSource Oklahoma,
12 stock corporations, reciprocal or interinsurance associations, or
13 mutual associations with which employers have insured, and
14 employers permitted to pay compensation directly under the

15 provisions of Section 51 of this act;

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

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

26 29. "Maximum medical improvement" means that no further
27 material improvement would reasonably be expected from medical

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1 treatment or the passage of time;

2 30. "Medical treatment" means such medical, diagnostic,
3 surgical or other attendance or treatment, nurse and hospital
4 service, medicine, crutches, and apparatus as may be reasonable
5 and necessary after the compensable injury for an injured
6 employee;

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

14 32. "Objective medical evidence" means evidence which meets

15 the criteria of Federal Rule of Evidence 702 and all U.S. Supreme
16 Court case law applicable thereto. Objective findings are those
17 findings which cannot come under the voluntary control of the
18 patient. When determining physical or anatomical impairment,
19 neither a physician, any other medical provider, a judge of the
20 Workers' Compensation Court, nor the courts may consider
21 complaints of pain. For the purpose of making physical or
22 anatomical impairment ratings to the spine, physicians shall use
23 criteria established by the American Medical Association guides or
24 modifications thereto as approved by the Legislature. Objective
25 evidence necessary to prove physical or anatomical impairment in
26 occupational hearing loss cases shall be established by medically
27 recognized and accepted clinical diagnostic methodologies,

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1 including, but not limited to, audiological tests that measure air
2 and bone conduction thresholds and speech discrimination ability.
3 Medical opinions addressing compensability and permanent
4 impairment must be stated within a reasonable degree of medical
5 certainty;

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

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

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

24 36. "Permanent total disability" means incapacity, because
25 of accidental injury or occupational disease, to earn wages in any
26 employment for which the employee may become physically suited and
27 reasonably fitted by education, training or experience, including

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1 vocational rehabilitation. Loss of both hands, or both feet, or
2 both legs, or both eyes, or any two thereof, shall constitute
3 permanent total disability;

4 37. "Private self-insurer" means a private employer that
5 has been authorized to self-insure its workers' compensation
6 obligations pursuant to Section 51 of this act, but does not
7 include group self-insurance associations authorized under Section
8 51 of this act or Section 398 of this title, or any public
9 employer that self-insures pursuant to Section 13 of this act;

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

13 39. "Qualified independent medical examiner" means a

14 licensed medical doctor or doctor of Osteopathy qualified to serve
15 as an independent medical examiner pursuant to this act;

16 40. "Scheduled member" or "member" means hands, fingers,
17 arms, legs, feet, toes, and eyes. In addition, for purposes of
18 the Multiple Injury Trust Fund only, "scheduled member" means
19 hearing impairment;

20 41. "Scientifically based" involves the application of
21 rigorous, systematic, and objective procedures to obtain reliable
22 and valid knowledge relevant to medical testing, diagnoses and
23 treatment; is adequate to justify the general conclusions drawn;
24 and has been accepted by a peer-review journal or approved by a
25 panel of independent experts through a comparably rigorous,
26 objective, and scientific review;

27 42. "State-developed" includes formalized treatment

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1 guidelines developed and adopted by state governments, or by the
2 Workers' Compensation Court upon recommendation of the Physician
3 Advisory Committee;

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

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

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

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

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

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1 48. "Treating physician" means the licensed physician
2 authorized to provide active medical treatment for an injured
3 worker; and

4 49. "Wages" means money compensation received for
5 employment at the time of the injury, including the reasonable
6 value of board, rent, housing, lodging, bonuses, sales
7 commissions, or similar advantage received from the employer.

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

12 The time within which an act is to be done, as provided for

13 in this act, shall be computed by excluding the first day and
14 including the last day. If the last day is a legal holiday as
15 defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it
16 shall be excluded.

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

21 A. Every employer subject to the provisions of the Workers'
22 Compensation Code shall pay or provide benefits according to the
23 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
25 employment, without regard to fault for such injury, if the
26 employee's contract of employment was made or if the injury
27 occurred within this state. If an employee makes claim for an

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1 injury in another jurisdiction and a final adjudication is entered
2 in the case, the employee is precluded from his or her right of
3 action under the Workers' Compensation Code of this state. If the
4 employee brings an action in this state prior to a final
5 adjudication in another jurisdiction, any receipt of benefits in
6 the other jurisdiction shall not bar the action in this state;
7 provided, however, in no event shall the Workers' Compensation
8 Court grant benefits that duplicate those paid by the employer or
9 insurance carrier in the other jurisdiction.

10 B. The State of Oklahoma accepts the provisions of the Acts
11 of Congress designated as 40 U.S.C., Section 3172, formerly 40

12 U.S.C., Section 290, and hereby extends the territorial
13 jurisdiction of the Workers' Compensation Code of this state to
14 all lands and premises within the exterior boundaries of this
15 state which the Government of the United States of America owns or
16 holds by deed or act of cession, and to all purchases, projects,
17 buildings, constructions, improvements and property within the
18 exterior boundaries of this state belonging to the Government of
19 the United States of America, in the same way and to the same
20 extent as if the premises were under the exclusive jurisdiction of
21 this state, subject only to the limitations placed thereon by the
22 Acts of Congress.

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

27 The Workers' Compensation Code shall not apply to the

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1 following employees:

2 1. Any person for whom an employer is liable under any Act
3 of Congress for providing compensation to employees for injuries,
4 disease or death arising out of and in the course of employment
5 including, but not limited to, the Federal Employees' Compensation
6 Act, the Federal Employers' Liability Act, the Longshoremen's and
7 Harbor Workers' Act and the Jones Act, to the extent his or her
8 employees are subject to such acts;

9 2. Any person who is employed in agriculture or
10 horticulture by an employer who had a gross annual payroll in the
11 preceding calendar year of less than One Hundred Thousand Dollars

12 (\$100,000.00) wages for agricultural or horticultural workers, or
13 any person who is employed in agriculture or horticulture who is
14 not engaged in operation of motorized machines;

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

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

23 5. Any person employed by an employer with five or less
24 total employees, all of whom are related by blood or marriage to
25 the employer, if the employer is a natural person or a general or
26 limited partnership, or an incorporator of a corporation if the
27 corporation is the employer;

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

4 7. Sole proprietors, members of a partnership, individuals
5 who are party to a franchise agreement as set out by the Federal
6 Trade Commission franchise disclosure rule, 16 CFR 436.1 through
7 436.11, members of a limited liability company who own at least
8 ten percent (10%) of the capital of the limited liability company
9 or any stockholder-employees of a corporation who own ten percent
10 (10%) or more stock in the corporation, unless they elect to be

11 covered by a policy of insurance covering benefits under the
12 Workers' Compensation Code;

13 8. Any person providing or performing voluntary service who
14 receives no wages for the services other than meals, drug or
15 alcohol rehabilitative therapy, transportation, lodging or
16 reimbursement for incidental expenses;

17 9. A person, commonly referred to as an owner-operator, who
18 owns or leases a truck-tractor or truck for hire, if the owner-
19 operator actually operates the truck-tractor or truck and if the
20 person contracting with the owner-operator is not the lessor of
21 the truck-tractor or truck. Provided, however, an owner-operator
22 shall not be precluded from workers' compensation coverage under
23 the Workers' Compensation Code if the owner-operator elects to
24 participate as a sole proprietor;

25 10. A person referred to as a drive-away owner-operator who
26 privately owns and utilizes a tow vehicle in drive-away operations
27 and operates independently for hire, if the drive-away owner-

1 operator actually utilizes the tow vehicle and if the person
2 contracting with the drive-away owner-operator is not the lessor
3 of the tow vehicle. Provided, however, a drive-away owner-
4 operator shall not be precluded from workers' compensation
5 coverage under the Workers' Compensation Code if the drive-away
6 owner-operator elects to participate as a sole proprietor; and

7 11. Any person who is employed as a domestic servant or as
8 a casual worker in and about a private home or household, which
9 private home or household had a gross annual payroll in the
10 preceding calendar year of less than Ten Thousand Dollars

11 (\$10,000.00) for such workers.

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

16 The following shall not constitute a compensable injury
17 under the Workers' Compensation Code:

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

21 2. An injury resulting directly from the willful failure of
22 the injured employee to use a guard or protection against accident
23 furnished for use pursuant to any statute or by order of the
24 Commissioner of Labor;

25 3. An injury which occurs when an employee's use of illegal
26 drugs or chemicals or alcohol is the major cause of the injury or
27 accident. The employee shall prove by a preponderance of the

1 evidence that the use of drugs, chemicals or alcohol was not the
2 major cause of the injury or accident. For the purposes of this
3 paragraph, post-accident alcohol or drug testing results shall be
4 admissible as evidence. A public or private employer may require
5 an employee to undergo drug or alcohol testing if the employee has
6 sustained an injury while at work. For purposes of workers'
7 compensation, no employee who tests positive for the presence of
8 substances defined and consumed pursuant to Section 465.20 of
9 Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or

10 illegally used chemicals, or refuses to take a drug or alcohol
11 test required by the employer, shall be eligible for such
12 compensation;

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

15 5. An injury occurring at a time when employment services
16 were not being performed before the employee was hired or after
17 the employment relationship was terminated; and

18 6. An injury which occurs outside the course of employment.
19 Employment shall be deemed to commence when an employee arrives at
20 the employee's place of employment to report for work and shall
21 terminate when the employee leaves the employee's place of
22 employment, excluding areas not under the control of the employer
23 or areas where essential job functions are not performed;
24 provided, however, when the employee is instructed by the employer
25 to perform a work-related task away from the employee's place of
26 employment, the employee shall be deemed to be in the course of
27 employment when the employee is engaged in the performance of job

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1 duties directly related to the task as instructed by the employer,
2 including travel time that is solely related and necessary to the
3 employee's performance of the task. Travel by a policeman,
4 fireman, or a member of a first aid or rescue squad, in responding
5 to and returning from an emergency, shall be deemed to be in the
6 course of employment.

7 SECTION 13. NEW LAW A new section of law to be
8 codified in the Oklahoma Statutes as Section 313 of Title 85,
9 unless there is created a duplication in numbering, reads as

10 follows:

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

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

24 a. the State Insurance Fund refuses to accept the risk
25 when the application for insurance is made,

26 b. specifically authorized by law, or

27 c. the state entity can obtain workers' compensation

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

9 pursuant to this subparagraph.

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

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

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

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

6 3. Secure compensation for their employees in the manner
7 provided in the Political Subdivision Tort Claims Act; subsection
8 C of Section 167 of Title 51 of the Oklahoma Statutes; or

9 4. Insure with other insurance carriers licensed in the
10 State of Oklahoma.

11 C. Boards of education, their instrumentalities and public
12 trusts of which they are beneficiaries shall insure against their
13 liability for workers' compensation with the State Insurance Fund
14 or, through any combination of the following, may:

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

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

20 3. Insure with other insurance carriers licensed in the
21 State of Oklahoma.

22 D. Comprehensive universities shall insure against their
23 liability for workers' compensation with the State Insurance Fund;
24 or if it can be demonstrated to the Board of Regents of the
25 comprehensive university prior to the inception date of a workers'
26 compensation policy that the policy will result in a lower cost
27 than one with the State Insurance Fund or, through any combination

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1 of the following, may:

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

4 2. Insure with other insurance carriers licensed in the
5 State of Oklahoma.

6 E. In addition to any other provision of this section,
7 city, county, city-county, and public trust hospitals may insure

8 with other insurance carriers licensed in this state if it can be
9 demonstrated to the governing body of the hospital prior to the
10 inception date of a workers' compensation policy each year that
11 the policy will result in a lower cost than one with the State
12 Insurance Fund.

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

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

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

7 SECTION 14. NEW LAW A new section of law to be

8 codified in the Oklahoma Statutes as Section 314 of Title 85,
9 unless there is created a duplication in numbering, reads as
10 follows:

11 Liability of any person, firm, or corporation having an
12 interest in the subject matter, employers and contracting
13 employers, general or intermediate, for compensation under the
14 Workers' Compensation Code, when other than the immediate employer
15 of the injured employee, shall be as follows:

16 1. In order for another employer on the same job as the
17 injured or deceased worker to qualify as an intermediate or
18 principal employer, the work performed by the immediate employer
19 must be directly associated with the day to day activity carried
20 on by such other employer's trade, industry, or business, or it
21 must be the type of work that would customarily be done in such
22 other employer's trade, industry, or business.

23 2. The independent contractor shall, at all times, be
24 liable for compensation due to his or her direct employees, or the
25 employees of any subcontractor of such independent contractor, and
26 the principal employer shall also be liable in the manner
27 hereinafter specified for compensation due all direct employees,

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1 employees of the independent contractors, subcontractors, or other
2 employees engaged in the general employer's business; provided,
3 however, if an independent contractor relies in good faith on
4 proof of a valid workers' compensation insurance policy issued to
5 a subcontractor of the independent contractor or on proof of an
6 Affidavit of Exempt Status under the Workers' Compensation Code

7 properly executed by the subcontractor under Section 924.4 of
8 Title 36 of the Oklahoma Statutes, then the independent contractor
9 shall not be liable for injuries of any employees of the
10 subcontractor. Provided further, such independent contractor
11 shall not be liable for injuries of any subcontractor of the
12 independent contractor unless an employer-employee relationship is
13 found to exist by the Workers' Compensation Court despite the
14 execution of an Affidavit of Exempt Status under the Workers'
15 Compensation Code.

16 3. The person entitled to such compensation shall have the
17 right to recover the same directly from the person's immediate
18 employer, the independent contractor or intermediate contractor,
19 and such claims may be presented against all such persons in one
20 proceeding. If it appears in such proceeding that the principal
21 employer has failed to require a compliance with the Workers'
22 Compensation Code of this state by the independent contractor,
23 then such employee may proceed against such principal employer
24 without regard to liability of any independent, intermediate or
25 other contractor; provided, however, if a principal employer
26 relies in good faith on proof of a valid workers' compensation
27 insurance policy issued to an independent contractor of the

1 employer or to a subcontractor of the independent contractor or on
2 proof of an Affidavit of Exempt Status under the Workers'
3 Compensation Code properly executed by the independent contractor
4 or subcontractor under Section 924.4 of Title 36 of the Oklahoma
5 Statutes, then the principal employer shall not be liable for
6 injuries of any employees of the independent contractor or

7 subcontractor. Provided further, such principal employer shall
8 not be liable for injuries of any independent contractor of the
9 employer or of any subcontractor of the independent contractor
10 unless an employer-employee relationship is found to exist by the
11 Workers' Compensation Court despite the execution of an Affidavit
12 of Exempt Status under the Workers' Compensation Code. Provided,
13 however, in any proceeding where compensation is awarded against
14 the principal employer under the provisions hereof, such award
15 shall not preclude the principal employer from recovering the
16 same, and all expense in connection with the proceeding from any
17 independent contractor, intermediate contractor or subcontractor
18 whose duty it was to provide security for the payment of such
19 compensation, and such recovery may be had by supplemental
20 proceedings in the cause before the Court or by an independent
21 action in any court of competent jurisdiction to enforce liability
22 of contracts.

23 4. Where work is performed by an independent contractor on
24 a single family residential dwelling or its premises occupied by
25 the owner, or for a farmer whose cash payroll for wages, excluding
26 supplies, materials and equipment, for the preceding calendar year
27 did not exceed One Hundred Thousand Dollars (\$100,000.00), such

1 owner or farmer shall not be liable for compensation under the
2 Workers' Compensation Code for injuries to the independent
3 contractor or his or her employees.

4 SECTION 15. NEW LAW A new section of law to be
5 codified in the Oklahoma Statutes as Section 315 of Title 85,

6 unless there is created a duplication in numbering, reads as
7 follows:

8 Benefits for a single event injury shall be determined by
9 the law in effect at the time of injury. Benefits for a
10 cumulative trauma injury or occupational disease or illness shall
11 be determined by the law in effect at the time the employee knew
12 or reasonably should have known that the injury, occupational
13 disease or illness was related to work activity. Benefits for
14 death shall be determined by the law in effect at the time of
15 death.

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

20 Where benefits are payable for an occupational disease, the
21 employer in whose employment the employee was last injuriously
22 exposed to the hazards of such disease and the insurance carrier,
23 if any, on the risk when such employee was last so exposed under
24 such employer, shall alone be liable therefor, without right to
25 contribution from any prior employer or insurance carrier;
26 provided, however, that in the case of silicosis, asbestosis or
27 asbestosis related disease, the only employer and insurance

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1 carrier liable shall be the last employer in whose employment the
2 employee was last exposed to harmful quantities of silicon dioxide
3 dust on each of at least sixty (60) days or more, and the
4 insurance carrier, if any, on the risk when the employee was last
5 so exposed under such employer.

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

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

25 SECTION 18. NEW LAW A new section of law to be
26 codified in the Oklahoma Statutes as Section 318 of Title 85,
27 unless there is created a duplication in numbering, reads as

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1 follows:

2 A. The right to claim compensation under the Workers'
3 Compensation Code shall be forever barred unless, within two (2)
4 years after the date of accidental injury or death, a claim for

5 compensation is filed with the Workers' Compensation Court.
6 Provided however, a claim may be filed within two (2) years of the
7 date of the last medical treatment authorized by the employer or
8 the insurance carrier or the date of the payment of any
9 compensation or remuneration paid in lieu of compensation.

10 B. With respect to disease or injury caused by cumulative
11 trauma causally connected with employment, a claim must be filed
12 within two (2) years of the date on which the employee was last
13 employed by the employer.

14 C. In the case of asbestosis or asbestosis related disease,
15 silicosis or exposure to nuclear radiation causally connected with
16 employment, a claim must be filed within two (2) years of the date
17 of last hazardous exposure or within two (2) years from the date
18 the condition first becomes manifest by a symptom or condition
19 from which one learned in medicine could, with reasonable
20 accuracy, diagnose such specific condition, whichever last occurs.

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

24 E. When a claim for compensation has been filed with the
25 Administrator of the Workers' Compensation Court as provided in
26 this act, unless the claimant shall in good faith request a
27 hearing for benefits within two (2) years from the date of filing

1 thereof or within two (2) years from the date of last payment of
2 medical treatment or compensation or wages in lieu thereof, same
3 shall be barred and shall be dismissed by the Court for want of
4 prosecution, which action shall operate as a final adjudication of

5 the right to claim benefits thereunder.

6 F. The jurisdiction of the Court to reopen any cause upon
7 an application based upon a change in condition for the worse
8 shall extend for three (3) years from the date of the last order
9 in which monetary benefits or active medical treatment was
10 provided, and unless filed within such period of time, shall be
11 forever barred. An order denying an application to reopen a claim
12 shall not extend the period of the time set out in this act for
13 reopening the case. A failure to comply with a medical treatment
14 plan ordered by the Court shall bar reopening of a claim. This
15 subsection shall be considered to be substantive in nature.

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

20 SECTION 19. NEW LAW A new section of law to be
21 codified in the Oklahoma Statutes as Section 319 of Title 85,
22 unless there is created a duplication in numbering, reads as
23 follows:

24 Any claimant may, upon the payment of the Workers'
25 Compensation Court's filing fee, dismiss any claim brought by the
26 claimant at any time before final submission of the case to the
27 Court for decision. Such dismissal shall be without prejudice

1 unless the words "with prejudice" are included in the order. If
2 any claim that is filed within the statutory time permitted by
3 Section 18 of this act is dismissed without prejudice, a new claim

4 may be filed within one (1) year after the entry of the order
5 dismissing the first claim even if the statutory time for filing
6 has expired.

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

11 A. The Administrator of the Workers' Compensation Court
12 shall establish a workers' compensation counselor or ombudsman
13 program to assist injured workers, employers and persons claiming
14 death benefits in obtaining benefits under the Workers'
15 Compensation Code.

16 B. Workers' compensation counselors or ombudsmen shall
17 provide information to injured workers; investigate complaints;
18 communicate with employers, insurance carriers, self-insurers, and
19 health care providers; provide informational seminars and
20 workshops on workers' compensation for medical providers,
21 insurance adjustors, and employee and employer groups; and develop
22 informational materials for employees, employers and medical
23 providers.

24 C. The Administrator shall mail a notice to the injured
25 worker within ten (10) days of the filing of an Employer's First
26 Notice of Injury. The notice shall advise the injured worker of
27 the availability of the services of the Workers' Compensation

1 Court's counselor or ombudsman program and of the availability of
2 mediation to assist the injured worker. The Administrator shall
3 provide contact information for the Court's counselor or ombudsman

4 program and all such additional information as the Administrator
5 may determine necessary.

6 D. The Administrator shall develop a program by April 2,
7 2012, that provides for annual training for own-risk employers and
8 claims representatives handling workers' compensation claims in
9 Oklahoma. The training shall include information about the
10 counselor and ombudsman program, mediation, and other services
11 provided by the Workers' Compensation Court.

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

16 A. Mediation shall be available to any party to a claim
17 arising pursuant to the provisions of the Workers' Compensation
18 Code, subject to limitations pertaining to certified workplace
19 medical plans and except for claims against the Multiple Injury
20 Trust Fund.

21 B. Unless ordered by the Workers' Compensation Court,
22 mediation shall be voluntary, and shall not be conducted without
23 the consent of both parties. Mediation is not a prerequisite to
24 the commencement of a claim for benefits under the Workers'
25 Compensation Code. A request for mediation or consent to mediate
26 does not invoke the jurisdiction of the Court.

27 C. The Court may order mediation in any case in which the

1 Court believes that mediation may be beneficial to a prompt and
2 efficient resolution of the claim.

3 D. A request for mediation may be made by either party and
4 shall be made in writing to the Administrator of the Workers'
5 Compensation Court who shall set the case for prehearing before
6 the assigned judge within fifteen (15) days. At the prehearing,
7 the judge shall appoint a mediator and issue an order reflecting
8 such appointment. The mediator shall contact the parties and
9 schedule a mediation session within thirty (30) days of such
10 order, unless otherwise agreed to by the parties.

11 E. Mediation is confidential and no part of the proceeding
12 shall be considered a matter of public record. Recommendations of
13 the mediator are not binding unless the parties enter into a
14 settlement agreement. If an agreement is not reached, the results
15 and statements made during the mediation are not admissible in any
16 following proceeding.

17 F. The Court shall be responsible for certifying those
18 persons who are eligible and qualified to serve as mediators. An
19 individual may be certified as a mediator if the applicant meets
20 the qualifications as required by the Court. A certified mediator
21 may be an attorney or non-attorney who has worked in the area of
22 Oklahoma workers' compensation benefits for at least five (5)
23 years. Mediators serving as Court certified mediators on the
24 effective date of this act shall serve the remainder of their
25 respective five-year certification periods and may reapply for
26 successive certification periods.

27 G. Each certified mediator shall remain on the list for

1 five (5) years, unless removed. Mediators shall be required to
2 complete at least six (6) hours of continuing education per two-

3 year period in the areas of mediation and workers' compensation.
4 Proof of compliance with this requirement shall be submitted to
5 the Administrator. This continuing education requirement shall be
6 in addition to any other such general requirement which may be
7 required by the Oklahoma State Bar Association. Cost of
8 continuing education is to be borne by the applicant.

9 H. Mediators shall be compensated at the rate or fee as
10 determined by the mediator; provided, however, the rate or fee
11 shall not exceed a maximum rate to be established by the
12 Administrator or Court by rule. The cost of mediation shall be
13 paid by the respondent or its insurance carrier. A mediator must
14 schedule mediations for a minimum two (2) hour block of time, and
15 may not schedule more than one mediation to take place at a time.

16 I. At the time of a mediation, the claimant shall be in
17 attendance unless all parties agree, and all parties shall be
18 represented during the entire mediation session by a person with
19 full settlement authority to settle any issue of the claim. If a
20 party does not have full settlement authority, or does not
21 participate in good faith in the mediation process, the mediator
22 shall report to the assigned judge of the Court who may for good
23 cause shown assess costs, attorney fees, and sanctions.

24 J. To encourage early resolution of claims, an injured
25 employee may participate in mediation without counsel. Upon
26 compromise settlement of the claim, the parties may submit the
27 settlement agreement to the Administrator for final approval.

2 codified in the Oklahoma Statutes as Section 322 of Title 85,
3 unless there is created a duplication in numbering, reads as
4 follows:

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

9 B. Within ten (10) days of receipt of notice of an injury,
10 a report thereof shall be made in writing by the employer to the
11 Workers' Compensation Court and to the employer's workers'
12 compensation insurance carrier, if any, on a form prescribed by
13 the Administrator of the Workers' Compensation Court. Such
14 reports shall provide such information as may be required by the
15 Administrator. The report, known as the Employer's First Notice
16 of Injury, shall vest the Court with jurisdiction to determine all
17 issues covered by provisions of this act. The Employer's First
18 Notice of Injury shall be kept confidential and shall not be open
19 to public inspection; provided, such reports shall be made
20 available immediately upon request by the injured employee named
21 in the report, the injured employee's legal representative, the
22 employer, the employer's legal representative or any prosecutorial
23 authority, and at such time an Employee's First Notice of Injury
24 shall be filed. Filing of an Employer's First Notice of Injury is
25 not an admission of liability or that the employee has provided
26 proper notice of injury as provided in this act.

27 C. Each employer shall post a notice advising employees

1 that they are covered by the Workers' Compensation Code and that

2 workers' compensation counselor or ombudsman services are
3 available at the Court. The form of the notice shall be
4 prescribed by the rules of the Court. No other notice to the
5 employee shall be required other than the poster required by this
6 section; provided that nothing in this subsection shall be
7 construed to toll the statute of limitations provided for in
8 Section 18 of this act.

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

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

17 A. Unless an employee gives oral or written notice to the
18 employer within thirty (30) days of the date an injury occurs, or
19 the employee receives medical attention from a licensed physician
20 during the thirty-day period from the date a single event injury
21 occurred, the rebuttable presumption shall be that the injury was
22 not work-related. Such presumption must be overcome by a
23 preponderance of the evidence.

24 B. Unless an employee gives oral or written notice to the
25 employer within ninety (90) days of the employee's separation of
26 employment, there shall be a rebuttable presumption that an
27 occupational disease or cumulative trauma injury did not arise out

1 of and in the course of employment. Such presumption must be
2 overcome by a preponderance of the evidence.

3 C. The Administrator of the Workers' Compensation Court
4 shall provide printed notice forms, "Employee's First Notice of
5 Accidental Injury and Claim for Compensation", to be used by the
6 injured employee. In addition to other information required by
7 the Administrator, such notice shall include the name and social
8 security number of the employee; the name and address of the
9 employer; the date, place, and type of injury; a declaration
10 whether the employee has filed a claim for Social Security
11 Disability Insurance benefits; and a declaration whether the
12 employee is receiving Medicare benefits, is eligible for Medicare
13 benefits or will become eligible for Medicare benefits within
14 thirty (30) months of the filing of such notice. Notice of injury
15 filed by the employee with the Administrator shall be verified
16 subject to the laws of perjury of this state.

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

21 A. Any claim for any benefit under the Workers'
22 Compensation Code shall be commenced with the filing of an
23 Employee's First Notice of Accidental Injury and Claim for
24 Compensation by the Employee with the Administrator. The claim
25 shall contain a statement that all matters stated therein are true
26 and accurate and shall be signed by the claimant and the
27 claimant's agent, if any. Any person who signs this statement or

1 causes another to sign this statement knowing the statement to be
2 false shall be guilty of perjury. An individual who signs on
3 behalf of a claimant may be presumed to have the authorization of
4 the claimant and to be acting at the claimant's direction.

5 B. All answers and defenses to claims or other documents
6 filed on behalf of a respondent or the respondent's insurer in a
7 workers' compensation case shall contain a statement that all
8 matters stated therein are true and accurate and shall be signed
9 by the respondent, the insurer, or their respective agents, if
10 any. Any person who signs such a statement or causes another to
11 sign such a statement, knowing the statement to be false, shall be
12 guilty of perjury. An individual who signs on behalf of a
13 respondent, its insurer, or its agent may be presumed to have the
14 authorization of the respondent, its insurer or agent and to be
15 acting at their direction.

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

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

26 The Administrator of the Workers' Compensation Court shall
27 assign claims to judges based upon a fair and rotating basis to be

1 heard either in Oklahoma City or Tulsa. The Administrator shall
2 proportionately divide the counties of the state to determine
3 proper venue for claims. Upon agreement of the parties and with
4 the permission of the judge, hearings or prehearings may be held
5 in other judicial districts or by videoconferencing.

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

10 A. Within seven (7) days of actual knowledge of an injury,
11 the employer shall provide the employee reasonable and necessary
12 medical care with a physician of the employer's choice. The
13 providing of medical care shall not be construed as an admission
14 of compensability of an injury or illness. The physician selected
15 by the employer shall become the treating physician.

16 B. If the employer fails or neglects to provide medical
17 treatment within seven (7) days after actual knowledge is received
18 of an injury, the injured employee may select a physician to
19 provide medical treatment at the expense of the employer;
20 provided, however, that the injured employee, or another in the
21 employee's behalf, may obtain emergency treatment at the expense
22 of the employer where such emergency treatment is not provided by
23 the employer.

24 C. If a self-insured employer, group self-insurance
25 association plan, an employer's workers' compensation insurance
26 carrier or an insured has previously contracted with a certified
27 workplace medical plan, the employer shall select for the injured

1 employee a treating physician from the physicians listed within
2 the network of the certified workplace medical plan. The claimant
3 may apply for a change of physician by utilizing the dispute
4 resolution process set out in the certified workplace medical plan
5 on file with the State Department of Health. If the dispute
6 resolution process has been exhausted, the Workers' Compensation
7 Court may appoint an independent medical examiner to determine the
8 nature of medical treatment needed by the injured worker.

9 D. The term "physician" as used in this section shall mean
10 any person licensed in this state as a medical doctor,
11 chiropractor, podiatrist, dentist, osteopathic physician or
12 optometrist. The Court may accept testimony from a psychologist
13 if the testimony is requested by the Court.

14 E. Where the employee is not covered by a certified
15 workplace medical plan, the employer shall select the treating
16 physician as provided in subsection A of this section. The Court
17 on application of the employee shall order one change of treating
18 physician for any affected body part. If the employer objects,
19 the Court shall set the request for change of treating physician
20 for hearing within ten (10) days. Provided, that no change of
21 treating physician can be authorized for a part of the body if no
22 authorized medical care has been provided for that part of the
23 body for one hundred eighty (180) days prior to the date of the
24 filing of the application for change of treating physician.
25 Provided further, regardless of the number of parts of the body
26 injured, a maximum of two (2) changes of physician may be allowed
27 in a claim. In the event the employee makes application for such

1 a change, the employee shall list on such application three (3)
2 proposed physicians who are qualified to treat the body part
3 affected. The employer may agree to one of the physicians listed
4 by the employee or submit its own list of three (3) physicians.
5 If the employer and employee do not agree on the physician, the
6 Court may select a physician who is qualified to treat the body
7 part affected and who can see the employee within a reasonable
8 time, with preference given to physicians who are qualified
9 independent medical examiners.

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

13 G. Effective March 1, 2012, the scope and duration of
14 medical treatment shall be provided in accordance with the current
15 edition of the "Official Disability Guidelines", as published by
16 the Work Loss Data Institute. For medical treatment not addressed
17 by the Official Disability Guidelines or addressed but not
18 recommended in the ODG section in regard to injuries to the
19 cervical, thoracic, or lumbar spine, the Physician Advisory
20 Committee shall adopt the Oklahoma Treatment Guidelines as
21 provided in Section 73 of this act. Medical treatment provided by
22 or at the direction of the treating physician in accordance with
23 the current edition of the Official Disability Guidelines or
24 Oklahoma Treatment Guidelines is presumed to be reasonable and
25 necessary medical care. The employer or insurance carrier shall
26 not be responsible for charges for medical treatment not provided
27 in accordance with the current edition of the Official Disability

1 Guidelines or Oklahoma Treatment Guidelines unless the medical
2 treatment was provided in a medical emergency, the medical
3 treatment was preauthorized by the employer or insurance carrier,
4 or the medical treatment is approved by the Court upon a finding
5 based on clear and convincing evidence provided by a qualified
6 independent medical examiner that medical treatment provided
7 according to either ODG or OTG is not in the best interest of the
8 employee.

9 H. Unless recommended by the treating doctor at the time
10 claimant reaches maximum medical improvement or by an independent
11 medical examiner, continuing medical maintenance shall not be
12 awarded by the Court. At the request of any party, the judge
13 shall appoint an independent medical examiner to determine the
14 nature and extent of continuing medical maintenance. The issue of
15 continuing medical maintenance may be reviewed by the Court at any
16 time. The employer or insurance carrier shall not be responsible
17 for continuing medical maintenance or pain management treatment
18 that is outside the parameters established by the Physician
19 Advisory Committee. The employer or insurance carrier shall not
20 be responsible for continuing medical maintenance or pain
21 management treatment not previously ordered by the Court or
22 approved in advance by the employer or insurance carrier.

23 I. An employee claiming or entitled to benefits under the
24 Workers' Compensation Code, shall, if ordered by the Court or
25 requested by the employer or insurance carrier, submit himself or
26 herself for medical examination. If an employee refuses to submit

27 himself or herself to examination, his or her right to prosecute

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1 any proceeding under the Workers' Compensation Code shall be
2 suspended, and no compensation shall be payable for the period of
3 such refusal.

4 J. For compensable injuries resulting in the use of a
5 medical device, ongoing service for the medical device would be
6 provided in situations including, but not limited to, medical
7 device battery replacement, ongoing medication refills related to
8 the medical device, medical device repair or medical device
9 replacement.

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

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

25 A. For the express purpose of reducing the overall cost of
26 medical care for injured workers in the workers' compensation

27 system by five percent (5%), the Administrator of the Workers'

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1 Compensation Court is hereby directed to develop a new "Oklahoma
2 Workers' Compensation Medical Fee Schedule" to be implemented by
3 January 1, 2012. Thereafter, the Administrator shall conduct a
4 review of the Fee Schedule every two (2) years. The Fee Schedule
5 shall establish the maximum rates that medical providers shall be
6 reimbursed for medical care provided to injured workers,
7 including, but not limited to, charges by physicians, dentists,
8 counselors, hospitals, ambulatory and outpatient facilities,
9 clinical laboratory services, diagnostic testing services, and
10 ambulance services, and charges for durable medical equipment,
11 prosthetics, orthotics, and supplies.

12 B. Reimbursement for medical care shall be prescribed and
13 limited by the Fee Schedule as adopted by the Administrator, after
14 notice and public hearing. The director of the Oklahoma State
15 Employees Group Insurance Board shall provide the Administrator
16 such information as may be relevant in the development of the Fee
17 Schedule. The Administrator shall develop the Fee Schedule in a
18 manner in which quality of medical care is assured and maintained
19 for injured workers. The Administrator shall give due
20 consideration to additional requirements for physicians treating
21 an injured worker under this act, including, but not limited to,
22 communication with claims representatives, case managers,
23 attorneys, and representatives of employers, and the additional
24 time required to complete forms for the Court, insurance carriers,
25 and employers.

26 C. In making adjustments to the Fee Schedule, the
27 Administrator shall use, as a benchmark, the reimbursement rate

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1 for each Current Procedural Terminology (CPT) code provided for in
2 the fee schedule published by the Centers for Medicare and
3 Medicaid Services of the U.S. Department of Health and Human
4 Services for use in Oklahoma (Medicare Fee Schedule) on the
5 effective date of this act. For services not valued by CMS, the
6 Administrator shall establish values based on the usual, customary
7 and reasonable medical payments to health care providers in the
8 same trade area for comparable treatment of a person with similar
9 injuries.

10 1. No reimbursement shall be allowed for any magnetic
11 resonance imaging (MRI) unless the MRI unit produces a field
12 strength that is equal to or greater than 1.0 Tesla. For all
13 other radiology procedures, the reimbursement rate shall be the
14 lesser of the reimbursement rate allowed by the 2010 Oklahoma Fee
15 Schedule or two hundred seven percent (207%) of the Medicare Fee
16 Schedule.

17 2. For reimbursement of medical services for Evaluation and
18 Management of injured employees as defined in the fee schedule
19 adopted by the Administrator, the reimbursement rate shall not be
20 less than one hundred fifty percent (150%) of the Medicare Fee
21 Schedule.

22 3. Any entity providing durable medical equipment,
23 prosthetics, orthotics or supplies must be accredited by a CMS-
24 approved accreditation organization. In the event a physician
25 provides durable medical equipment, prosthetics, orthotics,

26 prescription drugs, or supplies to a patient ancillary to the
27 patient visit, reimbursement will be no more than ten percent

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1 (10%) above cost.

2 4. The Administrator shall develop a reasonable stop loss
3 provision of the Fee Schedule to provide for adequate
4 reimbursement for treatment for major burns, severe head and
5 neurological injuries, multiple system injuries, and other
6 catastrophic injuries requiring extended periods of intensive
7 care.

8 D. The right to recover charges for every type of medical
9 care for injuries arising out of and in the course of covered
10 employment as defined in this act shall lie solely with the
11 Workers' Compensation Court and its administration. When a
12 medical care provider has brought a claim in the Court to obtain
13 payment for services, a party who prevails in full on the claim
14 shall be entitled to a reasonable attorney fee.

15 E. Nothing in this section shall prevent an employer,
16 insurance carrier, group self-insurance association, or certified
17 workplace medical plan from contracting with a provider of medical
18 care for a reimbursement rate that is greater than or less than
19 limits established by the Fee Schedule.

20 F. A treating physician may not charge more than Four
21 Hundred Dollars (\$400.00) per hour for preparation for or
22 testimony at a deposition or court appearance in connection with a
23 claim covered by the Workers' Compensation Code.

24 G. The Administrator's review of medical and treatment

25 charges pursuant to this section shall be conducted pursuant to
26 the Fee Schedule in existence at the time the medical care or
27 treatment was provided. The order approving the medical and

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1 treatment charges pursuant to this section shall be enforceable by
2 the Court in the same manner as provided in the Workers'
3 Compensation Code for the enforcement of other compensation
4 payments. Any party feeling aggrieved by the order, decision or
5 award of the Administrator shall, within ten (10) days, have the
6 right to request a hearing on such medical and treatment charges
7 by a judge of the Court. The judge of the Court may affirm the
8 decision of the Administrator, or reverse or modify the decision
9 only if it is found to be contrary to the Fee Schedule existing at
10 the time the medical care or treatment was provided. The order of
11 the judge shall be subject to the same appellate procedure set
12 forth for all other orders of the Court.

13 H. Charges for prescription drugs dispensed by a pharmacy
14 shall be limited to ninety percent (90%) of the average wholesale
15 price of the prescription, plus a dispensing fee of Five Dollars
16 (\$5.00) per prescription. "Average wholesale price" means the
17 amount determined from the latest publication designated by the
18 Administrator. Physicians shall prescribe and pharmacies shall
19 dispense generic equivalent drugs when available. If the NDC for
20 the drug product dispensed is for a repackaged drug, then the
21 maximum reimbursement shall be the lesser of the original
22 labeler's NDC or the lowest cost therapeutic equivalent drug
23 product. Compounded medications shall be billed by the
24 compounding pharmacy at the ingredient level, with each ingredient

25 identified using the applicable NDC of the drug product, and the
26 corresponding quantity. Ingredients with no NDC area are not
27 separately reimbursable. Payment shall be based upon a sum of the

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1 allowable fee for each ingredient plus a dispensing fee of five
2 dollars (\$5.00) per prescription.

3 I. When medical care includes prescription drugs dispensed
4 by a physician or other medical care provider, the employer or
5 insurance carrier shall be required to pay the lesser of the
6 reimbursement amount specified under the schedule of fees adopted
7 by the Administrator, the reimbursement amount for prescription
8 drugs obtained by mail order, when mail order is available, or the
9 reimbursement amount for prescription drugs obtained at a retail
10 pharmacy. If the National Drug Code (NDC) for the drug product
11 dispensed is for a repackaged drug, then the maximum reimbursement
12 shall be the lesser of the original labeler's NDC or the lowest
13 cost therapeutic equivalent drug product. Compounded medications
14 shall be billed by the compounding pharmacy.

15 J. Implantables are paid in addition to procedural
16 reimbursement paid for medical or surgical services. A
17 manufacturer's invoice for the actual cost to a physician,
18 hospital or other entity of an implantable device shall be
19 adjusted by the physician, hospital or other entity to reflect, at
20 the time implanted, all applicable discounts, rebates,
21 considerations and product replacement programs and must be
22 provided to the payer by the physician or hospital as a condition
23 of payment for the implantable device. In the event the

24 physician, or an entity that the physician has a financial
25 interest in, other than an ownership interest of less than five
26 percent (5%) in a publicly traded company provides implantable
27 devices, this relationship must be disclosed to patient, employer,

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1 insurance company, third party administrator, certified workplace
2 medical plan, case managers, and attorneys representing claimant
3 and defendant. In the event the physician, or an entity that the
4 physician has a financial interest in, other than an ownership
5 interest of less than five percent (5%) in a publicly traded
6 company, buys and resells implantable devices to the hospital or
7 another physician, that markup shall be limited to ten percent
8 (10%) above cost.

9 K. Payment for medical care as required by this act shall
10 be due within forty-five (45) days of the receipt by the employer
11 or insurance carrier of a complete and accurate invoice, unless
12 the employer or insurance carrier has a good faith reason to
13 request additional information about such invoice. Thereafter, a
14 judge of the Court may assess a penalty up to twenty-five percent
15 (25%) for any amount due under the Fee Schedule that remains
16 unpaid upon the finding by the Court that no good faith reason
17 existed for the delay in payment. In the event the Court finds a
18 pattern of an employer or insurance carrier willfully and
19 knowingly delaying payments for medical care, the Court may assess
20 a civil penalty of not more than Five Thousand Dollars (\$5,000.00)
21 per occurrence.

22 L. In the event an employee fails to appear for a scheduled
23 appointment with a physician, the employer or insurance company

24 shall pay to the physician a reasonable charge, to be determined
25 by the Administrator, for the missed appointment. In the absence
26 of a good faith reason for missing the appointment, the Court
27 shall order the employee to reimburse the employer or insurance

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1 company for such charge.

2 M. Physicians providing treatment under this act shall
3 disclose under penalty of perjury to the Administrator of the
4 Workers' Compensation Court, on a form prescribed by the
5 Administrator, any ownership or interest in any health care
6 facility, business, or diagnostic center that is not the
7 physician's primary place of business. Such disclosure shall
8 include any employee leasing arrangement between the physician and
9 any health care facility that is not the physician's primary place
10 of business. A physician's failure to disclose as required by
11 this section shall be grounds for the Administrator to disqualify
12 the physician from providing treatment under this act.

13 SECTION 28. NEW LAW A new section of law to be
14 codified in the Oklahoma Statutes as Section 328 of Title 85,
15 unless there is created a duplication in numbering, reads as
16 follows:

17 A. If a self-insured employer, group self-insurance
18 association plan, an employer's workers' compensation insurance
19 carrier or an insured, which shall include any member of an
20 approved group self-insured association, policyholder or public
21 entity, has contracted with a workplace medical plan that is
22 certified by the State Commissioner of Health as provided in this

23 act, the employer shall select for the injured employee a treating
24 physician from the physicians listed within the network of the
25 certified workplace medical plan. The claimant may apply to the
26 certified workplace medical plan for a one-time change of
27 physician to another appropriate physician within the network of

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1 the certified workplace medical plan by utilizing the dispute
2 resolution process set out in the certified workplace medical plan
3 on file with the State Department of Health. Notwithstanding any
4 other provision of law, those employees who are subject to such
5 certified workplace medical plan shall receive medical treatment
6 in the manner prescribed by the plan.

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

17 C. Any person or entity may make written application to the
18 State Commissioner of Health to have a workplace medical plan
19 certified that provides management of quality treatment to injured
20 employees for injuries and diseases compensable under the Workers'
21 Compensation Code. Each application for certification shall be
22 accompanied by a fee of One Thousand Five Hundred Dollars

23 (\$1,500.00). A workplace medical plan may be certified to provide
24 services to a limited geographic area. A certificate is valid for
25 a five-year period, unless revoked or suspended. Application for
26 certification shall be made in the form and manner and shall set
27 forth information regarding the proposed program for providing

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1 services as the Commissioner may prescribe. The information shall
2 include, but not be limited to:

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

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

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

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

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

16 (2) utilizes medical treatment guidelines and protocols
17 substantially similar to those established for use by medical
18 service providers which have been recommended by the Physician
19 Advisory Committee and adopted by the Administrator pursuant to
20 this act. If the Administrator has not adopted medical treatment
21 guidelines and protocols, the Commissioner may certify a plan that

22 utilizes medical guidelines and protocols established by the plan
23 if, at the discretion of the Commissioner, the guidelines and
24 protocols are reasonable and will carry out the intent of the
25 Workers' Compensation Code. Certified plans must utilize medical
26 treatment guidelines and protocols substantially similar to those
27 adopted by the Administrator pursuant to this act, as such

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1 guidelines and protocols become adopted,

2 b. is reasonably geographically convenient to residents
3 of the area for which it seeks certification,

4 c. provides appropriate financial incentives to reduce
5 service costs and utilization without sacrificing the quality of
6 service,

7 d. provides adequate methods of peer review,
8 utilization review and dispute resolution to prevent
9 inappropriate, excessive or medically unnecessary treatment, and
10 excludes participation in the plan by those providers who violate
11 these treatment standards,

12 e. requires the dispute resolution procedure of the
13 plan to include a requirement that disputes on an issue, including
14 a subsequent change of physician as described in the provisions of
15 this section, related to medical care under the plan, be attempted
16 to be resolved within ten (10) days of the time the dispute arises
17 and if not resolved within ten (10) days, the employee may pursue
18 remedies in the Court.

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

21 g. provides workplace health and safety consultative

22 services,

23 h. provides a timely and accurate method of reporting
24 to the Commissioner necessary information regarding medical
25 service costs and utilization to enable the Commissioner to
26 determine the effectiveness of the plan,

27 i. authorizes necessary emergency medical treatment for

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1 an injury provided by a provider of medical, surgical, and
2 hospital services who is not a part of the plan,

3 j. does not discriminate against or exclude from
4 participation in the plan any category of providers of medical,
5 surgical, or hospital services and includes an adequate number of
6 each category of providers of medical, surgical, and hospital
7 services to give participants access to all categories of
8 providers and does not discriminate against ethnic minority
9 providers of medical services, and

10 k. complies with any other requirement the Commissioner
11 determines is necessary to provide quality medical services and
12 health care to injured employees.

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

16 E. If any insurer, except CompSource Oklahoma, fails to
17 contract with or provide access to a certified workplace medical
18 plan, an insured, after sixty (60) days' written notice to its
19 insurance carrier, shall be authorized to contract independently
20 with a plan of his or her choice for a period of one (1) year, to

21 provide medical care under the Workers' Compensation Code. The
22 insured shall be authorized to contract, after sixty (60) days'
23 written notice to its insurance carrier, for additional one-year
24 periods if his or her insurer has not contracted with or provided
25 access to a certified workplace medical plan.

26 F. If CompSource Oklahoma fails to contract with at least
27 three certified workplace medical plans, each covering at least

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

15 G. The Commissioner shall refuse to certify or shall revoke
16 or suspend the certification of a plan if the Commissioner finds
17 that the program for providing medical or health care services
18 fails to meet the requirements of this section, or service under
19 the plan is not being provided in accordance with the terms of the
20 plan.

21 H. The State Commissioner of Health shall implement a site
22 visit protocol for employees of the State Department of Health to
23 perform an inspection of a certified workplace medical plan to
24 ensure that medical services to a claimant and the medical
25 management of the claimant's needs are adequately met in a timely
26 manner and that the certified workplace medical plan is complying
27 with all other applicable provisions of this act and the rules of

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1 the State Department of Health. Such protocol shall include, but
2 not be limited to:

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

7 2. A site visit shall conclude with a determination that a
8 certified workplace medical plan is or is not operating in
9 accordance with its latest application to the State Department of
10 Health;

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

13 a. timely and effective medical services available with
14 reasonable geographic convenience,

15 b. appropriate treatment guidelines and protocols, and

16 c. effective programs for utilization review, case
17 management, grievances, and dispute resolution;

18 4. Performance of a site visit shall include:

19 a. inspection of organizational documentation,

- 20 b. inspection of systems documentation and processes,
- 21 c. random or systematic sampling of closed and open
- 22 case management cases (files),
- 23 d. random or systematic sampling, or a one-hundred-
- 24 percent inspection of all dispute resolution, grievance, and
- 25 Department of Health request for assistance files,
- 26 e. workplace medical plan employee and management
- 27 interviews, as appropriate;

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

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

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

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

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

19 b. One Thousand Dollars (\$1,000.00) if a follow-up

20 visit is performed,

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

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

25 9. In addition to the site visit fee, employees of the
26 State Department of Health may charge to the certified workplace
27 medical plan reasonable travel and travel-related expenses for the

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1 site visit such as overnight lodging and meals. A certified
2 workplace medical plan shall reimburse travel expenses to the
3 State Department of Health at rates equal to the amounts then
4 currently allowed under the State Travel Reimbursement Act.

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

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

15 A. The Workers' Compensation Court shall create, maintain
16 and review a list of licensed physicians who shall serve as
17 independent medical examiners from a list of licensed physicians
18 who have completed such course study as the Administrator of the

19 Workers' Compensation Court may require and who have been
20 recommended as independent medical examiners by the Physician
21 Advisory Committee. The Court shall, to the best of its ability,
22 include the most experienced and competent physicians in the
23 specific fields of expertise utilized most often in the treatment
24 of injured employees. The period of qualification shall be two
25 years. Physicians may be qualified for successive two-year
26 periods. Physicians serving as Court qualified independent
27 medical examiners on the effective date of this act shall serve

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1 the remainder of their respective two-year qualification periods
2 and may reapply for successive qualification periods. The Court
3 may remove an independent medical examiner from the list for
4 cause. For purposes of this section, a physician shall be either
5 a licensed medical doctor or a licensed doctor of osteopathy and
6 shall include a person licensed by another state who would be
7 qualified to be a licensed medical doctor or a licensed doctor of
8 osteopathy under the laws of this state.

9 B. The Court at any time, regardless of the date of injury,
10 may appoint an independent medical examiner to assist in
11 determining any issue before the Court. In the event surgery is
12 recommended by a treating physician, upon request of the employer,
13 an independent medical examiner shall be appointed by the Court to
14 determine the reasonableness and necessity of the recommended
15 surgery. Such independent medical examiner shall be qualified to
16 perform the type of surgery recommended.

17 C. An independent medical examiner in a case involving
18 permanent disability shall not be a treating physician of the

19 employee and shall not have treated the employee with respect to
20 the injury for which the claim is being made or the benefits are
21 being paid.

22 D. The Court shall select an independent medical examiner
23 from the list of independent medical examiners within fifteen (15)
24 days when the employer or the employee petitions the Court for the
25 selection of an independent medical examiner. The independent
26 medical examiner shall be certified by a recognized American
27 medical or osteopathic specialty board in the area or areas

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1 appropriate to the condition under review.

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

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

7 G. After a physical examination and review of medical
8 records and other appropriate information, including depositions
9 and surveillance video, the independent medical examiner shall
10 submit a verified written report to the Court and to the parties.
11 In the event the independent medical examiner determines that more
12 medical treatment is necessary, the employer shall designate a
13 treating physician to provide the indicated treatment.

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

18 I. The Court, in consultation with the Advisory Council on
19 Workers' Compensation, shall create a review process to oversee on
20 a continuing basis the quality of performance and the timeliness
21 of the submission of medical findings by independent medical
22 examiners.

23 J. If the Court does not follow the opinion of the
24 independent medical examiner on any issue, the Court shall set out
25 its reasons for deviating from the opinion of the independent
26 medical examiner. The opinion of the independent medical examiner
27 shall be followed unless there is clear and convincing evidence to

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1 the contrary.

2 K. Upon receipt of an independent medical examiner's
3 report, any party shall have the right to object to the
4 introduction of the report into evidence. The objection must be
5 made by giving written notification to all parties and to the
6 Court within ten (10) days after receipt of the report. The
7 employer shall be responsible for the reasonable charges of the
8 physician for such testimony, preparation time, and the expense of
9 the deposition.

10 SECTION 30. NEW LAW A new section of law to be
11 codified in the Oklahoma Statutes as Section 330 of Title 85,
12 unless there is created a duplication in numbering, reads as
13 follows:

14 For cases not covered by a certified workplace medical plan,
15 and where the employer, insurance company, or own-risk employer do
16 not provide case management, case management may be granted by the
17 Workers' Compensation Court on the request of any party, or when

18 the Court determines that case management is appropriate. The
19 Court shall appoint a case manager from a list of qualified case
20 managers developed, maintained and periodically reviewed by the
21 Court. The period of qualification shall be two years. Case
22 managers may be qualified for successive two-year periods. Case
23 managers serving as Court qualified case managers on the effective
24 date of this act shall serve the remainder of their respective
25 two-year qualification periods and may reapply for successive
26 qualification periods. The reasonable and customary charges of a
27 medical case manager appointed by the Court shall be borne by the

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1 employer or insurance carrier. The Court may order one change of
2 case manager upon application of any party.

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

7 Except as otherwise provided in this act, the average weekly
8 wages of the injured employee at the time of the injury shall be
9 taken as the basis upon which to compute compensation and shall be
10 determined as follows:

11 1. If the injured employee shall have worked for the same
12 employer for the year immediately preceding the injury, his or her
13 average weekly wage shall be one fifty-second (1/52) of his or her
14 total wages for the fifty-two (52) weeks preceding the injury;
15 provided, however, that if the employee shall have received a pay
16 raise or promotion during the year, the average weekly wage shall

17 be one fifty-second (1/52) of 260 times the average daily wage at
18 the increased rate of pay;

19 2. If the injured employee shall not have worked for the
20 employer for one year prior to the injury, his or her average
21 weekly wage shall be his or her total wages divided by the number
22 of weeks employed; provided, however, that if the employee shall
23 have received a pay raise or promotion during the time employed,
24 the average weekly wage shall be one fifty-second (1/52) of 260
25 times the average daily wage at the increased rate of pay;

26 3. If either of the foregoing methods of arriving at the
27 annual average earnings of an injured employee cannot reasonably

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1 and fairly be applied, the Workers' Compensation Court may
2 consider average wages in the same or similar employment in the
3 same area of the state where the injury occurred;

4 4. The benefit level for members of the National Guard and
5 any authorized voluntary or uncompensated worker rendering
6 services as a firefighter, peace officer or civil defense worker
7 shall be determined by using the wages of the employee in his or
8 her regular occupation.

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

13 A. In cases of temporary total disability, the injured
14 employee shall be paid seventy percent (70%) of his or her average
15 weekly wages, but not in excess of the state's average weekly
16 wage, during continuance thereof; provided, there shall be no

17 payment for the first seven (7) days of the initial period of
18 temporary total disability unless the Workers' Compensation Court
19 declares the employee to be temporarily totally disabled for more
20 than twenty one (21) days. In that event, compensation shall be
21 due from the first day of the period of temporary total
22 disability. Total payments of compensation for temporary total
23 disability shall not exceed one hundred fifty-six (156) weeks,
24 except if the Court makes a finding of a consequential injury. In
25 that event, the Court may order an additional period of temporary
26 total disability not to exceed fifty-two (52) weeks. Any party
27 may request overpayment or underpayment of temporary total

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1 disability compensation.

2 B. When the injured employee is released from active
3 medical treatment by the treating physician for all body parts
4 found by the Court to be injured, or in the event that the
5 employee, without a valid excuse, misses three consecutive medical
6 treatment appointments, fails to comply with medical orders of the
7 treating physician, or otherwise abandons medical care, the
8 employer shall be entitled to terminate temporary total disability
9 by notifying the employee, or if represented, his or her counsel.
10 If there is no objection within ten (10) days, temporary total
11 disability compensation shall be terminated. If, however, an
12 objection to the termination is filed by the employee within ten
13 (10) days, the Court shall set the matter within twenty (20) days
14 for a determination if temporary total disability compensation
15 shall continue or be terminated. The Court shall terminate

16 temporary total disability unless the employee proves the
17 existence of a valid excuse for his or her failure to comply with
18 medical orders of the treating physician or his or her abandonment
19 of medical care. The Court may appoint an independent medical
20 examiner to determine if further medical treatment is reasonable
21 and necessary. The independent medical examiner shall not provide
22 treatment to the injured worker, unless agreed upon by the
23 parties. The employer shall bear the cost of the independent
24 medical examination.

25 C. There shall be a rebuttable presumption in favor of the
26 treating physician's opinions on the issue of temporary disability
27 and need for medical treatment. This presumption shall continue

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1 unless rebutted by clear and convincing evidence to the contrary
2 of a qualified independent medical examiner.

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

16 E. If the employer has actual notice of the injury and the
17 injury is not disputed and weekly temporary total disability
18 benefit payments are not commenced within ten (10) days or if any
19 subsequent installment of temporary total disability benefits is
20 not made within ten (10) days after it becomes due, the insurer of
21 the employer shall pay to the employee a penalty of fifteen
22 percent (15%) of the unpaid or delayed weekly benefits.

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

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

15 upon receipt of the notice, may seek a hearing before the Court.
16 The Court shall grant an expedited hearing within five (5) days of
17 any application by the employee. At the hearing, the Court may
18 enter an order allowing the discontinuation of the benefits,
19 denying the discontinuance of the benefits or temporarily denying
20 the discontinuance of the benefits pending further hearing. An
21 order denying or temporarily denying the discontinuation of
22 temporary benefits shall be based on a finding by the Court that
23 probable cause exists to believe the work does not meet the
24 conditions of the treating physician's restrictions or that the
25 restrictions are unreasonable.

26 H. Any person receiving temporary disability benefits from
27 an employer or the employer's insurance carrier shall within seven

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1 (7) days report in writing to the employer or insurance carrier
2 any change in a material fact or the amount of income he or she is
3 receiving or any change in his or her employment status, occurring
4 during the period of receipt of the benefits.

5 I. An employee convicted of a misdemeanor or felony in this
6 state or any other jurisdiction shall not be entitled to temporary
7 total disability benefits during any period of incarceration.
8 Upon confirmation of the employee's incarceration, temporary total
9 disability may be terminated by the employer or insurance carrier
10 without an order of the Court. The provisions of this subsection
11 shall not apply to any benefits awarded to an inmate for
12 compensable injuries sustained by the inmate while in the employ
13 of a private for-profit employer or while employed in private
14 prison industries, involving a for-profit employer, which deal in

15 interstate commerce or which sell products or services to the
16 federal government.

17 J. In case of temporary partial disability, an injured
18 employee shall receive seventy percent (70%) of the difference
19 between the employee's average weekly wages and the employee's
20 wage-earning capacity thereafter in the same employment or
21 otherwise, if less than before the injury, during continuance of
22 the partial disability. Total payments of temporary partial
23 disability may not exceed one hundred fifty-six (156) weeks. In
24 no event shall the total payment of wages and temporary partial
25 disability exceed eighty percent (80%) of the average weekly wage
26 of the injured employee at the time of the accident.

27 K. In case of a nonsurgical soft tissue injury, in which

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1 the employer has provided medical care within seven (7) days after
2 receipt of oral or written notice of the injury, temporary total
3 disability compensation shall not exceed eight (8) weeks,
4 regardless of the number of parts of the body to which there is a
5 nonsurgical soft tissue injury. A claimant who has been
6 recommended by a treating physician for one or more injections may
7 petition the Court for one extension of temporary total disability
8 compensation and the Court may order an extension, not to exceed
9 eight (8) additional weeks. A claimant who has been recommended
10 by a treating physician for surgery for a soft tissue injury may
11 petition the Court for one extension of temporary total disability
12 compensation and the Court may order an extension, not to exceed
13 sixteen (16) additional weeks, if the treating physician indicates

14 that an extension is appropriate or as agreed to by all parties.
15 In the event the surgery is not performed within ninety (90) days
16 of the approval of the surgery by the employer or employer's
17 insurance carrier or an order of the Court authorizing the
18 surgery, the benefits for the extension period shall be terminated
19 by the Court, unless the Court finds the delay was beyond the
20 control of the claimant. In the event surgery is performed, the
21 period of temporary total disability is subject to the limitations
22 established by subsection A of this section. This subsection
23 shall apply to all cases coming before the Court after the
24 effective date of this act, regardless of the date of injury.

25 L. For purposes of this section, "soft tissue injury" means
26 damage to one or more of the tissues that surround bones and
27 joints. Soft tissue injury includes, but is not limited to:

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1 sprains, strains, contusions, tendonitis, and muscle tears.
2 Cumulative trauma is to be considered a soft tissue injury. Soft
3 tissue injury does not include any of the following:

- 4 1. Injury to or disease of the spine, spinal discs, spinal
5 nerves or spinal cord, where corrective surgery is performed;
- 6 2. Brain or closed-head injury as evidenced by:
 - 7 a. sensory or motor disturbances,
 - 8 b. communication disturbances,
 - 9 c. complex integrated disturbances of cerebral
10 function,
 - 11 d. episodic neurological disorders, or
 - 12 e. other brain and closed-head injury conditions at
13 least as severe in nature as any condition provided in

14 subparagraphs a through d of this paragraph; or

15 3. Any joint replacement.

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

26 N. Notwithstanding any other section of the Workers'
27 Compensation Code, temporary disability compensation shall be

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1 payable without an award by the Court. The first payment of
2 temporary disability compensation shall become due on the tenth
3 day after the employer has received notice of injury.

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

7 P. No employee may receive temporary total disability
8 benefits covering the same period of time for which unemployment
9 benefits as provided by the Oklahoma Employment Security
10 Commission are received by the employee or for which short term
11 disability benefits are received by the employee by reason of a
12 policy of insurance provided by the employer.

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

17 A. The determination of permanent impairment or disability
18 shall be the responsibility of the Workers' Compensation Court.
19 Any claim by an employee for compensation for permanent partial
20 impairment must be supported by competent medical testimony of the
21 treating physician who is a medical doctor or a doctor of
22 osteopathy or a qualified independent medical examiner which shall
23 be supported by objective medical findings, as defined in this
24 act, and which shall include an evaluation by a physician stating
25 his or her opinion of the employee's percentage of permanent
26 partial impairment and whether or not the impairment is job-
27 related and caused by the accidental injury or occupational

1 disease. A physician's opinion of the nature and extent of
2 permanent partial impairment to parts of the body other than
3 scheduled members must be based solely on criteria established by
4 the American Medical Association's "Guides to the Evaluation of
5 Permanent Impairment", Fifth Edition, or any subsequent edition
6 approved by the Administrator after public hearing and review by
7 the Physician Advisory Committee, hereinafter referred to as
8 "Guides". A copy of any written evaluation shall be sent to both
9 parties within seven (7) days of issuance. Medical opinions
10 addressing compensability and permanent impairment must be stated
11 within a reasonable degree of medical certainty. For purposes of
12 this section, "physician" has the same meaning as defined in

13 Section 26 of this act and includes a person licensed by another
14 state who would be qualified to be a licensed physician under the
15 laws of this state. Any party may submit the report of an
16 evaluating physician.

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

24 C. The Physician Advisory Committee may recommend the
25 adoption of a method or system to evaluate permanent impairment
26 that shall deviate from, be used in place of, or in combination
27 with the Guides. Such recommendation shall be made to the

1 Administrator of the Workers' Compensation Court who may adopt the
2 recommendation in part or in whole. The adopted method or system
3 shall be submitted by the Administrator to the Governor, the
4 Speaker of the House of Representatives and the President Pro
5 Tempore of the Senate within the first ten (10) legislative days
6 of a regular session of the Legislature. Such method or system so
7 submitted shall be subject to disapproval by joint or concurrent
8 resolution of the Legislature during the legislative session in
9 which submitted. If disapproved, the existing method of
10 determining permanent partial impairment shall continue in effect.
11 If the Legislature takes no action on the method or system

12 submitted by the Administrator, the method or system shall become
13 operative ten (10) days following the adjournment of the
14 Legislature.

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

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

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

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

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

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

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

5 Phalange of Thumb or Finger: The loss of the first phalange
6 of the thumb or finger shall be considered equal to the loss of
7 one-half (1/2) of such thumb or finger, and compensation shall be
8 one-half (1/2) of the amount above specified; the loss of more
9 than one phalange shall be considered as the loss of the entire
10 thumb or finger; provided, however, that in no case shall the
11 amount received for more than one finger exceed the amount

12 provided in this schedule for the loss of a hand.

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

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

17 Phalange of Toe: The loss of the first phalange of any toe
18 shall be considered to be equal to the loss of one-half (1/2) of
19 such toe, and compensation shall be one-half (1/2) of the amount
20 specified. The loss of more than one phalange shall be considered
21 as the loss of the entire toe.

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

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

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

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

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

9 Deafness: Deafness from industrial cause, including
10 occupations which are hazardous to hearing, accident or sudden

11 trauma, three hundred thirty (330) weeks, and total deafness of
12 one ear from industrial cause, including occupations which are
13 hazardous to hearing, accident or sudden trauma, one hundred ten
14 (110) weeks. Any examining physician shall only evaluate deafness
15 or hearing impairment in accordance with the latest publication of
16 the American Medical Association's "Guides to the Evaluation of
17 Permanent Impairment" in effect at the time of the injury or
18 alternative method provided for under provisions of this act.

19 Loss of Use: Permanent loss of use of a thumb, finger, toe,
20 arm, hand, foot, leg or eye shall be considered as the equivalent
21 of the loss of such thumb, finger, toe, hand, arm, foot, leg or
22 eye.

23 For the permanent partial loss of use of a member, loss of
24 hearing or sight of an eye, seventy percent (70%) of the
25 employee's average weekly wage during that portion of the number
26 of weeks in the foregoing schedule provided for the loss of such
27 member or sight of an eye which the partial loss of use thereof

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1 bears to the total loss of use of such member, loss of hearing or
2 sight of an eye.

3 Amputations: Amputation between the elbow and the wrist
4 shall be considered as the equivalent of the loss of a hand.
5 Amputation between the knee and the ankle shall be considered as
6 the loss of a foot. Amputation at or above the elbow shall be
7 considered as the loss of an arm. Amputation at or above the knee
8 shall be considered as the loss of a leg.

9 Hernia: In case of an injury resulting in the first or
10 second hernia in the same area of the body, there shall be no

11 award of permanent partial impairment. Payment of benefits in
12 such cases shall be limited to temporary total disability
13 compensation for six (6) weeks, and all necessary medical costs
14 including, but not limited to, the cost of surgery. A claimant
15 who has had surgery for a hernia may petition the Workers'
16 Compensation Court for one extension of temporary total disability
17 compensation and the Court may order such an extension, not to
18 exceed six (6) additional weeks, if the treating physician
19 indicates such an extension is appropriate, or as agreed to by all
20 parties. An award for temporary total disability or permanent
21 partial impairment may be entered by the Court if an injury
22 results in a third hernia, or more, in the same area of the body.

23 Other cases: In cases in which the Court finds an injury to
24 a part of the body not specifically covered by the foregoing
25 provisions of this section, the employee may be entitled to
26 compensation for permanent partial impairment. The compensation
27 ordered paid shall be seventy percent (70%) of the employee's

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1 average weekly wage for the number of weeks which the partial
2 disability of the employee bears to five hundred (500) weeks. No
3 permanent disability shall be awarded unless there is objective
4 medical evidence of a permanent anatomical abnormality. In
5 determining the existence of such an abnormality, the Court may
6 consider if there is credible medical evidence that the ability of
7 the employee to earn wages at the same level as before the injury
8 has been permanently impaired.

9 F. The compensation payments under the provisions of the

10 Workers' Compensation Code for permanent partial impairment shall
11 not:

12 1. Exceed the sum of Three Hundred Twenty-three Dollars
13 (\$323.00) per week for injuries occurring on or after August 27,
14 2010, through August 26, 2015, or fifty percent (50%) of the
15 state's average weekly wage beginning August 27, 2015;

16 2. At any time be less than One Hundred Fifty Dollars
17 (\$150.00) per week for injuries occurring on or after August 27,
18 2010.

19 G. Previous Disability: The fact that an employee has
20 suffered previous disability or impairment or received
21 compensation therefor shall not preclude the employee from
22 compensation for a later accidental personal injury or
23 occupational disease. In the event there exists a previous
24 impairment, including a previous non-work-related injury or
25 condition which produced permanent disability and the same is
26 aggravated or accelerated by an accidental personal injury or
27 occupational disease, compensation for permanent disability shall

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1 be only for such amount as was caused by such accidental personal
2 injury or occupational disease and no additional compensation
3 shall be allowed for the preexisting disability or impairment.
4 The sum of all permanent partial impairment awards, excluding
5 awards against the Multiple Injury Trust Fund, shall not exceed
6 five hundred twenty (520) weeks, except for awards for amputations
7 and disability to the parts of the body for which surgery was
8 received in the latest injury.

9 H. No payments on any permanent partial impairment order

10 shall begin until payments on any preexisting permanent partial
11 impairment orders have been completed.

12 SECTION 34. NEW LAW A new section of law to be
13 codified in the Oklahoma Statutes as Section 334 of Title 85,
14 unless there is created a duplication in numbering, reads as
15 follows:

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

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

26 Where a compensable injury results in the loss of one or
27 more eyes, teeth, or members of the body, or the replacement of a

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

9 body for which a prosthetic device is provided shall terminate the
10 obligation of the employer to provide such prosthetic device.

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

15 A. In case of total disability adjudged to be permanent,
16 seventy percent (70%) of the employee's average weekly wages, but
17 not in excess of the state's average weekly wage, shall be paid to
18 the employee during the continuance of the disability until such
19 time as the employee reaches the age of maximum Social Security
20 retirement benefits or for a period of fifteen (15) years,
21 whichever is longer. In the event the claimant dies of causes
22 unrelated to the injury or illness, benefits shall cease on the
23 date of death. Provided, however, any person entitled under
24 provisions of Section 49 to revive the action shall receive a one-
25 time lump sum payment equal to twenty-six (26) weeks of weekly
26 benefits for permanent total disability awarded the claimant. If
27 more than one person is entitled to revive the claim, the lump sum

1 payment shall be evenly divided between or among such persons. In
2 the event the Workers' Compensation Court awards both permanent
3 partial impairment and permanent total disability benefits, the
4 permanent total disability award shall not be due until the
5 permanent partial impairment award is paid in full. If otherwise
6 qualified according to the provisions of this act, permanent total
7 disability benefits may be awarded to an employee who has
8 exhausted the maximum period of temporary total disability even

9 though the employee has not reached maximum medical improvement.

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

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

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

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

7 A. If an injury or occupational disease causes death,

8 weekly income benefits shall be payable in the amount and for the
9 benefit of the persons following, subject to the maximum limits
10 specified hereafter:

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

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

25 3. To the children, if there is no surviving spouse, fifty
26 percent (50%) of the average weekly wages the deceased was earning
27 for one child, and twenty percent (20%) of such wage for each

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1 additional child, divided among all children, to share and share
2 alike, subject to the maximum limits in subsection D of this
3 section;

4 4. The weekly income benefits payable for the benefit of
5 any child under this section shall cease when the child dies,
6 marries, or reaches the age of eighteen (18), unless the child is
7 over eighteen (18) years of age and remains enrolled as a full-

8 time student in high school or is being home-schooled in a high-
9 school course approved by the Oklahoma Department of Education; or
10 unless a child is over eighteen (18) years of age and is
11 physically or mentally incapable of self-support; or unless the
12 child is under the age of twenty three (23) and enrolled as a
13 full-time student in any accredited institution of higher
14 education or vocational or technology education;

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

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

27 7. The income benefits for each beneficiary under

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1 paragraphs 5 and 6 of this subsection shall be paid until the
2 beneficiary, if a parent or grandparent, dies, marries or ceases
3 to be actually dependent, or, if a brother, sister or grandchild,
4 dies, marries or reaches the age of eighteen (18), is over the age
5 of eighteen (18) and ceases to be physically or mentally incapable
6 of self-support or ceases to be actually dependent.

7 B. A person ceases to be actually dependent when the
8 person's income from all sources exclusive of workers'
9 compensation income benefits is such that, if it had existed at
10 the time the original determination of actual dependency was made,
11 it would not have supported a finding of dependency. In all
12 cases, the period of actual dependency shall be presumed to be no
13 longer than three (3) years after the person was found to be
14 actually dependent. The presumption may be overcome by proof of
15 continued actual dependency.

16 C. Change in dependents. Upon the cessation of income
17 benefits under this section to or for the benefit of any person,
18 the income benefits payable to the remaining persons who continue
19 to be entitled to income benefits for the unexpired part of the
20 period during which their income benefits are payable shall be
21 that which such persons would have received if they had been the
22 only persons entitled to income benefits at the time of the
23 decedent's death.

24 D. For the purposes of this section, the average weekly
25 wage of the employee shall be taken as not more than the state's
26 average weekly wage. The aggregate weekly income benefits payable
27 to all beneficiaries under this section shall not exceed one

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1 hundred percent (100%) of the average weekly wages of the employee
2 or one hundred percent (100%) of the state's average weekly wage,
3 whichever is less.

4 E. Where some pecuniary loss may be shown by heirs-at-law
5 of the deceased, as defined by the descent and distribution
6 statutes of Oklahoma, who are otherwise not entitled to receive

7 benefits under other provisions of this section, such heirs-at-law
8 shall receive compensation for their pecuniary loss not to exceed
9 an aggregate of Five Thousand Dollars (\$5,000.00).

10 F. In the event that no benefits under other provisions of
11 this section are paid to the dependents or the heirs-at-law of the
12 deceased, an amount not to exceed Eight Thousand Dollars
13 (\$8,000.00) shall be paid for funeral expenses.

14 G. In addition to weekly income benefits, if there is a
15 surviving spouse and surviving children entitled to receive death
16 benefits herein, such survivors shall be entitled to an immediate
17 lump-sum payment of One Hundred Thousand Dollars (\$100,000.00) to
18 the spouse and Twenty-five Thousand Dollars (\$25,000.00) to each
19 surviving child not to exceed two children. In addition, the
20 survivors shall be entitled to receive funeral benefits in an
21 amount not to exceed Ten Thousand Dollars (\$10,000.00).

22 H. In addition to weekly income benefits, if there is no
23 surviving spouse, but there are surviving children entitled to
24 receive death benefits herein, each surviving child shall be
25 entitled to a lump-sum payment of Twenty-five Thousand Dollars
26 (\$25,000.00), provided the total amount of lump-sum payments shall
27 not exceed One Hundred Fifty Thousand Dollars (\$150,000.00), to be

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1 divided among all the children to share and share alike. The
2 survivors shall also be entitled to receive funeral benefits in an
3 amount not to exceed Ten Thousand Dollars (\$10,000.00).

4 I. Any claim under this section shall be substantiated by
5 the filing of a properly executed and authenticated proof of loss,

6 which form shall be prescribed by the Administrator, and payment
7 of such sum shall be made within fifteen (15) days after
8 adjudication of entitlement by the Workers' Compensation Court.
9 Such sum shall not be subject to any award of attorney fees in
10 uncontested cases, except the Court shall appoint a guardian ad
11 litem to represent known and unknown minor children and the
12 guardian ad litem shall be paid a reasonable fee for the services.

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

24 K. Any claim for death benefits may be concluded by
25 compromise settlement on a form prescribed by the Administrator
26 and approved by a judge of the Court. In the event a claimant is
27 a minor, a duly appointed guardian ad litem shall be authorized to

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1 enter into such compromise settlement.

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

6 A. An employee who has suffered an accidental injury or
7 occupational disease covered by the Workers' Compensation Code
8 shall be entitled to prompt and reasonable physical rehabilitation
9 services. When, as a result of the injury, the employee is unable
10 to perform the same occupational duties the employee was
11 performing prior to the injury, the employee shall be entitled to
12 such vocational rehabilitation services provided by a technology
13 center school, a public or private vocational skills center or
14 public secondary school offering vocational-technical education
15 courses, or a member institution of The Oklahoma State System of
16 Higher Education, which shall include retraining and job placement
17 so as to restore the employee to gainful employment. Vocational
18 rehabilitation benefits shall not be provided to any nondocumented
19 employee who is unable, by law, to be hired in Oklahoma.

20 B. The Administrator of the Workers' Compensation Court
21 shall hire or contract for a Vocational Rehabilitation Director to
22 oversee the vocational rehabilitation program of the Workers'
23 Compensation Court. The job of the Vocational Rehabilitation
24 Director is to help injured workers return to the work force
25 through the encouragement of light-duty work or retraining.

26 C. Upon the request of either party, or by order of the
27 Court, the Vocational Rehabilitation Director will assist the

1 Court in determining if it is appropriate for a claimant to
2 receive vocational rehabilitation training or services. If
3 appropriate, the Court shall refer the employee to a qualified
4 expert for evaluation of the practicability of, need for and kind

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

23 D. Whenever it is apparent to the Court that the employee's
24 injury will prevent the employee from returning to his or her
25 former employment, the Court may order vocational rehabilitation
26 services, even though the employee remains temporarily totally
27 disabled and under active medical care. In granting early

1 benefits for vocational rehabilitation, the Court shall consider
2 temporary restrictions and the likelihood that such rehabilitation
3 will return the employee to gainful employment earlier than if
4 such benefits are granted after the permanent partial impairment

5 hearing in the claim.

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

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

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1 are payable to the employee.

2 G. Where rehabilitation requires residence at or near the
3 facility or institution which is away from the employee's

4 customary residence, reasonable cost of the employee's board,
5 lodging, travel, tuition, books and necessary equipment in
6 training shall be paid for by the insurer in addition to weekly
7 compensation benefits to which the employee is otherwise entitled
8 under the Workers' Compensation Code.

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

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

26 A. If the employee and employer shall reach an agreement
27 for the full, final and complete settlement of any issue of a

1 claim pursuant to the Workers' Compensation Code, a form
2 designated as "Compromise Settlement" shall be signed by both the
3 employer and employee, or representatives thereof, and shall be

4 approved by a judge of the Workers' Compensation Court or the
5 Administrator of the Workers' Compensation Court and filed with
6 the Administrator. In cases in which the employee is not
7 represented by legal counsel, a judge of the Court or the
8 Administrator shall have jurisdiction to approve a full, final and
9 complete settlement of any issue upon the filing of an Employer's
10 First Notice of Injury. There shall be no requirement for the
11 filing of an Employee's First Notice of Accidental Injury and
12 Claim for Compensation to effect such settlement in cases in which
13 the employee is not represented by legal counsel.

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

21 C. In the absence of fraud, a Compromise Settlement shall
22 be deemed binding upon the parties thereto and a final
23 adjudication of all rights pursuant to the Workers' Compensation
24 Code. An official record shall be made by a court reporter of the
25 testimony taken to effect the Compromise Settlement.

26 D. A good faith effort shall be made on the part of any
27 insurance carrier, CompSource Oklahoma, or group self-insured plan

1 to notify an insured employer of the possibility of and terms of
2 any settlement of a workers' compensation case pursuant to this

3 section. Written comments or objections to settlements shall be
4 filed with the Court and periodically shared with the management
5 of the applicable insurer. A written notice shall be made to all
6 policyholders of their right to a good faith effort by their
7 insurer to notify them of any proposed settlement, if the
8 policyholder so chooses.

9 SECTION 40. NEW LAW A new section of law to be
10 codified in the Oklahoma Statutes as Section 340 of Title 85,
11 unless there is created a duplication in numbering, reads as
12 follows:

13 A. Upon completion of any hearing, after the judge has made
14 a just and equitable order, decision or award, any party feeling
15 aggrieved by such order, decision, or award, shall, within ten
16 (10) days, have the right to take an appeal to the Workers'
17 Compensation Court sitting en banc by filing with the
18 Administrator of the Workers' Compensation Court a notice of such
19 appeal. The Court en banc shall consist of three (3) judges of
20 the Court, none of whom shall have presided over any of the
21 previous hearings on the claim. The Court en banc, after hearing
22 argument of counsel, or a party not represented by counsel, may
23 reverse or modify the decision only if it determines that such
24 decision was against the clear weight of the evidence or contrary
25 to law. Upon completion of the appeal, the members of the Court
26 sitting en banc shall issue such order, decision or award as is
27 proper, just and equitable. All proceedings of the Court sitting

1 en banc shall be recorded by a court reporter of the Court. Any
2 order of the Court sitting en banc which reverses a decision of

3 the trial judge shall contain specific findings to explain such
4 reversal. All orders, decisions or awards shall be approved by a
5 majority of the members of the Court sitting en banc. Provided,
6 there may be more than one Court en banc sitting at the same time
7 for purposes of hearing the appeals provided for herein.

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

16 C. In each case filed with the Court en banc, and at the
17 time of filing same, the appellant shall deposit with the clerk as
18 costs One Hundred Seventy-five Dollars (\$175.00) of which no
19 rebate of any part thereof shall be made. The fee collected under
20 this subsection shall be deposited as follows: One Hundred Fifty
21 Dollars (\$150.00) to the credit of the Administrator of Workers'
22 Compensation Revolving Fund for the costs of administering the
23 Workers' Compensation Code; and Twenty-five Dollars (\$25.00) to
24 the credit of the Administrator of Workers' Compensation Revolving
25 Fund for purposes of implementing the provisions of this act,
26 including strengthening and providing additional funding for the
27 Attorney General's Workers' Compensation Fraud Unit, providing

2 counselor or ombudsman program and safety in the workplace.

3 D. The order, decision or award of the Court shall be final
4 and conclusive upon all questions within its jurisdiction between
5 the parties, unless, within twenty (20) days after a copy of such
6 order, decision or award has been sent by the Administrator to the
7 parties affected, an action is commenced in the Supreme Court, to
8 review such order, decision or award. Any order, decision or
9 award made by a judge of the Court shall be considered as final
10 under the provisions of this section unless appealed to the Court
11 sitting en banc as provided for in subsection A of this section.
12 The order, decision or award of a judge of the Court shall be
13 final and conclusive upon all questions within the judge's
14 jurisdiction between the parties unless appealed directly to the
15 Supreme Court or to the Court sitting en banc as hereinbefore
16 provided. Any party litigant desiring to appeal directly from
17 such order, decision or award to the Supreme Court, shall, within
18 twenty (20) days after a copy of the order, decision or award has
19 been sent by the Administrator to the parties affected, commence
20 an action in the Supreme Court to review such order, decision or
21 award. The Supreme Court shall have original jurisdiction of such
22 action, and shall prescribe rules for the commencement and trial
23 of the same. After the effective date of this act, regardless of
24 the date of injury, the Supreme Court may modify, reverse, remand
25 for rehearing, or set aside the order or award upon any of the
26 following grounds:

27 1. The Court acted without or in excess of its powers;

1 2. The order or award was contrary to law;

2 3. The order or award was procured by fraud; or

3 4. The order or award was against the clear weight of the
4 evidence.

5 Such action shall be commenced by filing with the Clerk of
6 the Supreme Court a certified copy of the order, decision or award
7 of the Court sitting en banc or the judge attached to the petition
8 by the complaint wherein the complainant or petitioner shall make
9 the assignments or specifications as to wherein the order,
10 decision or award is erroneous or illegal. Provided, however, no
11 proceeding to reverse, vacate or modify any order, decision or
12 award of the Court sitting en banc or judge of the Court wherein
13 compensation has been awarded an injured employee shall be
14 entertained by the Supreme Court unless the Administrator shall
15 take a written undertaking to the claimant executed on the part of
16 the respondent or insurance carrier, or both, with one or more
17 sureties to be approved by the Administrator, to the effect that
18 the appellant will pay the amount of the award rendered therein,
19 together with interest thereon from the date of the award by the
20 judge of the Court and all costs of the proceeding, or on the
21 further order of the Court sitting en banc or judge of the Court
22 after the appeal has been decided by the Supreme Court, except
23 that municipalities and other political subdivisions of this state
24 are exempt from making such written undertakings. Before the
25 Clerk of the Supreme Court shall accept the action for filing, a
26 certificate from the Administrator shall be required, showing that
27 this provision has been complied with. The proceedings shall be

1 heard in a summary manner and shall have precedence over all other
2 civil cases in the Supreme Court, except preferred Corporation
3 Commission appeals. The Supreme Court shall require the appealing
4 party to file within forty-five (45) days from the date of the
5 filing of an appeal or an order appealed from, a transcript of the
6 record of the proceedings before the Court, or upon application
7 and for good cause shown, the Supreme Court may extend the time
8 for filing the transcript of the record for a period of time not
9 to exceed ninety (90) days from the date, and such action shall be
10 subject to the law and practice applicable to other civil actions
11 cognizable in the Supreme Court. The Court whose action was
12 appealed shall enter any order directed by the Supreme Court under
13 the final determination.

14 E. A fee of One Hundred Dollars (\$100.00) per appeal to the
15 Supreme Court shall be collected by the Administrator and taxed as
16 costs for preparing, assembling, indexing and transmitting the
17 record for appellate review. This fee shall be paid by the party
18 taking the appeal. If more than one party to the action shall
19 prosecute an appeal from the same order, decision or award, the
20 fee shall be paid by the party whose petition in error is
21 determined by the Court or by the appellate court to commence the
22 principal appeal. The fees collected shall be deposited to the
23 credit of the Administrator of Workers' Compensation Revolving
24 Fund.

25 F. When the only controverted issue in a death claim is the
26 determination of proper beneficiaries entitled to receive death
27 benefits, and the parties-beneficiary appeal the decision of the

1 Court, the employer or insurance carrier may pay the proceeds, as
2 they accrue, to the Administrator. The Administrator shall hold
3 the proceeds in trust in an interest-bearing account during the
4 appeal period and shall distribute the proceeds and interest to
5 the proper beneficiaries upon written direction of the Court. The
6 employer or insurance carrier shall not be taxed interest or cost
7 on the order of the death claim if payments have been made to the
8 Administrator as they accrue.

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

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

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

- 18 1. Filed a claim;
- 19 2. Retained a lawyer for representation regarding a claim;
- 20 3. Instituted or caused to be instituted any proceeding
21 under the provisions of this act;
- 22 4. Testified or is about to testify in any proceeding under
23 the provisions of this act; or
- 24 5. Elected to participate or not to participate in a
25 certified workplace medical plan as provided in this act.

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

1 work.

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

7 D. No employer may discharge an employee for the purpose of
8 avoiding payment of temporary total disability benefits to the
9 injured employee.

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

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

23 Within the time prescribed by Section 18 of this act, the
24 Workers' Compensation Court may find that the injured employee has
25 suffered a change of condition for the worse and order temporary
26 total disability, additional permanent partial impairment,
27 permanent total disability, and medical benefits. Provided, that

1 any change of condition shall only be found to those body parts
2 adjudicated by the previous award or as a result of a
3 consequential injury and must be proved by objective medical
4 evidence of a change of condition. Additional permanent partial
5 impairment awarded after a change of condition and the permanent
6 partial impairment from the previous award shall not exceed five
7 hundred twenty (520) weeks, except for additional permanent
8 partial impairment resulting from amputation or surgery as a
9 result of the change of condition.

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

14 A. The Workers' Compensation Court shall have exclusive
15 jurisdiction of claims for legal services rendered in regard to
16 the prosecution of a claim under this act. A claim for legal
17 services in contested temporary disability cases shall not exceed
18 ten percent (10%) of the amount of the award and shall be paid
19 periodically with the attorney receiving every tenth check. There
20 shall be no claim for legal services in cases in which periodic
21 temporary total disability compensation was being paid at the time
22 of the filing of the Employee's First Notice of Injury and Claim
23 for Compensation.

24 B. A claim for legal services shall not exceed twenty
25 percent (20%) of the amount of the award for permanent partial
26 impairment. The legal fee shall be deducted from the end of the
27 award, commuted to a lump sum and be paid within twenty (20) days

1 of the order awarding such permanent partial impairment.

2 C. A claim for legal services shall not exceed twenty
3 percent (20%) of a permanent total disability award. The right to
4 such legal fee shall be vested when the award therefor becomes
5 final and shall be paid periodically with the attorney receiving
6 twenty percent (20%) of each weekly check to the claimant until
7 the attorney fee is satisfied, based upon a maximum of four
8 hundred (400) weeks of compensation.

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

14 E. In any claim in which the respondent has admitted
15 compensability of an accidental injury within twenty (20) days of
16 the filing of an Employee's First Notice of Accidental Injury and
17 Claim for Compensation, has not disputed medical treatment, and
18 has made a settlement offer in writing within thirty (30) days
19 after the claimant reaches maximum medical improvement, the
20 attorney fee shall be limited to thirty-five percent (35%) of the
21 amount of any award or settlement of permanent partial impairment
22 which is greater than the amount of the offer. In addition, an
23 attorney fee shall be awarded for other contested benefits
24 obtained on behalf of the injured worker at any time during the
25 pendency of the claim and shall be based upon a reasonable hourly
26 rate. In no event shall the total attorney fee be in excess of
27 twenty percent (20%) of the total permanent partial impairment

1 award or settlement.

2 F. No attorney fees shall be awarded in an uncontested
3 death case, for the value of vocational rehabilitation in a
4 compromise settlement or order of the Workers' Compensation Court,
5 and for the amount of a Medicare Set Aside trust agreement
6 required by the Centers for Medicaid and Medicare Services of the
7 U.S. Department of Health and Human Services.

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

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

13 SECTION 44. NEW LAW A new section of law to be
14 codified in the Oklahoma Statutes as Section 344 of Title 85,
15 unless there is created a duplication in numbering, reads as
16 follows:

17 A. If the Workers' Compensation Court determines that any
18 proceeding has not been brought on a reasonable ground, or that
19 denial of benefits has not been based on a reasonable ground, the
20 Court shall assess the total cost of the proceeding on the party
21 who has brought the proceeding, or the party who has unreasonably
22 denied payment of benefits.

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

27 employer or insurance company, payable to the claimant.

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

5 A. Awards for permanent partial impairment shall be made
6 for the total number of weeks of compensation which the Workers'
7 Compensation Court shall find the claimant will be entitled to
8 receive, less any sums previously paid which the Court may find to
9 be a proper credit thereon. When the award becomes final, the
10 whole sum or any unpaid portion thereof shall operate as a final
11 adjudicated obligation and payment thereof may be enforced by the
12 claimant or in case of the claimant's death, by the surviving
13 beneficiary entitled to the proceeds as provided in Section 49 of
14 this act. All awards shall be paid by periodic installments as
15 determined by the Court. Whenever an injured person receives an
16 award for permanent partial impairment, the injured employee or
17 claimant, for good cause shown, may have the award commuted to a
18 lump-sum payment by permission of the Court. The lump-sum payment
19 shall not exceed twenty-five percent (25%) of the total award.
20 The balance of the total award shall be paid in periodic
21 installments.

22 B. Awards for permanent total disability shall entitle the
23 claimant to receive weekly income benefits for the period
24 prescribed in Section 36 of this act. When an award for permanent
25 total disability becomes final, the accrued portion thereof shall
26 operate as a final adjudicated obligation and payment thereof may

27 be enforced by the claimant or in case of the claimant's death, by

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1 the surviving beneficiary entitled to the proceeds as provided in
2 Section 49 of this act. Permanent total disability awards shall
3 not be commuted to a lump-sum payment.

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

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

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

25 SECTION 46. NEW LAW A new section of law to be

26 codified in the Oklahoma Statutes as Section 346 of Title 85,
27 unless there is created a duplication in numbering, reads as

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1 follows:

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

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

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

24 SECTION 47. NEW LAW A new section of law to be
25 codified in the Oklahoma Statutes as Section 347 of Title 85,

26 unless there is created a duplication in numbering, reads as
27 follows:

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

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

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

23 A. If an employee entitled to compensation under the
24 Workers' Compensation Code is injured or killed by the negligence

25 or wrong of another not in the same employ, such injured employee,
26 surviving spouse or surviving dependent shall, before any suit or
27 claim under the Workers' Compensation Code, elect whether to take

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

25 expenses, including attorney fees, incurred in effecting the
26 recovery to be determined by the ratio that the amount of
27 compensation paid by the employer bears to the amount of the

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1 recovery effected by the employee, surviving spouse or surviving
2 dependent. After the expenses and attorney fees have been paid,
3 the balance of the recovery shall be apportioned between the
4 employer or insurance company having paid the compensation and the
5 employee or the employee's representatives in the same ratio that
6 the amount of compensation paid by the employer bears to the total
7 amount recovered; provided, however, the balance of the recovery
8 may be divided between the employer or insurance company having
9 paid compensation and the employee or the employee's
10 representatives as they may agree. In the event that recovery is
11 effected by compromise settlement, the expenses, attorney fees and
12 the balance of the recovery may be divided between the employer or
13 insurance company having paid compensation and the employee,
14 surviving spouse or surviving dependent or the employee's
15 representatives as they may agree. Provided, that in the event
16 they are unable to agree, then the same shall be apportioned by
17 the district court having jurisdiction of the employee's action
18 against such other person in such manner as is just and
19 reasonable.

20 B. The employer or employer's insurance carrier shall have
21 the right of subrogation to recover money paid by the employer or
22 employer's insurance carrier for death claims or death benefits
23 under the Workers' Compensation Code from third persons, with all

24 common law rights against other than the employer and his or her
25 employees preserved and to be in those persons who would have had
26 such rights had there been no death claim or death benefits under
27 the Workers' Compensation Code.

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

9 D. In the event of a third party recovery by an injured
10 employee or surviving spouse or surviving dependent, the employer
11 or insurance carrier shall be granted a credit against future
12 benefits under this act in an amount equal to the net recovery of
13 the employee, surviving spouse or surviving dependent.

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

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

24 B. Claims for compensation or benefits due under the
25 Workers' Compensation Code shall not be assigned, released or
26 commuted except as provided by the Workers' Compensation Code,
27 and, except for child support liens, shall be exempt from all

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1 claims of creditors and from levy, execution or attachment or
2 other remedy for recovery or collection of a debt, which exemption
3 may not be waived. If an employee dies as a result of the
4 accidental personal injury or occupational disease, any unaccrued
5 portions of an award or order for compensation benefits shall
6 abate.

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

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

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

21 3. If there is a surviving spouse, a surviving child or
22 children of the deceased under the age of eighteen (18) years, or

23 a dependent blind or dependent crippled child or children of any
24 age, one-half (1/2) shall be payable to the surviving spouse and
25 the other half to the surviving child or children;

26 4. If there is no surviving spouse or child under the age
27 of eighteen (18), or dependent blind or dependent crippled child

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1 of any age, then to the dependent parents to share and share
2 alike, and if there are no dependent parents, then to the
3 dependent brothers and sisters, to share and share alike;

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

6 D. If the claimant has been adjudged a permanent totally
7 disabled person prior to death, and such death has resulted from
8 causes other than the person's accidental personal injury or
9 occupational disease causing such total permanent disability, the
10 award may be revived by the surviving spouse, a dependent child
11 under the age of twenty three (23), or a child of any age who is
12 physically or mentally disabled and incapable of personal support.

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

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

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

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

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

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

13 1. By insuring and keeping insured the payment of such
14 compensation with any stock corporation, mutual association, or
15 other concerns authorized to transact the business of workers'
16 compensation insurance in this state, or by exchanging contracts
17 of indemnity or interinsurance, pursuant to reasonable rules
18 prescribed by the Administrator of the Workers' Compensation Court
19 providing for and securing the payment of the compensation
20 provided for in the Workers' Compensation Code. When an insurer
21 issues a policy to provide workers' compensation benefits pursuant

22 to the provisions of the Workers' Compensation Code, the insurer
23 shall file, or cause to be filed, with the Administrator a notice
24 in such form and detail as the Administrator may prescribe by
25 rule. The notice shall contain the name, address, and principal
26 occupation of the employer, the number, effective date, and
27 expiration date of the policy, and such other information as may

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

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

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

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

24 (a) deposit with the Administrator securities, an
25 irrevocable letter of credit or a surety bond payable to the
26 state, in an amount determined by the Administrator which shall be
27 at least an average of the yearly claims for the last three (3)

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1 years, or

2 (b) provide proof of excess coverage with such terms
3 and conditions as is commensurate with their ability to pay the
4 benefits required by the provisions of the Workers' Compensation
5 Code, or

6 (2) one hundred or more employees and One Million
7 Dollars (\$1,000,000.00) or more in net assets to:

8 (a) secure a surety bond payable to the state, or an
9 irrevocable letter of credit, in an amount determined by the
10 Administrator which shall be at least an average of the yearly
11 claims for the last three (3) years, or

12 (b) provide proof of excess coverage with such terms
13 and conditions as is commensurate with their ability to pay the
14 benefits required by the provisions of the Workers' Compensation
15 Code.

16 b. The Administrator may waive the requirements of this
17 paragraph in an amount which is commensurate with the ability of
18 the individual self-insured or group self-insurance association to
19 pay the benefits required by the provisions of the Workers'
20 Compensation Code. Irrevocable letters of credit required by this

21 paragraph shall contain such terms as may be prescribed by the
22 Administrator and shall be issued for the benefit of the Court by
23 a financial institution whose deposits are insured by the Federal
24 Deposit Insurance Corporation.

25 c. An employer, upon application to become a member of
26 a group self-insurance association, shall file with the
27 Administrator a notice, in such form as prescribed by the

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1 Administrator, acknowledging that the employer, by entering into a
2 group self-insurance association, accepts joint and several
3 liability. Such notice shall be submitted to the Court with the
4 application for membership.

5 d. All self-insurers under this act shall participate
6 in the Workers' Compensation Self-Insurance Guaranty Fund created
7 pursuant to Section 60 of this act, as a condition of authority to
8 self-insure in this state, except public employers that self-
9 insure pursuant to Section 13 of this act.

10 e. A self-insurer whose permit to self-insure is
11 revoked, denied for renewal or surrendered is not relieved of the
12 obligation for compensation to an employee for a compensable
13 injury that occurred during the period of self-insurance. The
14 security required under this section, including any interest
15 thereon, shall be maintained by the Administrator as provided in
16 this act until each claim for workers' compensation benefits is
17 paid, settled, or lapses under this act, and costs of
18 administration of such claims are paid.

19 B. 1. An employer who fails to comply with the provisions
20 of this section shall be subject to the penalties provided for in

21 Sections 2 and 52 through 54 of this act.

22 2. Failure on the part of any employer to secure the
23 payment of compensation provided in the Workers' Compensation Code
24 shall have the effect of enabling the Administrator to proceed on
25 behalf of an injured employee of such employer against the
26 employer as provided in this section and Section 2 of this act.

27 3. Any employer that knowingly provides false information

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1 to the Administrator for purposes of securing or maintaining a
2 self-insurance permit shall be subject to the perjury laws of this
3 state.

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

8 A. In addition to any other penalty prescribed by law, any
9 employer who fails to secure compensation required by Section 51
10 of this act shall be liable for a civil penalty, to be assessed by
11 the Commissioner of Labor or designee, of not more than Two
12 Hundred Fifty Dollars (\$250.00) per employee for a first offense,
13 unless the employer secures workers' compensation insurance within
14 thirty (30) days after receiving notice of the violation. If the
15 employer secures workers' compensation insurance within thirty
16 (30) days after receiving notice of the violation, the employer
17 shall be liable for a civil penalty of not more than Seventy-five
18 Dollars (\$75.00) per employee. An employer shall be liable for a
19 civil penalty of not more than One Thousand Dollars (\$1,000.00)

20 per employee for a second or subsequent offense. Provided, the
21 maximum civil penalty shall not exceed Ten Thousand Dollars
22 (\$10,000.00) for all related series of violations. All civil
23 penalties collected shall be deposited in the Department of Labor
24 Revolving Fund and shall be used to enforce the provisions of the
25 Workers' Compensation Code.

26 B. After an employer is cited for two offenses of failing
27 to obtain workers' compensation insurance and fails to obtain

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1 coverage within thirty (30) days of the second citation, the
2 Commissioner of Labor shall issue cease and desist orders, in
3 accordance with the Department of Labor administrative rules and
4 procedures, against an employer until the violating employer shall
5 obtain workers' compensation insurance for its employees. The
6 Commissioner of Labor shall have the authority to require the
7 cessation of activities of an employer whose employees are not
8 covered by workers' compensation insurance until the violating
9 employer shall obtain workers' compensation insurance for its
10 employees; provided that an employer who has made application for
11 workers' compensation coverage with either CompSource Oklahoma or
12 a private insurance carrier, and who, through no fault of the
13 employer, has not received notice that such coverage has
14 commenced, shall not be made to cease operations, as provided for
15 in this section, until a determination has been made concerning
16 the employee's application for workers' compensation coverage.
17 Any order to cease and desist issued by the Commissioner may be
18 enforced in district court. The district court may issue the
19 Commissioner an injunction without bond, for the purposes of

20 enforcing this section.

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

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

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

9 A. For the purpose of determining if a civil fine should be
10 assessed, a summary hearing shall be conducted by a hearing
11 officer designated by the Commissioner of Labor. The hearing
12 officer shall determine from all of the evidence submitted by the
13 Department of Labor and the employer a fair and equitable
14 resolution of the violation, taking into consideration the
15 mitigating circumstances as required by Section 52 of this act.
16 The hearing officer shall assess, upon the examination of the
17 evidentiary record, a penalty commensurate with the violation so
18 adjudged. Provided, the employer may provide additional

19 mitigating circumstances or evidence to the hearing officer within
20 ten (10) days of the assessment and a reevaluation of the penalty
21 shall be conducted. Unless a formal hearing is requested pursuant
22 to the provisions of subsection B of this section, the penalty
23 shall become final within thirty (30) days of assessment. Upon
24 becoming final, the penalty shall be regarded as any other money
25 judgment and may be pursued for collection as prescribed by law
26 for any other such remedy.

27 B. An employer may appeal the decision of the hearing

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

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

14 Any employer who willfully fails to provide compensation
15 required by Section 51 of this act shall be charged with a
16 misdemeanor and subject to a fine of not more than One Thousand
17 Dollars (\$1,000.00) or imprisonment in the county jail for not
18 more than six (6) months, or both such fine and imprisonment.

19 Evidence of two prior penalties assessed by the Department of
20 Labor pursuant to Sections 52 and 53 of this act in any given
21 three-year period shall constitute a prima facie case of a willful
22 violation.

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

27 No person employed as an administrator of a group self-

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1 insurance association shall:

- 2 1. Be an attorney-of-record or receive attorney fees,
3 directly or indirectly, for representing the group self-insurance
4 association;
- 5 2. Have any financial interest in the company servicing the
6 claims of the group self-insurance association;
- 7 3. Be involved as a provider of services to the group self-
8 insurance association; or
- 9 4. Be compensated or employed by the claim servicing
10 company of the group self-insurance association.

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

15 A. Every policy of insurance covering the liability of the
16 employer for compensation issued by a stock company or by a mutual
17 association or other concern authorized to transact workers'

18 compensation insurance in this state shall contain a provision
19 setting forth the right of the Administrator of the Workers'
20 Compensation Court to enforce in the name of the state, for the
21 benefit of the person entitled to the compensation insured by the
22 policy either by filing a separate application or by making the
23 insurance carrier a party to the original application, the
24 liability of the insurance carrier in whole or in part for the
25 payment of such compensation; provided, however, that payment in
26 whole or in part of the compensation by either the employer or the
27 insurance carrier shall, to the extent thereof, be a bar to the

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1 recovery against the other of the amount so paid.

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

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

17 D. 1. Every such policy issued to cover a risk in this

18 state shall include provisions giving the insured employer the
19 option of choosing a deductible amount for medical benefits in
20 amounts ranging from Five Hundred Dollars (\$500.00) to Two
21 Thousand Five Hundred Dollars (\$2,500.00) in increments of Five
22 Hundred Dollars (\$500.00). The policy issued may also include
23 separate provisions giving the insured employer the option of
24 choosing a deductible amount for indemnity benefits in amounts
25 ranging from Five Hundred Dollars (\$500.00) to Two Thousand Five
26 Hundred Dollars (\$2,500.00) in increments of Five Hundred Dollars
27 (\$500.00). The insured employer, if choosing to exercise the

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1 option, shall choose only one deductible amount.

2 2. If an insured employer exercises the option and chooses
3 a medical benefits deductible or indemnity benefits deductible,
4 the insured employer shall be liable for the amount of the
5 deductible or deductibles for the medical or indemnity benefits
6 paid for each claim of work injury suffered by an injured
7 employee.

8 3. The Insurance Commissioner, in exercising the authority
9 to approve the form of the policy to be issued, shall not approve
10 any policy form that permits, directly or indirectly, any part of
11 the deductible to be charged to or passed on to the injured worker
12 or insurer.

13 4. The insurer shall pay the entire cost of medical bills
14 directly to the provider of the services and then seek
15 reimbursement from the insured employer for the deductible amount.
16 The insurer shall pay the entire cost of the indemnity benefits as

17 if no deductible were in place and then seek reimbursement from
18 the insured employer for the deductible amount.

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

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

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1 modifier.

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

4 E. Every such policy issued to a sole proprietor,
5 partnership, limited liability company, corporation, or other
6 business entity must disclose to the potential purchaser in
7 writing the option to elect to include the sole proprietors, any
8 or all of the partnership members, any or all of the limited
9 liability company members, or any or all stockholder-employees as
10 employees for the purpose of workers' compensation insurance
11 coverage by endorsing the policy in accordance with this act.

12 F. Every contract or agreement of an employer the purpose
13 of which is to indemnify the employer from loss or damage on
14 account of the injury of an employee by accidental means, or on
15 account of the negligence of such employer or the employer's
16 officer, agent or servant shall be absolutely void unless it shall

17 also cover liability for the payment of the compensation provided
18 for in this act.

19 G. No contract of insurance issued by a stock company or
20 mutual association or other concern against the liability arising
21 under this act shall be canceled within the time limited in such
22 contract for its expiration until at least ten (10) days after
23 notice of intention to cancel such contract, on a date specified
24 in such notice, shall be filed in the office of the Administrator
25 and also served on the employer. Such notice shall be served on
26 the employer by delivering it to the employer or by sending it by
27 mail, by registered letter, addressed to the employer at the

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1 employer's last-known place of residence; provided that, if the
2 employer is a partnership, then such notice may be so given to any
3 one of the partners, and if the employer is a corporation, then
4 the notice may be given to any agent or officer of the corporation
5 upon whom legal process may be served. Provided, however, if a
6 contract of insurance has been terminated by an employer insured
7 thereunder who has obtained other compensation insurance, as
8 evidenced by filing in compliance with this act, and no
9 intervening rights of any employee are involved, omission of a
10 predecessor insurer to file notice of time of termination of
11 liability shall not constitute basis for imposition of liability
12 against such predecessor insurer.

13 SECTION 57. NEW LAW A new section of law to be
14 codified in the Oklahoma Statutes as Section 357 of Title 85,
15 unless there is created a duplication in numbering, reads as

16 follows:

17 Every employer and insurance carrier who schedules any
18 employee as a person employed by the employer for the purpose of
19 paying or collecting insurance premiums on a workers' compensation
20 insurance policy or who pays, receives or collects any premiums
21 upon any insurance policy covering the liability of such employer
22 under the workers' compensation law by reason of or upon the basis
23 of the employment of any such employee shall be estopped to deny
24 that such employee was employed by the employer.

25 SECTION 58. NEW LAW A new section of law to be
26 codified in the Oklahoma Statutes as Section 358 of Title 85,
27 unless there is created a duplication in numbering, reads as

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1 follows:

2 A. There is hereby created the "Individual Self-Insured
3 Guaranty Fund Board". The Board shall have supervision over the
4 administration and operation of the Individual Self-Insured
5 Guaranty Fund.

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

11 The initial members of the Board shall be appointed to terms
12 of office as follows:

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

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

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

27 D. The monies paid into the fund, together with the

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1 interest thereon, shall constitute the Individual Self-Insured
2 Guaranty Fund.

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

15 fund in interest-bearing accounts.

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

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1 G. Each employer approved as an individual self-insurer or
2 own-risk carrier shall pay into the fund a sum equal to that
3 assessed against such employer as provided for in subsection E of
4 this section. When the award becomes final, the sum shall be
5 payable regardless of whether or not the award made to the
6 claimant is paid.

7 H. In making and entering awards for compensation for
8 permanent partial impairment, the Court shall determine and fix
9 the amounts that shall be paid to the Tax Commission pursuant to
10 the provisions of subsection E of this section. The amount so
11 determined and fixed shall have the same force and effect as an
12 award of the Court for compensation and all provisions relating to
13 the collection of awards of the Court shall apply to such
14 judgments.

15 I. It shall be the duty of the Oklahoma Tax Commission to
16 collect the payments provided for in this section. The Oklahoma
17 Tax Commission is hereby authorized to bring an action for the
18 recovery of any delinquent or unpaid payments required in this
19 section. The Oklahoma Tax Commission also may enforce payments by
20 proceeding in accordance with Section 46 of this act.

21 J. The Oklahoma Tax Commission shall on or before the first
22 day of April of each year find and determine the amount of money
23 held as of March 1 of that year by the State Treasurer for the
24 benefit of the Individual Self-Insured Guaranty Fund and shall on
25 or before the first day of October of each year find and determine
26 the amount of money held as of September 1 of that year by the
27 State Treasurer for the benefit of the Individual Self-Insured

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1 Guaranty Fund. Promptly after making each such determination, the
2 Oklahoma Tax Commission shall advise the Administrator in writing
3 of its findings.

4 K. Eighty percent (80%) of all sums held by the State
5 Treasurer to the credit of the Individual Self-Insured Guaranty
6 Fund by order of the Administrator, with the approval of the
7 Individual Self-Insured Guaranty Fund Board, may be invested in or
8 loaned on the pledge of any of the securities in which a state
9 bank may invest the moneys deposited therein by the State
10 Treasurer; or may be deposited in state or national banks or trust
11 companies upon insured time deposit bearing interest at a rate no
12 less than currently being paid upon insured savings accounts in
13 the institutions. As used in this section, "insured" means

14 insurance as provided by an agency of the federal government. All
15 such securities or evidence of indebtedness shall be placed in the
16 hands of the State Treasurer, who shall be the custodian thereof,
17 shall collect the principal and interest when due, and shall pay
18 the same into the fund. The State Treasurer shall pay by vouchers
19 drawn on the Individual Self-Insured Guaranty Fund for the making
20 of such investments, when signed by the Administrator and approved
21 by the Individual Self-Insured Guaranty Board, upon delivery of
22 such securities or evidence of indebtedness to him or her. The
23 Administrator, upon approval of the individual Self-Insured
24 Guaranty Board, may sell any of such securities, the proceeds
25 thereof to be paid over to the State Treasurer for deposit in the
26 fund.

27 L. The refund provisions of Sections 227 through 229 of

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1 Title 68 of the Oklahoma Statutes shall be applicable to any
2 payment of assessments made to the fund when the fund has over One
3 Million Dollars (\$1,000,000.00) in it. Refunds shall be paid from
4 the fund.

5 M. The Oklahoma Tax Commission shall pay, monthly, to the
6 State Treasurer to the credit of the Individual Self-Insured
7 Guaranty Fund all moneys collected under the provisions of this
8 section. The State Treasurer shall pay out of the Individual
9 Self-Insured Guaranty Fund only upon the order and direction of a
10 court of this state acting under the provisions thereof.

11 N. Where an award has been made by the Court or a payment
12 in lieu thereof for compensable injury for a permanent partial
13 impairment, the employer shall pay to the Tax Commission such sum

14 as is due of which ninety-eight percent (98%) of the sum shall be
15 paid into the fund and the remaining two percent (2%) thereof
16 shall be paid to the Oklahoma Tax Commission not later than the
17 fifteenth of the month following the close of the calendar quarter
18 in which the award was made.

19 O. The Board may retain an insurance carrier or approved
20 service organization to process, investigate and pay valid claims.
21 The charge for such service shall be paid from the fund.

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

24 Q. No claim or award shall be allowed against the fund
25 unless such claim or award is made within (1) one year of the time
26 provided in this section.

27 R. Pursuant to the requirements of Section 65 of this act,

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1 the Individual Self-Insured Guaranty Fund and Board shall cease to
2 exist once the initial appointments to the Workers' Compensation
3 Self-Insurance Guaranty Fund Board are made as provided in Section
4 60 of this act.

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

9 A. There is hereby created the "Group Self-Insurance
10 Association Guaranty Fund Board". The Board shall have
11 supervision over the administration and operation of the Group
12 Self-Insurance Association Guaranty Fund.

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

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

23 If more than three members are appointed, the fourth member
24 shall be appointed for four (4) years and each of the others
25 appointed shall be for terms of office in the order of their
26 appointment of one, two, three or four years with the ninth member
27 also serving four (4) years. Thereafter, each person appointed

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1 shall serve for four (4) years. Provided, board members serving
2 on the effective date of this act shall continue to serve until
3 expiration of their respective terms. Members may be appointed to
4 successive terms.

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

7 D. The monies paid into the fund, together with the
8 interest thereon, shall constitute the Group Self-Insurance
9 Association Guaranty Fund.

10 E. Until the Group Self-Insurance Association Guaranty Fund
11 contains One Million Dollars (\$1,000,000.00), the Oklahoma Tax
12 Commission shall assess and collect from each group self-insurance

13 association carrying their own risk, a tax at the rate of one
14 percent (1%) of the total compensation for permanent partial
15 impairment awards paid out during each quarter of the calendar
16 year by each group self-insurance association. The Oklahoma Tax
17 Commission shall forward to the State Treasurer the proceeds of
18 the tax for deposit in the fund. When the amount in the fund
19 falls below Seven Hundred Fifty Thousand Dollars (\$750,000.00),
20 the tax made pursuant to this section shall be assessed until the
21 fund contains One Million Dollars (\$1,000,000.00). The State
22 Treasurer shall place monies in the fund in interest-bearing
23 accounts.

24 F. If a group self-insurance association, that is currently
25 approved by the Court as a self-insured or own-risk carrier, is
26 unable to make payment of an award and judgment is rendered
27 against such group self-insurance association and execution is

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1 levied and returned unsatisfied in whole or in part, payments for
2 such liabilities shall be made from the Group Self-Insurance
3 Association Guaranty Fund. The Administrator shall proceed to
4 recover such payments from the group self-insurance association,
5 or the group self-insurance association's receiver or trustee in
6 bankruptcy, and may commence an action or proceeding or file a
7 claim therefor. The Attorney General shall appear on behalf of
8 the Administrator in any such action or proceeding. All monies
9 recovered in such action shall be paid into the fund.

10 G. Each group self-insurance association approved as a
11 self-insurer or own-risk carrier shall pay into the fund a sum

12 equal to that assessed against such group self-insurance
13 association as provided for in subsection E of this section. When
14 the award becomes final, the sum shall be payable regardless of
15 whether or not the award made to the claimant is paid.

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

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

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1 section.

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

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

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

8 L. The refund provisions of Sections 227 through 229 of
9 Title 68 of the Oklahoma Statutes shall be applicable to any
10 payment of assessments made to the fund when the fund has over One

11 Million Dollars (\$1,000,000.00) in it. Refunds shall be paid from
12 the fund.

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

20 N. Where an award has been made by the Court or a payment
21 in lieu thereof for compensable injury for a permanent partial
22 impairment, the employer shall pay to the Tax Commission such sum
23 as is due of which ninety-eight percent (98%) of the sum shall be
24 paid into the fund and the remaining two percent (2%) thereof
25 shall be paid to the Oklahoma Tax Commission not later than the
26 fifteenth of the month following the close of the calendar quarter
27 in which the award was made.

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1 O. The Board may retain an insurance carrier or approved
2 service organization to process, investigate and pay valid claims.
3 The charge for such service shall be paid from the fund.

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

7 Q. No claim or award shall be allowed against the fund
8 unless such claim or award is made within one (1) year of the time
9 provided in subsection F of this section.

10 R. Pursuant to the requirements of Section 65 of this act,

11 the Group Self-Insurance Association Guaranty Fund and Board shall
12 cease to exist once the initial appointments to the Workers'
13 Compensation Self-Insurance Guaranty Fund Board are made as
14 provided in Section 60 of this act.

15 SECTION 60. NEW LAW A new section of law to be
16 codified in the Oklahoma Statutes as Section 360 of Title 85,
17 unless there is created a duplication in numbering, reads as
18 follows:

19 A. There is hereby created in the State Treasury the
20 "Workers' Compensation Self-Insurance Guaranty Fund" to be
21 administered, supervised and protected by the Workers'
22 Compensation Self-Insurance Guaranty Fund Board. All self-
23 insurers under the Workers' Compensation Code shall participate in
24 the fund as a condition of authority to self-insure in this state,
25 except public employers that self-insure pursuant to Section 13 of
26 this act.

27 B. 1. The Workers' Compensation Self-Insurance Guaranty

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1 Fund Board shall consist of five (5) members to be appointed as
2 follows:

3 a. the Governor shall appoint two members, one of whom
4 shall represent a private self-insurer, and one of whom shall
5 represent an approved group self-insurance association authorized
6 to self-insure pursuant to Section 51 of this act or Section 398
7 of this title,

8 b. the President Pro Tempore of the Senate shall
9 appoint one member who shall be an attorney licensed in this state

10 who is engaged in the primary practice of workers' compensation
11 law,

12 c. the Speaker of the House of Representatives shall
13 appoint one member who represents a private self-insurer, and

14 d. the Workers' Compensation Court Administrator shall
15 appoint one member who shall be a licensed claims adjuster
16 affiliated with either a private self-insurer or an approved group
17 self-insurance association.

18 2. The term of office for initial appointees shall be as
19 follows:

20 a. the term of office for three positions, one each
21 appointed by the Governor, the President Pro Tempore of the Senate
22 and Speaker of the House of Representatives, shall expire on
23 November 1, 2014, and

24 b. the term of office for two positions, one each
25 appointed by the Governor and the Court Administrator, shall
26 expire on November 1, 2013.

27 Thereafter, successors in office shall be appointed for a

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1 three-year term. Members may succeed themselves in office. Any
2 person appointed to fill a vacancy shall be appointed for the
3 unexpired portion of the term in the same manner as the original
4 appointment.

5 3. The chair and vice chair of the Board shall be elected
6 by the Board from among its members.

7 4. Members of the Board shall receive no compensation for
8 serving on the Board but shall be reimbursed from monies in the
9 fund for their necessary travel expenses incurred in the

10 performance of their duties in accordance with the State Travel
11 Reimbursement Act.

12 C. Meetings of the Board shall be held at least quarterly.
13 The presence of a simple majority of the members constitutes a
14 quorum. No action shall be taken by the Board without the
15 affirmative vote of at least a simple majority of the members.

16 D. The Office of the Attorney General shall provide legal
17 counsel to assist the Board in the performance of its duties.

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

22 The Workers Compensation Self-Insurance Guaranty Fund shall
23 be for the purpose of continuation of workers' compensation
24 benefits due and unpaid or interrupted due to the inability of an
25 impaired self-insurer as defined in Section 8 of this act to meet
26 its compensation obligations when its financial resources,
27 security deposit, guaranty agreements, surety agreements and

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1 excess insurance are either inadequate or not immediately
2 accessible for the payment of benefits. Monies in the fund,
3 including interest accruing thereon, are not subject to
4 appropriation and shall be expended to compensate employees for
5 eligible benefits for a compensable injury under the Workers'
6 Compensation Code, pay outstanding workers' compensation
7 obligations of the impaired self-insurer, and for all claims for
8 related administrative fees, operating costs of the Workers'

9 Compensation Self-Insurance Guaranty Fund Board, attorney fees,
10 and other costs reasonably incurred by the Board in the
11 performance of its duties. Expenditures from the fund shall be
12 made upon warrants issued by the State Treasurer against claims as
13 prescribed by law with the Director of the Office of State Finance
14 for approval and payment. The Fund shall be subject to audit the
15 same as state funds and accounts, the cost for which shall be paid
16 for from the fund.

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

21 The Workers' Compensation Self-Insurance Guaranty Fund shall
22 be derived from the following sources:

23 1. Any unexpended funds, including interest thereon, held
24 by the State Treasurer in the Individual Self-Insured Guaranty
25 Fund or Group Self-Insurance Association Guaranty Fund transferred
26 to the Workers' Compensation Self-Insurance Guaranty Fund pursuant
27 to Section 65 of this act;

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1 2. Until the Workers' Compensation Self-Insurance Guaranty
2 Fund contains Two Million Dollars (\$2,000,000.00) or in the event
3 the amount in the fund falls below One Million Dollars
4 (\$1,000,000.00), an assessment against each private self-insurer
5 and group self-insurance association based on an assessment rate
6 to be determined by the Court Administrator, not exceeding one
7 percent (1%) of actual paid losses of the self-insurer during the
8 preceding calendar year, payable to the Oklahoma Tax Commission

9 for deposit to the fund. The assessment against private self-
10 insurers shall be determined using a rate equal to the proportion
11 that the deficiency in the fund attributable to private self-
12 insurers bears to the actual paid losses of all private self-
13 insurers for the year period of January 1 through December 31
14 preceding the assessment. The assessment against group self-
15 insurance associations shall be determined using a rate equal to
16 the proportion that the deficiency in excess of the surplus of the
17 Group Self-Insurance Association Guaranty Fund at the date of the
18 transfer attributable to group self-insurance associations bears
19 to the actual paid losses of all group self-insurance associations
20 cumulatively for any calendar year preceding the assessment. Each
21 self-insurer shall provide the Administrator with such information
22 as the Administrator may determine is necessary to effectuate the
23 purposes of this paragraph. For purposes of this paragraph,
24 "actual paid losses" means all medical and indemnity payments,
25 including temporary disability, permanent disability, and death
26 benefits, and excluding loss adjustment expenses and reserves.

27 a. The assessment shall be paid within thirty (30)

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1 calendar days after the date the Administrator of the Workers'
2 Compensation Court notifies the self-insurer of the assessment.

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

8 c. Failure of a self-insurer to pay, or timely pay, an
9 assessment required by this paragraph, or to report payment of the
10 same to the Administrator within ten (10) days of payment, shall
11 be grounds for revocation by the Administrator of the self-
12 insurer's permit to self-insure in this state, after notice and
13 hearing. A former self-insurer failing to make payments required
14 by this paragraph promptly and correctly, or failing to report
15 payment of the same to the Administrator within ten (10) days of
16 payment, shall be subject to administrative penalties as allowed
17 by law, including, but not limited to, a fine in the amount of
18 Five Hundred Dollars (\$500.00) or an amount equal to one percent
19 (1%) of the unpaid amount, whichever is greater, to be paid to the
20 Administrator for deposit to the credit of the Administrator of
21 Workers' Compensation Revolving Fund created in Section 70 of this
22 act. It shall be the duty of the Oklahoma Tax Commission to
23 collect the assessment provided for in this paragraph. The Tax
24 Commission is authorized to bring an action for recovery of any
25 delinquent or unpaid assessments. The Tax Commission also may
26 enforce payment of the assessment by proceeding in accordance with
27 Section 46 of this act.

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1 d. An impaired self-insurer shall be exempt from
2 assessments beginning on the date of the Administrator's
3 designation until the Administrator determines the self-insurer is
4 no longer impaired.

5 e. The Tax Commission shall determine the fund balance
6 as of March 1 and September 1 of each year, and when otherwise
7 requested by the Administrator, and shall advise the Administrator

8 thereof in writing within thirty (30) days of each such
9 determination; and

10 3. Any interest accruing on monies paid into the fund.

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

15 On determination by the Workers' Compensation Court
16 Administrator that a self-insurer has become an impaired self-
17 insurer, the Administrator shall secure release of the security
18 deposit required by Section 51 of this act and advise the Workers'
19 Compensation Self-Insurance Guaranty Fund Board of the impairment.
20 Claims administration, including processing, investigating and
21 paying valid claims against an impaired self-insurer pursuant to
22 the Workers' Compensation Code, may include payment by the surety
23 that issued the surety bond or be pursuant to a contract between
24 the Administrator and an insurance carrier, appropriate state
25 governmental entity or an approved service organization, as
26 approved by the Administrator.

27 SECTION 64. NEW LAW A new section of law to be

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1 codified in the Oklahoma Statutes as Section 364 of Title 85,
2 unless there is created a duplication in numbering, reads as
3 follows:

4 A. The Workers' Compensation Self-Insurance Guaranty Fund
5 Board shall be a party in interest in all proceedings involving
6 compensation claims against an impaired self-insurer whose

7 compensation claims have been paid or assumed by the Board and
8 shall have all rights of subrogation of the impaired self-insurer.
9 In such proceedings, the Board shall assume and may exercise all
10 rights and defenses of the impaired self-insurer, including, but
11 not limited to, the right to:

12 1. Appear, defend and appeal claims;

13 2. Receive notice of, investigate, adjust, compromise,
14 settle and pay claims; and

15 3. Investigate, handle and contest claims.

16 B. The Board may:

17 1. Retain such persons as are necessary to handle claims
18 and perform other duties of the Board;

19 2. Sue or be sued; and

20 3. Negotiate and become a party to such contracts as are
21 necessary to carry out the purposes of this act.

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

26 A. The Individual Self-Insured Guaranty Fund and its Board
27 provided for in Section 58 of this act and the Group Self-

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1 Insurance Association Guaranty Fund and its Board provided for in
2 Section 59 of this act shall cease to exist and shall be succeeded
3 by the Workers' Compensation Self-Insurance Guaranty Fund and its
4 Board once the initial appointments to the Workers' Compensation
5 Self-Insurance Guaranty Fund Board are made pursuant to Section 60
6 of this act. At that time, all unexpended funds, including

7 interest thereon, assets, property, records, and any outstanding
8 financial obligations and encumbrances of the Individual Self-
9 Insured Guaranty Fund Board and Group Self-Insurance Association
10 Guaranty Fund Board shall be transferred to the Workers'
11 Compensation Self-Insurance Guaranty Fund Board created by Section
12 60 of this act. The Director of the Office of State Finance is
13 hereby directed to coordinate the transfer of funds, outstanding
14 financial obligations or encumbrances provided for in this
15 subsection.

16 B. Any claim existing or action or proceeding pending by,
17 against or before the Individual Self-Insured Guaranty Fund Board
18 or the Group Self-Insurance Association Guaranty Fund Board when
19 the entities ceased existence may be continued as if the merger
20 into the Workers' Compensation Self-Insurance Guaranty Fund Board
21 did not occur, or the Workers' Compensation Self-Insurance
22 Guaranty Fund Board may be substituted in the matter. The
23 Workers' Compensation Self-Insurance Guaranty Fund Board shall be
24 responsible and liable for all liabilities and obligations of the
25 entities that ceased existence.

26 SECTION 66. NEW LAW A new section of law to be
27 codified in the Oklahoma Statutes as Section 366 of Title 85,

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1 unless there is created a duplication in numbering, reads as
2 follows:

3 No member or personnel of the Workers' Compensation Self-
4 Insurance Guaranty Fund Board, the Workers' Compensation Court
5 Administrator or any employee of the Workers' Compensation Court

6 shall be liable in a civil proceeding for any act performed in
7 good faith in the execution of that person's powers or duties
8 pursuant to Sections 60 through 65 of this act.

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

13 A. Annually, on or before the first day of July, the
14 Administrator of the Workers' Compensation Court shall prepare,
15 make public and submit a report for the prior calendar year to the
16 Governor, the Chief Justice of the Supreme Court, the President
17 Pro Tempore of the Senate, the Speaker of the House of
18 Representatives and each member of the Legislature, which shall
19 include a statement of the number of awards made and the causes of
20 the accidents leading to the injuries for which the awards were
21 made, total work load data of the Workers' Compensation Court, a
22 detailed report of the work load of and orders written by each
23 judge of the Court, a detailed statement of the expenses of the
24 office of the Administrator and the Court, together with any other
25 matter which the Administrator deems proper to report to the
26 Governor, including any recommendations the Administrator may
27 desire to make.

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1 B. After public hearing and consultation with
2 representatives of employers, insurance carriers, and employees,
3 the Administrator shall implement, with the assistance of the
4 Insurance Commissioner, by July 1, 2012, an electronic data
5 interchange (EDI) system that provides relevant data concerning

6 the Oklahoma workers' compensation system and the delivery of
7 benefits to injured workers.

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

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

22 A. A fee of One Hundred Forty Dollars (\$140.00) per case,
23 including any Compromise Settlement authorized by Section 39 of
24 this act, shall be collected by the Administrator of the Workers'
25 Compensation Court and taxed as costs to be paid by the party
26 against whom any award becomes final, to be deposited as follows:

27 1. One Hundred Five Dollars (\$105.00) to the credit of the

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1 Administrator of Workers' Compensation Revolving Fund created by
2 Section 70 of this act;

3 2. Ten Dollars (\$10.00) to the credit of the Attorney
4 General's Workers' Compensation Fraud Unit Revolving Fund created

5 by Section 19.2 of Title 74 of the Oklahoma Statutes; and

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

13 B. A fee of One Hundred Thirty Dollars (\$130.00) per action
14 to reopen any case pursuant to Section 18 of this act shall be
15 collected by the Administrator and taxed as costs to be paid by
16 the party that reopens the case. The fee collected pursuant to
17 this subsection shall be deposited to the credit of the
18 Administrator of Workers' Compensation Revolving Fund for purposes
19 of implementing the provisions of this act, including
20 strengthening and providing additional funding for the Attorney
21 General's Workers' Compensation Fraud Unit, providing counseling
22 services pursuant to the workers' compensation counselor or
23 ombudsman program and safety in the workplace.

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

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1 A. All group self-insureds allowed pursuant to the
2 provisions of Section 398 of this title shall pay an annual
3 application fee of One Thousand Dollars (\$1,000.00) to the
4 Administrator of the Workers' Compensation Court.

5 B. All individual own-risk or self-insured risk employers
6 shall pay an annual application fee of One Thousand Dollars
7 (\$1,000.00) to the Administrator.

8 C. All court-approved servicing companies shall pay an
9 annual application fee of One Thousand Dollars (\$1,000.00) to the
10 Administrator.

11 D. Each individual own-risk or self-insured risk employer
12 whose financial statements or loss runs, or both, are subject to
13 interim review by Workers' Compensation Court personnel shall pay
14 an additional fee to the Administrator of Five Hundred Dollars
15 (\$500.00) per review, not to exceed One Thousand Dollars
16 (\$1,000.00) per state fiscal year.

17 E. All fees collected pursuant to the provisions of this
18 section shall be deposited to the credit of the Administrator of
19 Workers' Compensation Revolving Fund.

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

24 A. Persons requesting and receiving copies of documents on
25 file with the Administrator of the Workers' Compensation Court
26 shall pay a fee to the Administrator of One Dollar (\$1.00) for
27 each page copied. All fees so collected shall be deposited in the

1 State Treasury in a revolving fund to be designated the
2 "Administrator of Workers' Compensation Revolving Fund". The fund
3 created in this section shall be a continuing fund not subject to

4 fiscal year limitations. Monies accruing to the credit of the
5 fund may be expended in the manner prescribed by law in defraying
6 necessary expenses in carrying out the provisions of this act and
7 without legislative appropriation. Expenditures from the fund
8 shall be made upon warrants issued by the State Treasurer against
9 claims as prescribed by law with the Director of State Finance for
10 approval and payment.

11 B. All penalties and fines imposed by the Workers'
12 Compensation Court or Administrator, upon collection, shall be
13 deposited to the credit of the Administrator of Workers'
14 Compensation Revolving Fund.

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

19 A. Every employer shall furnish the Administrator of the
20 Workers' Compensation Court, upon request, any information
21 required by the Administrator to carry out the provisions of the
22 Workers' Compensation Code.

23 B. All books, records and payrolls of the employers showing
24 or reflecting in any way upon the amount of wage expenditures of
25 such employers shall always be open for inspection by the
26 Administrator or any other authorized auditors, accountants, or
27 inspector for the purpose of ascertaining the correctness of the

1 wage expenditure and number of employees and such other
2 information as may be necessary for the purposes and uses of the
3 Administrator in the administration of the Workers' Compensation

4 Code. No person shall be excused from testifying or from
5 producing any books or papers or documents in any investigation or
6 inquiry, by or upon any hearing before the Workers' Compensation
7 Court, when ordered to do so by the Court, upon the ground that
8 the testimony or payroll or other competent evidence required of
9 the person may tend to incriminate or subject the person to
10 penalty or forfeiture; but no person shall be prosecuted, punished
11 or subjected to any penalty or forfeiture for or on account of any
12 act, transaction, matter or thing concerning which the person
13 shall under oath, have, by order of the Court, testified to or
14 produced documentary evidence of; provided however, that no person
15 so testifying shall be exempt from prosecution or punishment for
16 any perjury committed by the person in the person's testimony.

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

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

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1 employer.

2 B. 1. All requests made to the Workers' Compensation Court

3 for information on prior workers' compensation claims involving a
4 worker, including written inquiries about prior claims and
5 requests to access a worker's compensation claim file, must be in
6 writing, on a form prescribed by the Administrator, and
7 accompanied by a fee of One Dollar (\$1.00) per search request, not
8 to exceed One Dollar (\$1.00) per claims record of a particular
9 worker. The fee shall be deposited to the credit of the
10 Administrator of Workers' Compensation Revolving Fund. The form
11 shall require identification of the person requesting the
12 information, and the person for whom a search is being made if
13 different from the requester. The form must contain an affidavit
14 signed by the requester under penalty of perjury that the
15 information sought is not requested for a purpose in violation of
16 state or federal law. The form must be used by all repositories
17 of archived Court claim files. All request forms shall be
18 maintained by the Administrator as a public record, together with
19 a record of a worker's written authorization permitting a search
20 indexed by the worker's social security number as required by
21 Section 3113 of Title 74 of the Oklahoma Statutes. The request
22 forms and authorizations shall be indexed alphabetically by the
23 last name of the worker.

24 2. This subsection shall not apply:

25 a. to requests for claims information made by a public
26 officer or by a public employee in the performance of his or her
27 duties on behalf of a governmental entity or as may be allowed by

1 law,

2 b. to requests for claims information made by an

3 insurer, self-insured employer, third-party claims administrator,
4 or a legal representative thereof, when necessary to process or
5 defend a worker's compensation claim,

6 c. when a worker or the worker's representative
7 requests review of the worker's claims information,

8 d. when the disclosure is made for educational or
9 research purposes and in such a manner that the disclosed
10 information cannot be used to identify any worker who is the
11 subject of a claim,

12 e. to requests for claims information made by a health
13 care or rehabilitation provider or the provider's legal
14 representative when necessary to process payment of health care or
15 rehabilitation services rendered to a worker, and

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

25 C. The Administrator shall implement by January 1, 2012, a
26 system which publishes on the internet under the name of the
27 Oklahoma Workers Compensation Court the names of all claimants who

1 have filed a workers compensation claim in the preceding ten (10)

2 years. This internet posting shall annually be updated and also
3 notify the public of the services available by the workers
4 compensation court listed under this section.

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

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

11 1. The Governor shall appoint three members, one of whom
12 shall be licensed in this state as a doctor of medicine and
13 surgery, one of whom shall be engaged in the practice of family
14 medicine in a rural community of the state, and one of whom shall
15 be an osteopathic physician;

16 2. The President Pro Tempore of the Senate shall appoint
17 three members, one of whom shall be licensed in this state as a
18 doctor of medicine and orthopedic surgery, one of whom shall be
19 licensed in this state either as a doctor of medicine or a doctor
20 of osteopathy and a neurosurgeon, and one of whom shall be
21 licensed in this state as a podiatric physician; and

22 3. The Speaker of the House of Representatives shall
23 appoint three members, one of whom shall be licensed in this state
24 as an osteopathic physician, one of whom shall be licensed in this
25 state either as a doctor of medicine or a doctor of osteopathy and
26 shall be engaged in the practice of occupational medicine, and one
27 of whom shall be licensed in this state as a chiropractic

2 The terms of members serving on the effective date of this
3 act shall end on the effective date of this act. Thereafter, each
4 position will be filled by the appointing official for a term of
5 three (3) years. Members shall be subject to reappointment, with
6 any new appointee to serve out the remainder of the unexpired term
7 of the Committee member so replaced.

8 B. The Committee shall:

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

21 2. Assist the Administrator in reviewing medical practices
22 of health care providers, including evaluations of permanent
23 impairment provided by health care providers. The Committee shall
24 review and make findings and recommendations to the Administrator
25 with respect to charges of abusive practices by health care
26 providers providing medical services or evaluations of permanent
27 impairment through the workers' compensation system;

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

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

10 5. After public hearing, adopt Oklahoma Treatment
11 Guidelines and protocols for medical treatment not addressed by
12 the current edition of the Official Disability Guidelines or
13 addressed but not recommended in the ODG section in regard to
14 injuries to the cervical, thoracic, and lumbar spine. The
15 Oklahoma Treatment Guidelines shall be adopted on or before March
16 1, 2012, and shall remain in full force and effect until
17 superseded.

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

22 b. When completed, the OTG shall be submitted to the
23 Oklahoma Workers' Compensation Advisory Council for review. After
24 due notice and public hearing, the Council shall issue a report to
25 the Administrator concerning the OTG submitted. After due notice
26 and public hearing, the Administrator shall adopt or reject the
27 proposal submitted. The OTG shall be submitted by the

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

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

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

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

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

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

27 11. Report its progress annually to the Governor, the

1 President Pro Tempore of the Senate, and the Speaker of the House
2 of Representatives.

3 C. The Court shall be bound by treatment guidelines of the
4 latest edition of the Official Disability Guidelines or the
5 Oklahoma Treatment Guidelines.

6 D. Members of the Physician Advisory Committee shall
7 receive no compensation for serving on the Committee but shall be
8 reimbursed by the Court for their necessary travel expenses
9 incurred in the performance of their duties in accordance with the
10 State Travel Reimbursement Act.

11 E. Meetings of the Physician Advisory Committee shall be
12 called by the Administrator but held at least quarterly. The
13 presence of a simple majority of the members constitutes a quorum.
14 No action shall be taken by the Physician Advisory Committee
15 without the affirmative vote of at least a simple majority of the
16 members.

17 F. The Administrator shall provide office supplies and
18 personnel of the Court to assist the Committee in the performance
19 of its duties.

20 G. Upon written request, the Insurance Commissioner,
21 CompSource Oklahoma, and every approved self-insured employer in
22 Oklahoma shall provide the Committee with data necessary to the
23 performance of its duties.

24 H. Any health care provider acting in good faith and within
25 the scope of the provider's duties as a member of the Physician
26 Advisory Committee shall be immune from civil liability for making
27 any report or other information available to the judges of the

1 Court or to the Administrator or for assisting in the origination,
2 investigation, or preparation of the report or other information
3 so provided.

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

8 A. There is hereby created an Advisory Council on Workers'
9 Compensation.

10 B. The voting membership of the Advisory Council shall
11 consist of nine (9) members. Any member serving on the effective
12 date of this act shall serve the remainder of his or her term.
13 The Administrator of the Workers' Compensation Court and presiding
14 judge of the Workers' Compensation Court shall be ex officio
15 nonvoting members.

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

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

24 3. The President Pro Tempore of the Senate shall appoint
25 three (3) members, two who are attorneys representing the legal
26 profession in this state, one of whom shall be an attorney who
27 practices primarily in the area of defense of workers'

1 compensation claims, one of whom shall be an attorney who
2 primarily represents claimants, and a medical doctor or doctor of
3 osteopathy actively engaged in the treatment of injured workers.

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

5 1. The term of office for three positions, one each
6 appointed by the Governor, the President Pro Tempore of the Senate
7 and the Speaker of the House of Representatives shall expire on
8 March 1, 2012;

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

13 3. The term of office for three positions, one each
14 appointed by the Governor, the President Pro Tempore of the Senate
15 and the Speaker of the House of Representatives shall expire on
16 March 1, 2014.

17 D. Thereafter, successors in office shall be appointed for
18 a three-year term. Members shall be eligible to succeed
19 themselves in office.

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

22 F. The chair and the vice chair of the Advisory Council
23 shall be appointed by the Governor.

24 G. Members shall receive their traveling and other
25 necessary expenses incurred in the performance of their duties as
26 provided in the State Travel Reimbursement Act.

27 H. Meetings of the Advisory Council shall be quarterly or

1 as called by the chair or upon petition by a majority of the
2 voting members. The presence of five (5) voting members
3 constitutes a quorum. No action shall be taken by the Advisory
4 Council without the affirmative vote of at least five (5) members.

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

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

16 K. In addition to other duties required by this section,
17 the Advisory Council shall consult with the Court regarding
18 oversight of independent medical examiners as provided in Section
19 29 of this act.

20 L. The Advisory Council shall review the Oklahoma Treatment
21 Guidelines as provided in the Workers' Compensation Code, and
22 report the findings of such review to the Administrator as
23 provided in the Workers' Compensation Code.

24 SECTION 75. NEW LAW A new section of law to be
25 codified in the Oklahoma Statutes as Section 402 of Title 85,
26 unless there is created a duplication in numbering, reads as

27 follows:

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1 A. For the purposes of Sections 75 through 79 of this act,
2 the term "physically impaired person" means a person who, as a
3 result of accident, disease, birth, military action, or any other
4 cause, has suffered:

5 1. The loss of the sight of one eye;

6 2. The loss by amputation of the whole or a part of a
7 member of the body;

8 3. The loss of use or partial loss of use of a member such
9 as is obvious and apparent from observation or examination by a
10 person who is not skilled in the medical profession;

11 4. Any previous adjudications of disability adjudged and
12 determined by the Workers' Compensation Court or any disability
13 resulting from separately adjudicated injuries and adjudicated
14 occupational diseases even though arising at the same time.
15 Provided, that any adjudication of preexisting disability to a
16 part of the body shall not be combinable for purposes of the
17 Multiple Injury Trust Fund unless that part of the body was deemed
18 to have been injured in the claim being adjudicated.

19 B. This section shall apply to all adjudications of
20 Multiple Injury Trust Fund claims heard by the Court on or after
21 the effective date of this act.

22 SECTION 76. NEW LAW A new section of law to be
23 codified in the Oklahoma Statutes as Section 403 of Title 85,
24 unless there is created a duplication in numbering, reads as
25 follows:

26 A. There is hereby created, for the purposes declared in

27 this act, the "Multiple Injury Trust Fund" to be derived from the

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1 following sources:

2 1. As soon as practicable after January 1 of each year, the
3 Administrator of the Workers' Compensation Court shall establish
4 an assessment rate applicable to each mutual or interinsurance
5 association, stock company, CompSource Oklahoma, or other
6 insurance carrier writing workers' compensation insurance in this
7 state, each employer carrying its own risk, and each group self-
8 insurance association, for amounts for purposes of computing the
9 assessment authorized by this section necessary to pay the annual
10 obligations of the Multiple Injury Trust Fund determined on or
11 before December 31 of each year by the Board of Managers of
12 CompSource Oklahoma to be outstanding for the next calendar year,
13 and to pay the allocations provided for in subsection I of this
14 section. The rate shall be equal for all parties required to pay
15 the assessment. The rate in effect on the effective date of this
16 act shall remain effective through June 30, 2012;

17 2. The Oklahoma Tax Commission shall assess and collect
18 from any uninsured employer a temporary assessment at the rate of
19 five percent (5%) of the total compensation for permanent total
20 disability awards, permanent partial impairment awards, and death
21 benefits paid out during each quarter of the calendar year by the
22 employers;

23 3. The assessments shall be paid to the Tax Commission.
24 Insurance carriers, self-insurers, group self-insurance
25 associations and CompSource Oklahoma shall pay the assessment in

26 four equal installments not later than the fifteenth day of the
27 month following the close of each quarter of the calendar year of

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

19 a. The assessment authorized in this section shall be
20 determined using a rate equal to the proportion that the sum of
21 the outstanding obligations of the Multiple Injury Trust Fund as
22 determined pursuant to paragraph 1 of this subsection and the
23 allocations provided for in subsection I of this section bear to
24 the combined gross direct written premiums of all such insurers;
25 all actual paid losses of all individual self-insureds; and the

26 normal premium of all group self-insurance associations, for the
27 year period from January 1 to December 31 preceding the

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1 assessment.

2 b. For purposes of this subsection:

3 (1) "actual paid losses" means all medical and
4 indemnity payments, including temporary disability, permanent
5 disability, and death benefits, and excluding loss adjustment
6 expenses and reserves, and

7 (2) "normal premium" means a standard premium less any
8 discounts;

9 4. By April 15 of each year, the Insurance Commissioner,
10 Board of Managers of CompSource Oklahoma and each individual and
11 group self-insured shall provide the Administrator with such
12 information as the Administrator may determine is necessary to
13 effectuate the purposes of this section;

14 5. Each mutual or interinsurance association, stock
15 company, CompSource Oklahoma, or other insurance carrier writing
16 workers' compensation insurance in this state, and each employer
17 carrying its own risk, including each group self-insurance
18 association, shall be notified by the Administrator in writing of
19 the rate for the assessment on or before May 1 of each year in
20 which a rate is determined. The rate determined by the
21 Administrator shall be in effect for four calendar quarters
22 beginning July 1 following determination by the Administrator;

23 6. a. No mutual or interinsurance association,
24 stock company, CompSource Oklahoma, or other insurance carrier

25 writing workers' compensation insurance in this state, may be
26 assessed in any year an amount greater than six percent (6%) of
27 the gross direct written premiums of that insurer.

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

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

7 d. If the maximum assessment does not provide in any
8 one year an amount sufficient to make all necessary payments for
9 obligations of the Multiple Injury Trust Fund and for the
10 allocations provided for in subsection I of this section, the
11 unpaid portion shall be paid as soon thereafter as funds become
12 available.

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

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

19 D. Any mutual or interinsurance association, stock company,
20 or other insurance company, which is subject to regulation by the
21 Insurance Commissioner, or CompSource Oklahoma, failing to make
22 payments required in this act promptly and correctly, and failing
23 to report payment of the same to the Insurance Commission within
24 ten (10) days of payment shall be subject to administrative

25 penalties as allowed by law, including but not limited to a fine
26 in the amount of Five Hundred Dollars (\$500.00) or an amount equal
27 to one percent (1%) of the unpaid amount, whichever is greater, to

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1 be paid to the Insurance Commissioner.

2 E. Any employer carrying its own risk, or group self-
3 insurance association failing to make payments required in this
4 act promptly and correctly, and failing to report payment of the
5 same to the Administrator within ten (10) days of payment shall be
6 subject to administrative penalties as allowed by law, including
7 but not limited to a fine in the amount of Five Hundred Dollars
8 (\$500.00) or an amount equal to one percent (1%) of the unpaid
9 amount, whichever is greater, to be paid to the Administrator.

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

20 G. Eighty percent (80%) of all sums held by the State
21 Treasurer to the credit of the Multiple Injury Trust Fund may by
22 order of the CompSource Oklahoma President and Chief Executive
23 Officer, with the approval of the Board of Managers of CompSource

24 Oklahoma, be invested in or loaned on the pledge of any of the
25 securities in which a state bank may invest the monies deposited
26 therein by the State Treasurer; or may be deposited in state or
27 national banks or trust companies upon insured time deposit

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1 bearing interest at a rate no less than currently being paid upon
2 insured savings accounts in the institutions. As used in this
3 section, "insured" means insurance as provided by an agency of the
4 federal government. All such securities or evidence of
5 indebtedness shall be placed in the hands of the State Treasurer,
6 who shall be the custodian thereof, who shall collect the
7 principal and interest when due, and pay the same into the
8 Multiple Injury Trust Fund. The State Treasurer shall pay by
9 vouchers drawn on the Multiple Injury Trust Fund for the making of
10 such investments, when signed by the CompSource Oklahoma President
11 and Chief Executive Officer and approved by the Board of Managers
12 of CompSource Oklahoma, upon delivery of such securities or
13 evidence of indebtedness to the State Treasurer. The CompSource
14 Oklahoma President and Chief Executive Officer may, upon like
15 approval of the Board of Managers of CompSource Oklahoma, sell any
16 of such securities, the proceeds thereof to be paid over to the
17 State Treasurer for the Multiple Injury Trust Fund.

18 H. The refund provisions of Sections 227 through 229 of
19 Title 68 of the Oklahoma Statutes shall be applicable to any
20 payments made to the Multiple Injury Trust Fund. Refunds shall be
21 paid from and out of the Multiple Injury Trust Fund.

22 I. The Tax Commission shall pay, monthly, to the State
23 Treasurer to the credit of the Multiple Injury Trust Fund all

24 monies collected pursuant to the provisions of this section, less
25 the annual sum of Two Million Five Hundred Fifty Thousand Dollars
26 (\$2,550,000.00), of which One Million Two Hundred Seventy-five
27 Thousand Dollars (\$1,275,000.00) shall be payable by the Oklahoma

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1 Tax Commission to the State Treasurer in equal monthly
2 installments to the credit of the Department of Labor, Six Hundred
3 Thirty-seven Thousand Five Hundred Dollars (\$637,500.00) shall be
4 payable in equal monthly installments to the credit of the Office
5 of the Attorney General, and Six Hundred Thirty-seven Thousand
6 Five Hundred Dollars (\$637,500.00) shall be payable in equal
7 monthly installments to the credit of the Oklahoma Department of
8 Career and Technology Education. Monies received by the
9 Department of Labor under this section shall be used for safety
10 consultation and the regulation of the safety of public employees
11 through the Occupational Safety and Health Act of 1970. Monies
12 received by the Office of the Attorney General shall be deposited
13 to the credit of the Attorney General's Workers' Compensation
14 Fraud Unit Revolving Fund created pursuant to Section 19.2 of
15 Title 74 of the Oklahoma Statutes. Monies received by the
16 Oklahoma Department of Career and Technology Education shall
17 supplement other funding to the Department for purposes of
18 implementing the provisions of subsection B of Section 414 of
19 Title 40 of the Oklahoma Statutes. The State Treasurer shall pay
20 out of the Multiple Injury Trust Fund only upon the order and
21 direction of the Workers' Compensation Court acting under the
22 provisions hereof.

23 J. The Administrator shall promulgate rules as the
24 Administrator deems necessary to effectuate the provisions of this
25 section.

26 K. The Insurance Commissioner shall promulgate rules
27 relating to insurers as defined in Title 36 of the Oklahoma

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1 Statutes, as the Insurance Commissioner deems necessary to
2 effectuate the provisions of this section.

3 L. The Multiple Injury Trust Fund may enter into any
4 agreement with CompSource Oklahoma for the purpose of fulfilling
5 all of its payment obligations.

6 M. The Multiple Injury Trust Fund may enter into an
7 agreement with any reinsurer licensed to sell reinsurance by the
8 Insurance Commissioner pursuant to a competitive process
9 administered by the Director of Central Purchasing in the
10 Department of Central Services.

11 N. Any dividend, rebate, or other distribution, payable by
12 CompSource Oklahoma or any other workers' compensation insurance
13 carrier, to a state agency policyholder shall be paid to the State
14 Treasurer, and shall be credited as follows:

15 1. In the event of failure of the Multiple Injury Trust
16 Fund to meet all lawful obligations, the monies shall be credited
17 to the Multiple Injury Trust Fund and shall be used by the
18 Multiple Injury Trust Fund to meet all lawful obligations of the
19 Multiple Injury Trust Fund; and

20 2. Otherwise, all future dividends made by CompSource
21 Oklahoma or any workers' compensation insurance carrier, on behalf
22 of state agencies, shall be deposited to the credit of the General

23 Revenue Fund of the State Treasury.

24 SECTION 77. NEW LAW A new section of law to be
25 codified in the Oklahoma Statutes as Section 404 of Title 85,
26 unless there is created a duplication in numbering, reads as
27 follows:

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1 A. For actions in which the subsequent injury occurred on
2 or after November 1, 2005, if such combined disabilities
3 constitute permanent total disability, as defined in Section 8 of
4 this act, the employee shall receive full compensation as provided
5 by law for the disability resulting directly and specifically from
6 the subsequent injury. In addition, the employee shall receive
7 compensation for permanent total disability if the combination of
8 injuries renders the employee permanently and totally disabled.
9 The employer shall be liable only for the degree of percent of
10 disability which would have resulted from the subsequent injury if
11 there had been no preexisting impairment. The compensation rate
12 for permanent total disability awards from the Multiple Injury
13 Trust Fund shall be the compensation rate for permanent partial
14 impairment paid by the employer in the last combinable compensable
15 injury.

16 B. Permanent total disability awards from the Multiple
17 Injury Trust Fund shall be payable in periodic installments for a
18 period of fifteen (15) years or until the employee reaches sixty-
19 five (65) years of age, whichever period is longer.

20 C. Permanent total disability awards from the Multiple
21 Injury Trust Fund shall accrue from the file date of the court

22 order finding the claimant to be permanently and totally disabled.

23 D. Awards under this section shall abate upon the death,
24 from any cause, of the employee.

25 E. Reopening any prior claim other than the last claim
26 against the employer shall not give a claimant the right to
27 additional Multiple Injury Trust Fund benefits.

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1 F. The Multiple Injury Trust Fund shall have authority to
2 compromise a claim for less than the indicated amount of permanent
3 total disability. An order entered after the effective date of
4 this act may be paid in periodic installments beginning on the
5 date of the award, or may be commuted to a lump-sum payment or
6 payments, by agreement of the claimant and the Multiple Injury
7 Trust Fund.

8 G. An attorney for a claimant against the Multiple Injury
9 Trust Fund shall be entitled to a fee equal to twenty percent
10 (20%) of permanent disability benefits awarded. For awards
11 entered after the effective date of this act, the attorney fee
12 shall be paid in periodic installments by the attorney receiving
13 every fifth check. All benefits awarded to the attorney shall be
14 vested.

15 H. In the event a claimant receiving benefits for permanent
16 and total disability from the Multiple Injury Trust Fund dies as a
17 result of his or her injury before the award has been fully paid,
18 payments shall continue to the surviving spouse for five (5) years
19 or upon remarriage, whichever occurs first. In no event shall
20 payments to the surviving spouse extend beyond the period of
21 benefits awarded to the claimant.

22 SECTION 78. NEW LAW A new section of law to be
23 codified in the Oklahoma Statutes as Section 405 of Title 85,
24 unless there is created a duplication in numbering, reads as
25 follows:

26 A. The right to claim compensation for benefits from the
27 Multiple Injury Trust Fund shall be forever barred unless a Notice

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1 of Claim, on a form prescribed by the Administrator of the
2 Workers' Compensation Court, shall be filed with the Workers'
3 Compensation Court within two (2) years of the date of the last
4 order for permanent partial impairment from the latest claim
5 against the employer.

6 B. When a claim for benefits from the Multiple Injury Trust
7 Fund is filed, unless claimant shall in good faith request a
8 hearing and final determination thereon within three (3) years of
9 the filing thereof, the same shall be barred.

10 C. An attorney who represents a respondent or insurance
11 carrier in a claim against the last employer shall not represent
12 the employee in a subsequent claim against the Multiple Injury
13 Trust Fund.

14 SECTION 79. NEW LAW A new section of law to be
15 codified in the Oklahoma Statutes as Section 406 of Title 85,
16 unless there is created a duplication in numbering, reads as
17 follows:

18 A. CompSource Oklahoma shall be charged with the
19 administration and protection of the Multiple Injury Trust Fund
20 and shall be notified by the Administrator of the Workers'

21 Compensation Court of all proceedings which may affect such fund.

22 B. CompSource Oklahoma shall have standing and the
23 authority to appear in any case before the Workers' Compensation
24 Court in which the Court is considering an award from the Multiple
25 Injury Trust Fund.

26 C. Any party interested shall have a right to bring a
27 proceeding in the Supreme Court to review an award of the Court

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1 affecting such Multiple Injury Trust Fund, in the same manner as
2 is now provided by law with reference to other awards by the
3 Court.

4 D. The State Treasurer shall allocate to CompSource
5 Oklahoma out of the Multiple Injury Trust Fund, sufficient funds
6 for administration expenses thereof in amounts to be fixed and
7 approved by the Administrator for the Multiple Injury Trust Fund,
8 unless rejected by the Governor and Attorney General.

9 SECTION 80. NEW LAW A new section of law to be
10 codified in the Oklahoma Statutes as Section 407 of Title 85,
11 unless there is created a duplication in numbering, reads as
12 follows:

13 A. There is hereby created in the State Treasury the
14 "Workers' Compensation Administration Fund" to be used for the
15 costs of administering the Workers' Compensation Code and for
16 other purposes pursuant to legislative appropriation.

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

20 C. For the purpose of providing funds for the Workers'

21 Compensation Administration Fund, each mutual or interinsurance
22 association, stock company, CompSource Oklahoma or other insurance
23 carrier writing workers' compensation insurance in this state
24 shall pay to the Oklahoma Tax Commission a tax at a rate of one
25 percent (1%) of all gross direct premiums written during each
26 quarter of the calendar year for workers' compensation insurance
27 on risks located in this state after deducting from such gross

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1 direct premiums, return premiums, unabsorbed portions of any
2 deposit premiums, policy dividends, safety refunds, savings and
3 other similar returns paid or credited to policyholders. Such
4 payments to the Tax Commission shall be made not later than the
5 fifteenth day of the month following the close of each quarter of
6 the calendar year in which such gross direct premium is collected
7 or collectible. Contributions made by insurance carriers and
8 CompSource Oklahoma, under the provisions of this section, shall
9 be considered for the purpose of computing workers' compensation
10 rates.

11 D. When an employer is authorized to become a self-insurer,
12 the Administrator of the Workers' Compensation Court as directed
13 by the Workers' Compensation Court shall so notify the Tax
14 Commission, giving the effective date of such authorization. The
15 Tax Commission shall then assess and collect from the employers
16 carrying their own risk a tax at the rate of two percent (2%) of
17 the total compensation for permanent total disability awards,
18 permanent partial impairment awards and death benefits paid out
19 during each quarter of the calendar year by the employers. Such

20 tax shall be payable by the employers and collected by the Tax
21 Commission according to the provisions of this section regarding
22 payment and collection of the tax created in subsections C, E, F
23 and G of this section.

24 E. It shall be the duty of the Tax Commission to collect
25 the payments provided for in this act. The Tax Commission is
26 hereby authorized to bring an action for the recovery of any
27 delinquent or unpaid payments required in this section. The Tax

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1 Commission may also enforce payments by proceeding in accordance
2 with the provisions of Section 46 of this act.

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

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

9 SECTION 81. NEW LAW A new section of law to be
10 codified in the Oklahoma Statutes as Section 408 of Title 85,
11 unless there is created a duplication in numbering, reads as
12 follows:

13 Any form, claim, answer or report to be filed by any person
14 with the Administrator of the Workers' Compensation Court under
15 the Workers' Compensation Code shall contain or be verified by a
16 written declaration that such form, claim, answer or report is
17 true and made under the penalty of perjury.

18 SECTION 82. NEW LAW A new section of law to be
19 codified in the Oklahoma Statutes as Section 409 of Title 85,

20 unless there is created a duplication in numbering, reads as
21 follows:

22 A. Whenever two or more carriers disagree as to which
23 carrier shall be liable for benefits, including medical care and
24 temporary total disability compensation, to an injured employee,
25 the Workers' Compensation Court may order one of the carriers to
26 start paying benefits immediately. The decision of the Court to
27 choose one carrier over another to pay benefits shall not be

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1 appealable until the Court's final order as to the disability of
2 the employee.

3 B. The Court shall promulgate rules for expedited hearings
4 in cases involving carrier disputes over the need for immediate
5 medical care and temporary total disability compensation.

6 C. The carrier in the final order who is liable on the risk
7 for the injury shall, upon proper proof of payment, promptly
8 reimburse the other carrier for benefits paid.

9 D. The Court shall have authority to require an employer
10 and an insurance carrier to reimburse other employers and
11 insurance carriers for benefits paid pursuant to the Workers'
12 Compensation Code in appropriate cases.

13 SECTION 83. NEW LAW A new section of law to be
14 codified in the Oklahoma Statutes as Section 410 of Title 85,
15 unless there is created a duplication in numbering, reads as
16 follows:

17 A. Every employer and every employee subject to the
18 provisions of the Workers' Compensation Code, upon filing a notice

19 of injury, accidental injury, death, occupational disease, or
20 claim for benefits from the Multiple Injury Trust Fund, shall give
21 written permission for the Administrator of the Workers'
22 Compensation Court or a designee, the Insurance Commissioner or a
23 designee, the Attorney General or a designee or a district
24 attorney or a designee to examine all records relating to the
25 notice, any matter contained in the notice, and any matter
26 relating to the notice.

27 B. Written permission given pursuant to this section shall

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1 constitute authorization for access to medical records pursuant to
2 Section 19 of Title 76 of the Oklahoma Statutes.

3 C. In carrying out the responsibilities given to the
4 Workers' Compensation Fraud Unit, the Attorney General or designee
5 may use subpoenas or other process in aid of investigations and
6 prosecutions and may take possession of records subject to
7 examination pursuant to this section by subpoena. The Attorney
8 General shall supply copies of the records obtained which are
9 necessary to the continuation of normal business operations by the
10 person maintaining the records or may require the person
11 maintaining the records to provide copies as they are kept in the
12 usual course of business.

13 D. Subpoenas ad testificandum or duces tecum requested by
14 the Attorney General or designee pursuant to subsection C of this
15 section shall be issued by the district court in the county of the
16 residence of the person to whom the subpoena is directed, in the
17 county where the records are located or in the county where a
18 person is to produce records or appear and be sworn. Subpoenas

19 issued pursuant to this section may be served by the Attorney
20 General, any peace officer or any competent person over eighteen
21 (18) years of age, and may require attendance or production at any
22 place in this state. Service may be made by mail and may be
23 accomplished by mailing a copy thereof by certified mail with
24 return receipt requested and delivery restricted to the person
25 named in the subpoena. Proof of service shall be made upon
26 affidavit, and if made by mail, a copy of the return receipt shall
27 be attached. A refusal to obey such subpoena, or willful failure

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1 to appear, be sworn, testify or produce records at the place and
2 time specified shall constitute contempt and shall be enforced by
3 the district court of the county where issued.

4 E. Nothing in this section shall be construed to waive,
5 limit or impair any evidentiary privilege recognized by law.

6 F. The Workers' Compensation Court shall include a
7 statement on forms for notices and instructions to employers and
8 employees that the permission required by this section must be
9 given at the time of filing a notice specified in subsection A of
10 this section.

11 G. As used in this section, "records" includes, but is not
12 limited to, anything for which a request to produce may be served
13 pursuant to Section 3234 of Title 12 of the Oklahoma Statutes.

14 SECTION 84. NEW LAW A new section of law to be
15 codified in the Oklahoma Statutes as Section 411 of Title 85,
16 unless there is created a duplication in numbering, reads as
17 follows:

18 The provisions of Sections 1 through 83 of this act
19 determined by a court of competent jurisdiction to be substantive
20 and not procedural in nature shall be applicable only to injuries
21 occurring on or after the effective date of this act.

22 SECTION 85. NEW LAW A new section of law to be
23 codified in the Oklahoma Statutes as Section 412 of Title 85,
24 unless there is created a duplication in numbering, reads as
25 follows:

26 A. 1. All unexpended funds, assets, property, records,
27 personnel and any outstanding financial obligations and

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1 encumbrances of the Workers' Compensation Court before the
2 effective date of this act are hereby transferred to the Workers'
3 Compensation Court created in Section 3 of this act. The
4 personnel transferred shall retain leave, sick and annual time
5 earned and any retirement and longevity benefits which have
6 accrued during their employment with the state. The salaries of
7 employees who are transferred shall not be reduced as a direct and
8 immediate result of the transfer. There shall be no reduction-in-
9 force as a result of the transfer.

10 2. Any unexpended funds, including interest thereon, held
11 by the State Treasurer in an interest bearing agency special
12 account maintained by the Workers' Compensation Court before the
13 effective date of this act from which a self-insured employer's
14 workers' compensation obligations are paid following nonpayment by
15 the self-insured employer for any reason, including insolvency,
16 shall be transferred to the Workers' Compensation Court created by
17 Section 3 of this act. Such funds shall be expended by the Court

18 only for the purpose of paying workers' compensation obligations
19 of the self-insured employer, and costs related to the
20 administration of such obligations, to the extent of the
21 availability of such funds.

22 B. 1. All unexpended funds, assets, property, and records
23 and any outstanding financial obligations and encumbrances of the
24 Individual Self-Insured Guaranty Fund Board before the effective
25 date of this act are hereby transferred to the Individual Self-
26 Insured Guaranty Fund Board created in Section 58 of this act.

27 2. Any unexpended funds, including interest thereon, held

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1 by the State Treasurer in the Individual Self-Insured Guaranty
2 Fund before the effective date of this act, shall be transferred
3 to the Individual Self-Insured Guaranty Fund Board created by
4 Section 58 of this act. Such funds shall be expended by the Board
5 only as authorized in Section 58 of this act.

6 C. 1. All unexpended funds, assets, property, and records
7 and any outstanding financial obligations and encumbrances of the
8 Group Self-Insurance Association Board before the effective date
9 of this act are hereby transferred to the Group Self-Insurance
10 Association Guaranty Fund Board created in Section 59 of this act.

11 2. Any unexpended funds, including interest thereon, held
12 by the State Treasurer in the Group Self-Insurance Association
13 Guaranty Fund before the effective date of this act, shall be
14 transferred to the Group Self-Insurance Association Guaranty Fund
15 Board created by Section 59 of this act. Such funds shall be
16 expended by the Board only as authorized in Section 59 of this

17 act.

18 D. All property and records of the Physician Advisory
19 Committee before the effective date of this act are hereby
20 transferred to the Physician Advisory Committee created in Section
21 73 of this act.

22 E. All property and records of the Advisory Council on
23 Workers' Compensation before the effective date of this act are
24 hereby transferred to the Advisory Council on Workers'
25 Compensation created in Section 74 of this act.

26 F. All unexpended funds, assets, property, records,
27 personnel and any outstanding financial obligations and

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1 encumbrances of the Multiple Injury Trust Fund before the
2 effective date of this act are hereby transferred to the Multiple
3 Injury Trust Fund created in Section 76 of this act. The
4 personnel transferred shall retain leave, sick and annual time
5 earned and any retirement and longevity benefits which have
6 accrued during their employment with the state. The salaries of
7 employees who are transferred shall not be reduced as a direct and
8 immediate result of the transfer. There shall be no reduction-in-
9 force as a result of the transfer.

10 G. The Director of State Finance is hereby directed to
11 coordinate the transfer of funds, allotments, purchase orders,
12 outstanding financial obligations or encumbrances provided for in
13 subsections A and F of this section, and the transfer of funds,
14 outstanding financial obligations or encumbrances provided for in
15 subsections B and C of this section.

16 SECTION 86. NEW LAW A new section of law to be

17 codified in the Oklahoma Statutes as Section 413 of Title 85,
18 unless there is created a duplication in numbering, reads as
19 follows:

20 A. No benefits, saving or insurance of the injured
21 employee, independent of the provisions of this act shall be
22 considered in determining the compensation or benefit to be paid
23 under this act.

24 B. No agreement by an employee to waive his or her right to
25 compensation under this act shall be valid.

26 SECTION 87. **REPEALER** 85 O.S. 2001, Sections 1, 1.1,
27 as amended by Section 7, Chapter 1, 1st Extraordinary Session,

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1 O.S.L. 2005, 1.2, as amended by Section 1, Chapter 453, O.S.L.
2 2010, 1.2A, 1.3, as amended by Section 8, Chapter 1, 1st
3 Extraordinary Session, O.S.L. 2005, 2b, 2e, 2.1, 2.2, 2.3, 2.4,
4 2.5, 2.6, as last amended by Section 1, Chapter 84, O.S.L. 2010,
5 2.7, 3, as last amended by Section 1, Chapter 452, O.S.L. 2010,
6 3.1, 3.4, 3.5, as amended by Section 10, Chapter 1, 1st
7 Extraordinary Session, O.S.L. 2005, 3.6, as amended by Section 1,
8 Chapter 403, O.S.L. 2010, 3.7, as amended by Section 1 of Enrolled
9 House Bill No. 2038 of the 1st Session of the 53rd Oklahoma
10 Legislature, 3.8, 3.9, as last amended by Section 2, Chapter 403,
11 O.S.L. 2010, 3.10, as last amended by Section 3, Chapter 403,
12 O.S.L. 2010, 3.11, 4, 5, as amended by Section 13, Chapter 1, 1st
13 Extraordinary Session, O.S.L. 2005, 6, 6.1, 7, 9, 11, as last
14 amended by Section 2, Chapter 452, O.S.L. 2010, 12, as last
15 amended by Section 3, Chapter 452, O.S.L. 2010, 13, 14, as last

16 amended by Section 4, Chapter 452, O.S.L. 2010, 14.1, 14.2 and
17 14.3, as amended by Sections 16 and 17, Chapter 1, 1st
18 Extraordinary Session, O.S.L. 2005, 15, 16, as amended by Section
19 18, Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 17, as last
20 amended by Section 19, Chapter 1, 1st Extraordinary Session,
21 O.S.L. 2005, 21, 22, as last amended by Section 5, Chapter 452,
22 O.S.L. 2010, 22.1, 24.1, as amended by Section 21, Chapter 1, 1st
23 Extraordinary Session, O.S.L. 2005, 24.2, 24.3, 25, 26, as amended
24 by Section 22, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,
25 27.1, 28, 30, as amended by Section 23, Chapter 1, 1st
26 Extraordinary Session, O.S.L. 2005, 41, 41.1, 42, as amended by
27 Section 1, Chapter 236, O.S.L. 2010, 43 and 44, as amended by

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1 Sections 24 and 25, Chapter 1, 1st Extraordinary Session, O.S.L.
2 2005, 45, 46, 47, 47.1, 48, as amended by Section 26, Chapter 1,
3 1st Extraordinary Session, O.S.L. 2005, 48.1, 49, 61, as amended
4 by Section 78, Chapter 264, O.S.L. 2006, 61.1, 61.2, 63, 63.1, as
5 amended by Section 3, Chapter 414, O.S.L. 2010, 63.2, 63.3, 63.4,
6 64, as last amended by Section 79, Chapter 264, O.S.L. 2006, 65,
7 as amended by Section 80, Chapter 264, O.S.L. 2006, 65.2, 65.3,
8 66.1, 66.2, 67.1, 69.5, 80, 81, 84, 85, 92, 93, as amended by
9 Section 4, Chapter 403, O.S.L. 2010, 93.2, as amended by Section
10 5, Chapter 403, O.S.L. 2010, 95, 101, 103, 104, 106, 107, 109,
11 110, as amended by Section 1, Chapter 338, O.S.L. 2002, 112, 122,
12 171 and 172, as amended by Sections 27 and 28, Chapter 1, 1st
13 Extraordinary Session, O.S.L. 2005, 173, as last amended by
14 Section 29, Chapter 1, 1st Extraordinary Session, O.S.L. 2005,
15 173.1, 173.2, 173.3, 174, 175, as last amended by Section 30,

16 Chapter 1, 1st Extraordinary Session, O.S.L. 2005, 176, 177, 178,
17 179, 180, 201, as amended by Section 6, Chapter 403, O.S.L. 2010,
18 201.1, as last amended by Section 6, Chapter 452, O.S.L. 2010,
19 201.2, 203 and 211 (85 O.S. Supp. 2010, Sections 1.1, 1.2, 1.3,
20 2.6, 3, 3.5, 3.6, 3.9, 3.10, 5, 11, 12, 14, 14.2, 14.3, 16, 17,
21 22, 24.1, 26, 30, 42, 43, 44, 48, 61, 63.1, 64, 65, 93, 93.2, 110,
22 171, 172, 173, 175, 201 and 201.1), are hereby repealed.

23 SECTION 88. RECODIFICATION 85 O.S. 2001, Section
24 131, as amended by Section 6, Chapter 50, O.S.L. 2002 (85 O.S.
25 Supp. 2010, Section 131), shall be recodified as Section 375 of
26 Title 85, unless there is created a duplication in numbering.

27 85 O.S. 2001, Section 131a, as amended by Section 7, Chapter

200

1 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 131a), shall be
2 recodified as Section 376 of Title 85, unless there is created a
3 duplication in numbering.

4 85 O.S. 2001, Section 131b, as amended by Section 8, Chapter
5 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 131b), shall be
6 recodified as Section 377 of Title 85, unless there is created a
7 duplication in numbering.

8 Section 1, Chapter 263, O.S.L. 2009 (85 O.S. Supp. 2010,
9 Section 131c), shall be recodified as Section 378 of Title 85,
10 unless there is created a duplication in numbering.

11 85 O.S. 2001, Section 132, as amended by Section 9, Chapter
12 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 132), shall be
13 recodified as Section 379 of Title 85, unless there is created a
14 duplication in numbering.

15 85 O.S. 2001, Section 132a, as amended by Section 1, Chapter
16 403, O.S.L. 2004 (85 O.S. Supp. 2010, Section 132a), shall be
17 recodified as Section 380 of Title 85, unless there is created a
18 duplication in numbering.

19 85 O.S. 2001, Section 133, as last amended by Section 2,
20 Chapter 316, O.S.L. 2006 (85 O.S. Supp. 2010, Section 133), shall
21 be recodified as Section 381 of Title 85, unless there is created
22 a duplication in numbering.

23 85 O.S. 2001, Section 134, as last amended by Section 1,
24 Chapter 77, O.S.L. 2008 (85 O.S. Supp. 2010, Section 134), shall
25 be recodified as Section 382 of Title 85, unless there is created
26 a duplication in numbering.

27 85 O.S. 2001, Section 135, as amended by Section 12, Chapter

201

1 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 135), shall be
2 recodified as Section 383 of Title 85, unless there is created a
3 duplication in numbering.

4 85 O.S. 2001, Section 135.1, as amended by Section 13,
5 Chapter 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 135.1), shall
6 be recodified as Section 384 of Title 85, unless there is created
7 a duplication in numbering.

8 85 O.S. 2001, Section 136, as amended by Section 14, Chapter
9 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 136), shall be
10 recodified as Section 385 of Title 85, unless there is created a
11 duplication in numbering.

12 85 O.S. 2001, Section 137, as amended by Section 15, Chapter
13 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 137), shall be
14 recodified as Section 386 of Title 85, unless there is created a

15 duplication in numbering.

16 85 O.S. 2001, Section 138, as amended by Section 16, Chapter
17 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 138), shall be
18 recodified as Section 387 of Title 85, unless there is created a
19 duplication in numbering.

20 85 O.S. 2001, Section 138.2, shall be recodified as Section
21 388 of Title 85, unless there is created a duplication in
22 numbering.

23 85 O.S. 2001, Section 139, as amended by Section 17, Chapter
24 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 139), shall be
25 recodified as Section 389 of Title 85, unless there is created a
26 duplication in numbering.

27 85 O.S. 2001, Section 141, as amended by Section 18, Chapter

202

1 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 141), shall be
2 recodified as Section 390 of Title 85, unless there is created a
3 duplication in numbering.

4 85 O.S. 2001, Section 142, as amended by Section 2, Chapter
5 145, O.S.L. 2002 (85 O.S. Supp. 2010, Section 142), shall be
6 recodified as Section 391 of Title 85, unless there is created a
7 duplication in numbering.

8 85 O.S. 2001, Section 142a, shall be recodified as Section
9 392 of Title 85, unless there is created a duplication in
10 numbering.

11 85 O.S. 2001, Section 144, shall be recodified as Section
12 393 of Title 85, unless there is created a duplication in
13 numbering.

14 85 O.S. 2001, Section 145, shall be recodified as Section
15 394 of Title 85, unless there is created a duplication in
16 numbering.

17 85 O.S. 2001, Section 146, shall be recodified as Section
18 395 of Title 85, unless there is created a duplication in
19 numbering.

20 85 O.S. 2001, Section 147, as amended by Section 19, Chapter
21 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 147), shall be
22 recodified as Section 396 of Title 85, unless there is created a
23 duplication in numbering.

24 85 O.S. 2001, Section 148, as amended by Section 20, Chapter
25 50, O.S.L. 2002 (85 O.S. Supp. 2010, Section 148), shall be
26 recodified as Section 397 of Title 85, unless there is created a
27 duplication in numbering.

203

1 85 O.S. 2001, Section 149.1, shall be recodified as Section
2 398 of Title 85, unless there is created a duplication in
3 numbering.

4 85 O.S. 2001, Section 149.2, shall be recodified as Section
5 399 of Title 85, unless there is created a duplication in
6 numbering.

7 85 O.S. 2001, Section 151, shall be recodified as Section
8 400 of Title 85, unless there is created a duplication in
9 numbering.

10 Section 21, Chapter 426, O.S.L. 2009 (85 O.S. Supp. 2010,
11 Section 154), shall be recodified as Section 401 of Title 85,
12 unless there is created a duplication in numbering.

13 Passed the Senate the 18th day of May, 2011.

14

Presiding Officer of the Senate

15

Passed the House of Representatives the 18th day of May,

16

2011.

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18

Presiding Officer of the House

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of Representatives

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