

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2367

By: Kannady

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to workers' compensation; amending  
10                   Section 2, Chapter 208, O.S.L. 2013, as amended by  
11                   Section 1, Chapter 150, O.S.L. 2018 (85A O.S. Supp.  
12                   2018, Section 2), which relates to definitions in the  
13                   Administrative Workers' Compensation Act; modifying  
14                   definitions; amending Sections 3 and 5, Chapter 208,  
15                   O.S.L. 2013 (85A O.S. Supp. 2018, Sections 3 and 5),  
16                   which relate to the Administrative Workers'  
17                   Compensation Act; specifying application of the  
18                   Administrative Workers' Compensation Act; modifying  
19                   scope of immunity; amending Section 6, Chapter 208,  
20                   O.S.L. 2013, as amended by Section 1, Chapter 390,  
21                   O.S.L. 2015 (85A O.S. Supp. 2018, Section 6), which  
22                   relates to crimes in violation of the Administrative  
23                   Workers' Compensation Act; eliminating certain notice  
24                   requirement; amending Section 7, Chapter 208, O.S.L.  
                 2013 (85A O.S. Supp. 2018, Section 7), which relates  
                 to discrimination or retaliation; modifying procedure  
                 for determination of discrimination or retaliation;  
                 amending Sections 13 and 14, Chapter 208, O.S.L. 2013  
                 (85A O.S. Supp. 2018, Sections 13 and 14), which  
                 relate to specific types of injury or illness;  
                 modifying scope of certain exception related to  
                 mental illness; modifying compensation for employees  
                 with mental injury or illness; eliminating  
                 prohibition against consideration of physical or  
                 mental stress in determining if burden of proof is  
                 met in certain circumstances; amending Section 16,  
                 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
                 Section 16), which relates to Official Disability  
                 Guidelines; making Guidelines mandatory; authorizing

1 deviation in certain circumstances; amending Section  
2 18, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
3 Section 18), which relates to billing and collection  
4 of fees for services; expanding methods of providing  
5 notice; amending Sections 19, as amended by Section  
6 4, House Joint Resolution No. 1096, page 1745, O.S.L.  
7 2014, 20 and 21, Chapter 208, O.S.L. 2013 (85A O.S.  
8 Supp. 2018, Sections 19, 20 and 21), which relate to  
9 the Workers' Compensation Commission; eliminating  
10 salary restriction; providing for private meetings;  
11 specifying purposes and requirements; correcting name  
12 of certain fund; clarifying scope of authority;  
13 amending Sections 22 and 27, Chapter 208, O.S.L. 2013  
14 (85A O.S. Supp. 2018, Sections 22 and 27), which  
15 relate to administration of the Administrative  
16 Workers' Compensation Act; modifying powers and  
17 duties of the Workers' Compensation Commission;  
18 amending Section 29, Chapter 208, O.S.L. 2013 (85A  
19 O.S. Supp. 2018, Section 29), which relates to  
20 certain fees; clarifying that fees are annual fees;  
21 expanding authority of the Commission to assess fees;  
22 providing requirements for case management services,  
23 stenographic services and language interpreter  
24 services; providing scope of authority for certain  
court reporters; amending Sections 38, 40 and 43,  
Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
Sections 38, 40 and 43), which relate to securing  
workers' compensation for employees; changing certain  
rule-making authority; authorizing the Commission to  
award compensation in certain instances in which an  
employer has failed to secure compensation; modifying  
scope of actions against third parties; modifying  
lien and subrogation rights; amending Sections 45, as  
amended by Section 2, Chapter 390, O.S.L. 2015 and  
46, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
Sections 45 and 46), which relate to disability;  
modifying temporary total and temporary partial  
disability compensation and permanent partial  
disability compensation rates; authorizing employers  
to recover overpayment of temporary total disability  
payments; modifying termination period for certain  
temporary total disability payments; providing that  
actual earnings plus temporary partial disability  
compensation shall not exceed temporary total  
disability rate; authorizing the Commission to select  
alternative evaluation method for determination of  
permanent partial disability; modifying what

1 constitutes objective medical findings in certain  
2 circumstances; making hiring or contracting for a  
3 Vocational Rehabilitation Director discretionary;  
4 eliminating specified duties of the Vocational  
5 Rehabilitation Director; increasing maximum time  
6 allowed for vocational rehabilitation or training;  
7 eliminating authorization to deduct vocational  
8 rehabilitation tuition for compensation award;  
9 providing exception to waiting period for  
10 disfigurement awards; amending Section 47, Chapter  
11 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 47),  
12 which relates to beneficiaries after death of injured  
13 employee; changing entity making determination of  
14 common law spouse; amending Sections 50, 53 and 57,  
15 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
16 Sections 50, 53 and 57), which relate to medical  
17 treatment; authorizing administrative law judges to  
18 order employers to provide detoxification treatment;  
19 providing consequences if employee refuses  
20 detoxification treatment; providing procedure for  
21 travel reimbursement; authorizing penalty for failure  
22 to reimburse; requiring approval of new Fee Schedule  
23 by a certain date; providing requirement for new Fee  
24 Schedule; providing that employers and insurance  
carriers have right to audit or question medical  
treatment for which they are billed; clarifying basis  
for charges for drugs and compounded medications;  
providing for certain surgeries; modifying process  
for selecting physician in certain circumstances;  
modifying circumstances which bar the right to  
receive temporary total disability payments or  
terminate such payments; amending Section 60, Chapter  
208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 60),  
which relates to evaluation of permanent disability;  
modifying reference to title of the Director of the  
Commission; amending Section 62, Chapter 208, O.S.L.  
2013 (85A O.S. Supp. 2018, Section 62), which relates  
to soft tissue injuries; modifying what constitutes  
injections and soft tissue injuries; amending  
Sections 63, 65, as amended by Section 3, Chapter  
390, O.S.L. 2015, 66, 67, 69, 71, 78, 80, 82, 86, 87  
and 89, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
2018, Sections 63, 65, 66, 67, 69, 71, 78, 80, 82,  
86, 87 and 89), which relate to procedure after  
injury; making certain reports confidential;  
modifying circumstances for which an employer is  
liable for compensation for an occupational disease;

1 modifying standard of evidence for silicosis and  
2 asbestosis claims; eliminating certain authority of  
3 the Commission regarding employees affected by  
4 silicosis or asbestosis; eliminating certain review  
5 and compensation modification; modifying times for  
6 filing; providing for dismissals; expanding methods  
7 for certain notice; providing for certain reviver  
8 action after death of injured employee; clarifying  
9 name of certain fund; providing for continuation of  
10 prescribed drugs during appeals process; providing  
11 for reimbursement to employer in certain  
12 circumstances; modifying procedure and requirements  
13 for review of compensation rulings; placing  
14 limitations on review; providing responsibility for  
15 payment of legal fees and litigation expenses;  
16 modifying definition; modifying authority of attorney  
17 to recover fees for services; making employer's  
18 filing to controvert claim discretionary; clarifying  
19 result of filing of joint petition; prohibiting  
20 deduction of certain wages from benefits; amending  
21 Section 90, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
22 2018, Section 90), which relates to bond or other  
23 deposit requirements; limiting Supreme Court review  
24 unless certain requirements are met; exempting  
political subdivisions from certain bond  
requirements; amending Section 94, Chapter 208,  
O.S.L. 2013 (85A O.S. Supp. 2018, Section 94), which  
relates to incarcerated employees; clarifying benefit  
that the employees are not eligible for; amending  
Section 101, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
2018, Section 101), which relates to certain reports  
and electronic data; modifying time for  
implementation of electronic data interchange system;  
amending Section 105, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Section 105), which relates to  
prohibited activities for the Commission and  
Commission personnel; authorizing certain testimony;  
amending Section 152, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Section 109), which relates to the  
workers' compensation counselor or ombudsman program;  
modifying method of notification of program;  
eliminating the authority of the Commission to  
provide additional information regarding program;  
amending Section 158, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Section 115), which relates to joint  
petitions for settlement; correcting references;  
requiring filing of memorandum of agreement; amending

1 Sections 161 and 162, Chapter 208, O.S.L. 2013 (85A  
2 O.S. Supp. 2018, Sections 118 and 119), which relate  
3 to fees; modifying scope of fee requirement;  
4 correcting statutory references to certain fund;  
5 amending Section 163, Chapter 208, O.S.L. 2013 (85A  
6 O.S. Supp. 2018, Section 120), which relates to  
7 inquiries about compensation claims; modifying scope  
8 of certain requests; correcting statutory reference  
9 to certain fund; amending Section 164, Chapter 208,  
10 O.S.L. 2013 (85A O.S. Supp. 2018, Section 121), which  
11 relates to the Advisory Council on Workers'  
12 Compensation; modifying duties of the Council;  
13 amending Section 165, Chapter 208, O.S.L. 2013, as  
14 amended by Section 4, Chapter 344, O.S.L. 2015 (85A  
15 O.S. Supp. 2018, Section 122), which relates to tax  
16 rates and distribution of certain funds; modifying  
17 certain funding amounts; amending Section 167,  
18 Chapter 208, O.S.L. 2013, as amended by Section 7,  
19 Chapter 169, O.S.L. 2014 (85A O.S. Supp. 2018,  
20 Section 124), which relates to transfers from the  
21 Workers' Compensation Court; modifying transfer;  
22 requiring the Workers' Compensation Court of Existing  
23 Claims to pay certain expenses; amending Sections  
24 121, 125, 126, 128, 133, 134, 135, 137, 139, 141,  
142, 143, 144 and 148, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Sections 300, 304, 305, 307, 312,  
313, 314, 316, 318, 320, 321, 322, 323 and 327),  
which relate to the Workers' Compensation Arbitration  
Act; updating statutory references; amending Section  
169, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
Section 400), which relates to the Workers'  
Compensation Court of Existing Claims; modifying  
certain terms of office; modifying procedure for  
filling vacancies; eliminating the authority of the  
Workers' Compensation Commission to appoint  
administrative law judges to assist the Court when  
vacancies occur on the Court; providing duties and  
authority of Presiding Judge; eliminating procedure  
whereby rulings of the Court are appealable to the  
Commission; providing appeal procedure; eliminating  
certain duties of administrative law judges; amending  
25 O.S. 2011, Section 307, as last amended by Section  
1, Chapter 252, O.S.L. 2018 (25 O.S. Supp. 2018,  
Section 307), which relates to the Oklahoma Open  
Meeting Act; authorizing the Workers' Compensation  
Commission to hold executive sessions for specified  
purposes; repealing Section 15, Chapter 208, O.S.L.

1 2013 (85A O.S. Supp. 2018, Section 15), which relates  
2 to reports regarding funding needs for the Workers'  
3 Compensation Fraud Investigation Unit; repealing  
4 Sections 107, 108, 109, 110, as amended by Section 4,  
5 Chapter 390, O.S.L. 2015, 111, 112, as amended by  
6 Section 5, Chapter 390, O.S.L. 2015, 113, 114, 115,  
7 116, 117, 118, as amended by Section 6, Chapter 390,  
8 O.S.L. 2015, 119 and 120, Chapter 208, O.S.L. 2013  
9 (85A O.S. Supp. 2018, Sections 200, 201, 202, 203,  
10 204, 205, 206, 207, 208, 209, 210, 211, 212 and 213),  
11 which relate to the Oklahoma Employee Injury Benefit  
12 Act; providing for codification; and declaring an  
13 emergency.

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

15 SECTION 1. AMENDATORY Section 2, Chapter 208, O.S.L.  
16 2013, as amended by Section 1, Chapter 150, O.S.L. 2018 (85A O.S.  
17 Supp. 2018, Section 2), is amended to read as follows:

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

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

23 2. "Carrier" means any stock company, mutual company, or  
24 reciprocal or interinsurance exchange authorized to write or carry  
on the business of workers' compensation insurance in this state.  
Whenever required by the context, the term "carrier" shall be deemed  
to include duly qualified self-insureds or self-insured groups;

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

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

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

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

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

24

1 7. "Claimant" means a person who claims benefits for an injury  
2 or occupational disease pursuant to the provisions of the  
3 Administrative Workers' Compensation Act;

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

5 9. a. "Compensable injury" means damage or harm to the  
6 physical structure of the body, mental injury, as  
7 limited by Section 13 of this title, or damage or harm  
8 to prosthetic appliances, including eyeglasses,  
9 contact lenses, or hearing aids, ~~caused solely as the~~  
10 result of which the major cause is either an accident,  
11 cumulative trauma or occupational disease arising out  
12 of the course and scope of employment. An "accident"  
13 means an event involving factors external to the  
14 employee that:

15 (1) was unintended, unanticipated, unforeseen,  
16 unplanned and unexpected,

17 (2) occurred at a specifically identifiable time and  
18 place,

19 (3) occurred by chance or from unknown causes, ~~and~~ or

20 (4) was independent of sickness, mental incapacity,  
21 bodily infirmity or any other cause.

22 b. "Compensable injury" does not include:

23 (1) injury to any active participant in assaults or  
24 combats which, although they may occur in the

1 workplace, are the result of non-employment-  
2 related hostility or animus of one, both, or all  
3 of the combatants and which assault or combat  
4 amounts to a deviation from customary duties;  
5 provided, however, injuries caused by horseplay  
6 shall not be considered to be compensable  
7 injuries, except for innocent victims,

8 (2) injury incurred while engaging in or performing  
9 or as the result of engaging in or performing any  
10 recreational or social activities for the  
11 employee's personal pleasure,

12 (3) injury which was inflicted on the employee at a  
13 time when employment services were not being  
14 performed or before the employee was hired or  
15 after the employment relationship was terminated,

16 (4) injury where the accident was caused by the use  
17 of alcohol, an illegal ~~drugs~~ controlled  
18 substance, ~~or~~ prescription drugs used in  
19 contravention of physician's orders, a legal  
20 controlled substance used in contravention of a  
21 physician's orders or marijuana used without  
22 possession of a state-issued medical marijuana  
23 license. If, within twenty-four (24) hours of an  
24 employee being injured or reporting an injury

1 which is not fatal, or at any time after a fatal  
2 injury when the employee does not survive at  
3 least twenty-four (24) hours after an accident, a  
4 biological specimen is collected by the Office of  
5 the Chief Medical Examiner, and an employee tests  
6 positive for ~~intoxication~~ alcohol, an illegal  
7 controlled substance, ~~or~~ prescription drugs used  
8 in contravention of a physician's orders, a legal  
9 controlled substance used in contravention ~~to~~ of  
10 a treating physician's orders or marijuana used  
11 without possession of a state-issued marijuana  
12 license, or refuses to undergo the drug and  
13 alcohol testing, there shall be a rebuttable  
14 presumption that the injury was caused by the use  
15 of alcohol, an illegal ~~drugs~~ drug, ~~or~~  
16 prescription ~~drugs~~ drug used in contravention of  
17 physician's orders or a legal controlled  
18 substance used in contravention of a physician's  
19 orders. This presumption may only be overcome if  
20 the employee proves by clear and convincing  
21 evidence that his or her state of intoxication  
22 had no causal relationship to the injury,  
23 (5) any strain, degeneration, damage or harm to, or  
24 disease or condition of, the eye or

1 musculoskeletal structure or other body part  
2 resulting from the natural results of aging,  
3 osteoarthritis, arthritis, or degenerative  
4 process including, but not limited to,  
5 degenerative joint disease, degenerative disc  
6 disease, degenerative  
7 spondylosis/spondylolisthesis and spinal  
8 stenosis, or

9 (6) any preexisting condition except when the  
10 treating physician clearly confirms an  
11 identifiable and significant aggravation incurred  
12 in the course and scope of employment.

13 ~~c. The definition of "compensable injury" shall not be~~  
14 ~~construed to limit or abrogate the right to recover~~  
15 ~~for mental injuries as described in Section 13 of this~~  
16 ~~title, heart or lung injury or illness as described in~~  
17 ~~Section 14 of this title, or occupational diseases as~~  
18 ~~described in Section 65 of this title.~~

19 ~~d.~~ A compensable injury shall be established by medical  
20 evidence supported by objective findings as defined in  
21 paragraph 31 of this section.

22 ~~e.~~ d. The injured employee shall prove by a preponderance of  
23 the evidence that he or she has suffered a compensable  
24 injury.



1           12. "Continuing medical maintenance" means medical treatment  
2 that is reasonable and necessary to maintain claimant's condition  
3 resulting from the compensable injury or illness after reaching  
4 maximum medical improvement. Continuing medical maintenance shall  
5 not be awarded by the Commission for more than one (1) year from the  
6 date of the permanent disability hearing unless there is clear and  
7 convincing evidence that such treatment should continue for more  
8 than one (1) year. The award of continuing medical maintenance  
9 shall be reviewed by the Commission upon request by any party at any  
10 time. Continuing medical maintenance shall not include diagnostic  
11 tests, surgery, injections, counseling, physical therapy, or pain  
12 management devices or equipment unless the Commission finds it in  
13 the best interest of the employee;

14           13. "Course and scope of employment" means an activity of any  
15 kind or character for which the employee was hired and that relates  
16 to and derives from the work, business, trade or profession of an  
17 employer, and is performed by an employee in the furtherance of the  
18 affairs or business of an employer. The term includes activities  
19 conducted on the premises of an employer or at other locations  
20 designated by an employer and travel by an employee in furtherance  
21 of the affairs of an employer that is specifically directed by the  
22 employer. This term does not include:

- 23           a. an employee's transportation to and from his or her  
24                 place of employment,

1 b. travel by an employee in furtherance of the affairs of  
2 an employer if the travel is also in furtherance of  
3 personal or private affairs of the employee,

4 c. any injury occurring in a parking lot or other common  
5 area adjacent to an employer's place of business  
6 before the employee clocks in or otherwise begins work  
7 for the employer or after the employee clocks out or  
8 otherwise stops work for the employer unless the  
9 employer owns or maintains exclusive control over the  
10 area, or

11 d. any injury occurring while an employee is on a work  
12 break, unless the injury occurs while the employee is  
13 on a work break inside the employer's facility or in  
14 an area owned by or exclusively controlled by the  
15 employer and the work break is authorized by the  
16 employee's supervisor;

17 14. "Cumulative trauma" means an injury to an employee that is  
18 caused by the combined effect of repetitive physical activities  
19 extending over a period of time in the course and scope of  
20 employment. Cumulative trauma shall not mean fatigue, soreness or  
21 general aches and pain that may have been caused, aggravated,  
22 exacerbated or accelerated by the employee's course and scope of  
23 employment. Cumulative trauma shall have resulted directly and  
24 independently of all other causes ~~and the employee shall have~~

1 ~~completed at least one hundred eighty (180) days of continuous~~  
2 ~~active employment with the employer~~ If compensation is payable for  
3 an injury resulting from cumulative trauma, the last employer in  
4 whose employment the employee was last injuriously exposed to the  
5 trauma during a period of at least ninety (90) days, and the  
6 insurance carrier, if any, covering the risk when the employee was  
7 last so exposed under such employer, shall alone be liable therefor,  
8 without right to contribution from any prior employer or insurance  
9 carrier. If there is no employer in whose employment the employee  
10 was injuriously exposed to the trauma for a period of at least  
11 ninety (90) days, then the last employer in whose employment the  
12 employee was last injuriously exposed to the trauma and the  
13 insurance carrier, if any, covering the risk when such employee was  
14 last so exposed under such employer, shall be liable therefor, with  
15 right to contribution from any prior employer or insurance carrier;

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

18 16. "Disability" means ~~incapacity because of compensable injury~~  
19 ~~to earn, in the same or any other employment, substantially the same~~  
20 ~~amount of wages the employee was receiving at the time of the~~  
21 ~~compensable injury~~ the loss of use or function of a part of the body  
22 which must be proven by objective findings, as defined in paragraph  
23 31 of this section;

24

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

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

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

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

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

1 and for part of a year in nonexempt activities,  
2 the employer shall be responsible for providing  
3 workers' compensation only for the period of time  
4 for which the person is employed in nonexempt  
5 activities,

6 (3) any person who is a licensed real estate sales  
7 associate or broker, paid on a commission basis,

8 (4) any person who is providing services in a medical  
9 care or social services program, or who is a  
10 participant in a work or training program,  
11 administered by the Department of Human Services,  
12 unless the Department is required by federal law  
13 or regulations to provide workers' compensation  
14 for such person. This division shall not be  
15 construed to include nursing homes,

16 (5) any person employed by an employer with five or  
17 fewer total employees, all of whom are related  
18 within the second degree by blood or marriage to  
19 the employer, are dependents living in the  
20 household of the employer, or are a combination  
21 of such relatives and dependents, if the employer  
22 is a natural person or ~~a general or limited~~  
23 ~~partnership, or an incorporator of a corporation~~  
24 ~~if the corporation is the employer~~ in the

1 household of the owner of the employer if the  
2 employer is not a natural person and the owner  
3 owns fifty percent (50%) or more of the employer,

4 (6) any person employed by an employer which is a  
5 youth sports league which qualifies for exemption  
6 from federal income taxation pursuant to federal  
7 law,

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

21 (8) any person providing or performing voluntary  
22 service who receives no wages for the services  
23 other than meals, drug or alcohol rehabilitative  
24 therapy, transportation, lodging or reimbursement

1 for incidental expenses except for volunteers  
2 specifically provided for in subparagraph a of  
3 this paragraph,

- 4 (9) a person, commonly referred to as an owner-  
5 operator, who owns or leases a truck-tractor or  
6 truck for hire, if the owner-operator actually  
7 operates the truck-tractor or truck and if the  
8 person contracting with the owner-operator is not  
9 the lessor of the truck-tractor or truck.

10 Provided, however, an owner-operator shall not be  
11 precluded from workers' compensation coverage  
12 under the Administrative Workers' Compensation  
13 Act if the owner-operator elects to participate  
14 as a sole proprietor,

- 15 (10) a person referred to as a drive-away owner-  
16 operator who privately owns and utilizes a tow  
17 vehicle in drive-away operations and operates  
18 independently for hire, if the drive-away owner-  
19 operator actually utilizes the tow vehicle and if  
20 the person contracting with the drive-away owner-  
21 operator is not the lessor of the tow vehicle.

22 Provided, however, a drive-away owner-operator  
23 shall not be precluded from workers' compensation  
24 coverage under the Administrative Workers'

1 Compensation Act if the drive-away owner-operator  
2 elects to participate as a sole proprietor, and  
3 (11) any person who is employed as a domestic servant  
4 or as a casual worker in and about a private home  
5 or household, which private home or household had  
6 a gross annual payroll in the preceding calendar  
7 year of less than Fifty Thousand Dollars  
8 (\$50,000.00) for such workers;

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

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

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

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

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

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

23       25. "Insurance Commissioner" means the Insurance Commissioner  
24 of the State of Oklahoma;

1       26. "Insurance Department" means the Insurance Department of  
2 the State of Oklahoma;

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

10       28. "Maximum medical improvement" means that no further  
11 material improvement would reasonably be expected from medical  
12 treatment or the passage of time;

13       29. "Medical services" means those services specified in  
14 Section 50 of this title;

15       30. "Misconduct" shall include the following:

- 16       a. unexplained absenteeism or tardiness,
- 17       b. willful or wanton indifference to or neglect of the  
18             duties required,
- 19       c. willful or wanton breach of any duty required by the  
20             employer,
- 21       d. the mismanagement of a position of employment by  
22             action or inaction,
- 23       e. actions or omissions that place in jeopardy the  
24             health, life, or property of self or others,

- 1 f. dishonesty,
- 2 g. wrongdoing,
- 3 h. violation of a law, or
- 4 i. a violation of a policy or rule adopted to ensure
- 5 orderly work or the safety of self or others;

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

9 (2) (a) When determining permanent disability, a  
10 physician, any other medical provider, an  
11 administrative law judge, the Commission or  
12 the courts shall not consider complaints of  
13 pain.

14 (b) For the purpose of making permanent  
15 disability ratings to the spine, physicians  
16 shall use criteria established by the most  
17 current edition of the American Medical  
18 Association "Guides to the Evaluation of  
19 Permanent Impairment".

20 (3) (a) Objective evidence necessary to prove  
21 permanent disability in occupational hearing  
22 loss cases may be established by medically  
23 recognized and accepted clinical diagnostic  
24 methodologies, including, but not limited

1 to, audiological tests that measure air and  
2 bone conduction thresholds and speech  
3 discrimination ability.

4 (b) Any difference in the baseline hearing  
5 levels shall be confirmed by subsequent  
6 testing; provided, however, such test shall  
7 be given within four (4) weeks of the  
8 initial baseline hearing level test but not  
9 before five (5) days after being adjusted  
10 for presbycusis.

11 b. Medical opinions addressing compensability and  
12 permanent disability shall be stated within a  
13 reasonable degree of medical certainty;

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

17 33. "Permanent disability" means the extent, expressed as a  
18 percentage, of the loss of a portion of the total physiological  
19 capabilities of the human body as established by competent medical  
20 evidence and based on the current edition of the American Medical  
21 Association guides to the evaluation of impairment, if the  
22 impairment is contained therein. Loss of earning capacity directly  
23 related to the permanent loss of use of a part of the body shall be  
24

1 considered when determining permanent disability, but shall not  
2 constitute a separate remedy under this act;

3 34. "Permanent partial disability" means a permanent disability  
4 or loss of use of a part of the body after maximum medical  
5 improvement has been reached ~~which prevents the injured employee,~~  
6 ~~who has been released to return to work by the treating physician,~~  
7 ~~from returning to his or her pre-injury or equivalent job.~~ All  
8 evaluations of permanent partial disability must be supported by  
9 objective findings, and shall be determined pursuant to the  
10 definition of parts of the body contained in the current edition of  
11 the AMA Guides;

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

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

23 37. "Pre-injury or equivalent job" means the job that the  
24 claimant was working for the employer at the time the injury

1 occurred or any other employment offered by the claimant's employer  
2 that pays at least one hundred percent (100%) of the employee's  
3 average weekly wage;

4 38. "Private self-insurer" means a private employer that has  
5 been authorized to self-insure its workers' compensation obligations  
6 pursuant to this act, but does not include group self-insurance  
7 associations authorized by this act, or any public employer that  
8 self-insures pursuant to this act;

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

12 40. "Scheduled member" or "member" means hands, fingers, arms,  
13 legs, feet, toes, shoulders, testicles, hips and eyes. In addition,  
14 for purposes of the Multiple Injury Trust Fund only, "scheduled  
15 member" means hearing impairment;

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

23 42. "State average weekly wage" means the state average weekly  
24 wage determined by the Oklahoma Employment Security Commission in

1 the preceding calendar year. If such determination is not  
2 available, the Commission shall determine the wage annually after  
3 reasonable investigation;

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

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

9 45. "Surviving spouse" means the employee's spouse by reason of  
10 a legal marriage recognized by the State of Oklahoma or under the  
11 requirements of a common law marriage in this state, as determined  
12 by the Workers' Compensation Commission;

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

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

19 48. "Wages" means money compensation received for employment at  
20 the time of the accident, including the reasonable value of board,  
21 rent, housing, lodging, or similar advantage received from the  
22 employer and includes the amount of tips required to be reported by  
23 the employer under Section 6053 of the Internal Revenue Code and the  
24

1 regulations promulgated pursuant thereto or the amount of actual  
2 tips reported, whichever amount is greater.

3 SECTION 2. AMENDATORY Section 3, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 3), is amended to read as  
5 follows:

6 Section 3. A. Every employer ~~and every employee, unless~~  
7 ~~otherwise specifically provided in this act, shall be~~ subject and  
8 bound to the provisions of the Administrative Workers' Compensation  
9 Act. ~~However, nothing~~ shall pay or provide benefits according to  
10 the provisions of this act for the accidental injury or death of an  
11 employee arising out of and in the course of his or her employment,  
12 without regard to fault for such injury, if the employee's contract  
13 of employment was made or if the injury occurred within this state.  
14 If an employee makes a claim for an injury in another jurisdiction  
15 and a final adjudication is entered in the case, the employee is  
16 precluded from his or her right of action under the Administrative  
17 Workers' Compensation Act. If the employee makes a claim or brings  
18 an action in this state prior to a final adjudication in another  
19 jurisdiction, any receipt of benefits in the other jurisdiction  
20 shall not bar the claim or action in this state; provided however,  
21 in no event shall the Workers' Compensation Commission grant  
22 benefits that duplicate benefits paid by the employer or the  
23 employer's insurance carrier in the other jurisdiction. Nothing in  
24 this act shall be construed to conflict with any valid Act of

1 Congress governing the liability of employers for injuries received  
2 by their employees.

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

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

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

23  
24

1 SECTION 3. AMENDATORY Section 5, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 5), is amended to read as  
3 follows:

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

24

1 ~~employer was hired by such operator or owner at the time of the~~  
2 ~~injury or death.~~

3 B. Exclusive remedy shall not apply if:

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

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

20 C. The immunity from civil liability described in subsection A  
21 of this section shall apply regardless of whether the injured  
22 employee is denied compensation or deemed ineligible to receive  
23 compensation under this act.

24

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

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

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

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

1 for in this act for failure to secure the payment of compensation  
2 under this act.

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

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

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

17 Section 6.

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

23 (1) obtaining any benefit or payment,

24 (2) increasing any claim for benefit or payment, or

1 (3) obtaining workers' compensation coverage under  
2 this act,  
3 shall be guilty of a felony punishable pursuant to  
4 Section 1663 of Title 21 of the Oklahoma Statutes.

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

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

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

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

23 C. Where the Commission or the Attorney General finds that a  
24 violation of division (1) of subparagraph a of paragraph 1 of

1 subsection A of this section has been committed, or that any other  
2 criminal violations in furtherance of this act were committed, the  
3 chair of the Commission or the Attorney General shall refer the  
4 matter for appropriate action to the prosecuting attorney having  
5 criminal jurisdiction over the matter.

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

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

20 (2) The Attorney General shall designate the  
21 personnel assigned to the Unit, who, on meeting  
22 the qualifications established by the Oklahoma  
23 Council on Law Enforcement Education and  
24 Training, shall have the powers of specialized

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

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

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

22 4. a. In the course of any investigation being conducted by  
23 the Unit, the Attorney General and his or her deputies  
24 and assistants and the Director and his or her

1 deputies and assistants shall have the power of  
2 subpoena and may:

- 3 (1) subpoena witnesses,
- 4 (2) administer oaths or affirmations and examine any  
5 individual under oath, and
- 6 (3) require and compel the production of records,  
7 books, papers, contracts, and other documents.

8 b. The issuance of subpoenas for witnesses shall be  
9 served in the same manner as if issued by a district  
10 court.

11 c. (1) Upon application by the commissioner or the  
12 Director of the Unit, the district court located  
13 in the county where a subpoena was served may  
14 issue an order compelling an individual to comply  
15 with the subpoena to testify.

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

18 d. If any person has refused in connection with an  
19 investigation by the Director to be examined under  
20 oath concerning his or her affairs, then the Director  
21 is authorized to conduct and enforce by all  
22 appropriate and available means any examination under  
23 oath in any state or territory of the United States in  
24 which any officer, director, or manager may then

1           presently be to the full extent permitted by the laws  
2           of the state or territory.

3           e.    In addition to the punishments described in paragraph  
4           1 of subsection A of this section, any person  
5           providing false testimony under oath or affirmation in  
6           this state as to any matter material to any  
7           investigation or hearing conducted under this  
8           subparagraph, or any workers' compensation hearing,  
9           shall upon conviction be guilty of perjury.

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

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

17          b.   No carrier or employer who makes a report for a  
18               suspected violation of division (1) of subparagraph a  
19               of paragraph 1 of subsection A of this section by an  
20               employee shall be liable to the employee unless the  
21               carrier or employer knowingly and intentionally  
22               included false information in the report.

23          c.   (1) Any carrier or employer who willfully and  
24               knowingly fails to report a violation under

1 division (1) of subparagraph a of paragraph 1 of  
2 subsection A of this section shall be guilty of a  
3 misdemeanor and on conviction shall be punished  
4 by a fine not to exceed One Thousand Dollars  
5 (\$1,000.00).

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

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

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

20 2. The prosecuting attorney of the district to whom a suspected  
21 violation of subsection A of this section, or any other criminal  
22 violations that may be related thereto, have been referred shall,  
23 for the purpose of assisting him or her in such prosecutions, have  
24 the authority to appoint as special deputy prosecuting attorneys

1 licensed attorneys-at-law in the employment of the Unit or any other  
2 designated insurance fraud investigation division within the  
3 Attorney General's office. Such special deputy prosecuting  
4 attorneys shall, for the purpose of the prosecutions to which they  
5 are assigned, be responsible to and report to the prosecuting  
6 attorney.

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

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

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

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

23 ~~J.~~ If an injured employee is charged with workers' compensation  
24 fraud, any pending workers' compensation proceeding, including

1 benefits, shall be stayed after the preliminary hearing is concluded  
2 and the claimant is bound over and shall remain stayed until the  
3 final disposition of the criminal case. All notice requirements  
4 shall continue during the stay.

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

1 granted, the evidence shall not be presented fewer than five (5)  
2 days later.

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

18 SECTION 5. AMENDATORY Section 7, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2018, Section 7), is amended to read as  
20 follows:

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

23 1. Filed a claim under this act;

24

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

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

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

7        B. The ~~Commission~~ district courts shall have exclusive  
8 jurisdiction to hear and decide claims based on ~~subsection A~~ of this  
9 section.

10       C. ~~If the Commission determines that the defendant violated~~  
11 ~~subsection A of this section, the Commission may award the employee~~  
12 ~~back pay up to a maximum of One Hundred Thousand Dollars~~  
13 ~~(\$100,000.00). Interim earnings or amounts earnable with reasonable~~  
14 ~~diligence by the person discriminated against shall reduce the back~~  
15 ~~pay otherwise allowable.~~

16       ~~D.~~ The prevailing party shall be entitled to recover costs and  
17 a reasonable attorney fee.

18       ~~E.~~ D. No employer may discharge an employee during a period of  
19 temporary total disability for the sole reason of being absent from  
20 work or for the purpose of avoiding payment of temporary total  
21 disability benefits to the injured employee.

22       ~~F.~~ E. Notwithstanding any other provision of this section, an  
23 employer shall not be required to rehire or retain an employee who,  
24 after temporary total disability has been exhausted, is determined

1 by a physician to be physically unable to perform his or her  
2 assigned duties, or whose position is no longer available.

3 ~~G. F.~~ This section shall not be construed as establishing an  
4 exception to the employment at will doctrine.

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

8 SECTION 6. AMENDATORY Section 13, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 13), is amended to read as  
10 follows:

11 Section 13. A. 1. A mental injury or illness is not a  
12 compensable injury unless caused by a physical injury to the  
13 employee, and shall not be considered an injury arising out of and  
14 in the course and scope of employment or compensable unless  
15 demonstrated by a preponderance of the evidence; provided, however,  
16 that this physical injury limitation shall not apply to any victim  
17 of a crime of violence or to a law enforcement officer, firefighter,  
18 emergency medical technician, or any other employee of an emergency  
19 service who is likely to be among the first people to arrive at and  
20 assist at the scene of an emergency and who suffers a mental injury  
21 related to duties performed responding to the emergency.

22 2. No mental injury or illness under this section shall be  
23 compensable unless it is also diagnosed by a licensed psychiatrist  
24 or psychologist and unless the diagnosis of the condition meets the

1 criteria established in the most current issue of the Diagnostic and  
2 Statistical Manual of Mental Disorders.

3 B. ~~1. Notwithstanding any other provision of this act, where a~~  
4 ~~claim is for mental injury or illness, the employee shall be limited~~  
5 ~~to twenty-six (26) weeks of disability benefits unless it is shown~~  
6 ~~by clear and convincing evidence that benefits should continue for a~~  
7 ~~set period of time, not to exceed a total of fifty-two (52) weeks.~~

8 ~~2. a. In cases where death results directly from the mental~~  
9 ~~injury or illness within a period of one (1) year,~~  
10 ~~compensation shall be paid the dependents as provided~~  
11 ~~in other death cases under this act.~~

12 ~~b.~~

13 1. An employee with a compensable mental injury or illness  
14 shall be entitled to compensation in the same manner as cases  
15 designated as "other cases" pursuant to subsection C of Section 46  
16 of this title.

17 2. Death directly or indirectly related to the mental injury or  
18 illness occurring ~~one (1) year~~ three (3) years or more from the  
19 incident resulting in the mental injury or illness shall not be a  
20 compensable injury.

21 SECTION 7. AMENDATORY Section 14, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 14), is amended to read as  
23 follows:  
24

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

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

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

16 SECTION 8. AMENDATORY Section 16, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 16), is amended to read as  
18 follows:

19 Section 16. A. The Official Disability Guidelines - Treatment  
20 in Workers Compensation (ODG), published by the Work Loss Data  
21 Institute, ~~is to be recognized as the primary standard of reference,~~  
22 shall be mandatory at the time of treatment, in determining the  
23 frequency and extent of services presumed to be medically necessary  
24 and appropriate for compensable injuries under this act, or in

1 resolving such matters in the event a dispute arises, unless the  
2 Workers' Compensation Commission makes a specific finding that a  
3 deviation from said guidelines is necessary under the circumstances  
4 to avoid an unreasonable risk to the health or life of the employee.  
5 ~~The medical treatment guidelines are not requirements, nor are they~~  
6 ~~mandates or standards; they provide advice by identifying the care~~  
7 ~~most likely to benefit injured workers. The guidelines shall be~~  
8 ~~evidence-based, scientifically valid, outcome-focused, and designed~~  
9 ~~to reduce excessive or inappropriate medical care while safeguarding~~  
10 ~~necessary medical care.~~

11 B. Physicians providing care to an employee shall prescribe for  
12 the employee any necessary prescription drugs and over-the-counter  
13 alternatives to prescription medicine as clinically appropriate and  
14 as recommended under the Official Disability Guidelines.  
15 Prescriptions and nonprescription drugs that are not preferred,  
16 exceed or are not addressed by ODG require preauthorization and the  
17 preauthorization request shall include the prescribing doctor's drug  
18 regimen plan of care and the anticipated dosage or range of dosages.

19 SECTION 9. AMENDATORY Section 18, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 18), is amended to read as  
21 follows:

22 Section 18. A. No hospital, physician, or other health care  
23 provider shall bill or attempt to collect any fee or any portion of  
24 a fee for services rendered to an employee due to a work-related

1 injury or report to any credit-reporting agency any failure of the  
2 employee to make the payment, when a claim for compensation has been  
3 filed under this act and the hospital, physician, or health care  
4 provider has received actual notice given in writing by the employee  
5 or the employee's representative. Actual notice shall be deemed  
6 received by the hospital, physician, or health care provider five  
7 (5) days after mailing by certified mail or sending by facsimile,  
8 electronic mail or other electronic means with receipt of  
9 confirmation by the employee or his or her representative to the  
10 hospital, physician, or health care provider.

11 B. The notice shall include:

- 12 1. The name of the employer;
- 13 2. The name of the insurer, if known;
- 14 3. The name of the employee receiving the services;
- 15 4. The general nature of the injury, if known; and
- 16 5. Where a claim has been filed, the claim number, if known.

17 C. When an injury or bill is found to be noncompensable under  
18 this act, the hospital, physician, or other health care provider  
19 shall be entitled to pursue the employee for any unpaid portion of  
20 the fee or other charges for authorized services provided to the  
21 employee. Any applicable statute of limitations for an action for  
22 the fees or other charges shall be tolled from the time notice is  
23 given to the hospital, physician, or other health care provider  
24 until a determination of noncompensability in regard to the injury

1 which is the basis of the services is made, or if there is an  
2 appeal, until a final determination of noncompensability is rendered  
3 and all appeal deadlines have passed.

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

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

8 SECTION 10. AMENDATORY Section 19, Chapter 208, O.S.L.  
9 2013, as amended by Section 4, House Joint Resolution No. 1096, Page  
10 1745, O.S.L. 2014 (85A O.S. Supp. 2018, Section 19), is amended to  
11 read as follows:

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

16 B. The Commission shall consist of three (3) full-time  
17 commissioners, each of whom must have been involved in the workers'  
18 compensation field for at least three (3) years, appointed by the  
19 Governor: one of whom is chosen from a slate of three selected by  
20 the Speaker of the House of Representatives, with all three  
21 confirmed by the Senate. The term of each appointee shall be six  
22 (6) years to administer the provisions of this act. The Governor  
23 may request a subsequent slate of nominees from the Speaker of the  
24 House of Representatives if a suitable nominee is not found. Any or

1 all of the commissioners may be reappointed for additional six-year  
2 terms upon reconfirmation by the Senate. However, the initial  
3 commissioners shall serve staggered terms of two (2), four (4), and  
4 six (6) years, respectively, as determined by the Governor. If the  
5 Legislature is not in session at the time of appointment, the  
6 appointment shall be subject to confirmation by the Senate upon  
7 convening of the next regular session of the Legislature.  
8 Membership on the Commission shall be a full-time position and no  
9 commissioner shall have any other employment, unless authorized or  
10 excused by law. Each commissioner shall receive a salary equal to  
11 that paid to a district judge of this state; ~~provided however, the~~  
12 ~~commissioners shall not receive any increase in salary as a result~~  
13 ~~of the provisions of Section 1 of this resolution.~~

14 C. The Commission shall have the authority to adopt reasonable  
15 rules within its respective areas of responsibility including the  
16 rules of procedure for administrative hearings, after notice and  
17 public hearing, for effecting the purposes of this act, in  
18 accordance with the Oklahoma Administrative Procedures Act. All  
19 rules, upon adoption, shall be published and be made available to  
20 the public and, if not inconsistent with the law, shall be binding  
21 in the administration of this act.

22 D. The principal office of the Commission shall be situated in  
23 the City of Oklahoma City in quarters assigned by the Office of  
24 Management and Enterprise Services. The Commission shall maintain

1 and keep open, during reasonable business hours, the office in  
2 Oklahoma City, for the transaction of business, at which office its  
3 official records and papers shall be kept. The Commission or any  
4 commissioner may hold hearings in any city of this state.

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

8 1. To organize, direct and develop the administrative work of  
9 the administrative law judges, including but not limited to  
10 docketing, clerical, technical and financial work and establishment  
11 of hours of operation;

12 2. To employ administrative staff for the Commission, within  
13 budgetary limitation; and

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

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

20 G. When any commissioner of the Commission is disqualified for  
21 any reason to hear and participate in the determination of any  
22 matter pending before the Commission, the Governor shall appoint a  
23 qualified person to hear and participate in the decision on the  
24 particular matter. The special commissioner so appointed shall have

1 all authority and responsibility with respect to the particular  
2 matter before the Commission as if the person were a regular  
3 commissioner of the Commission but shall have no authority or  
4 responsibility with respect to any other matter before the  
5 Commission. A person appointed as a special commissioner of the  
6 Commission under the provisions of this subsection shall be entitled  
7 to receive a per diem equal to the annual salary of the  
8 commissioners prorated for the number of days he or she serves in  
9 the capacity of a special commissioner of the Commission.  
10 Furthermore, when a vacancy on the Commission occurs or is certain  
11 to occur, the position shall be filled pursuant to the provisions of  
12 this section.

13 H. As authorized by Section 307 of Title 25 of the Oklahoma  
14 Statutes, the members of the Commission may meet in private to  
15 discuss policy, personnel and staffing administration and other  
16 matters related to the state's workers' compensation system.  
17 Provided, however, all three members must be present at the private  
18 meeting and no official action shall be taken in the meeting.

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

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

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

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

10          3. To assess penalties;

11          4. To prescribe rules governing the representation of  
12 employees, employers, and carriers in respect to claims before the  
13 Commission;

14          5. To make available all records in connection with all cases  
15 of personal injury to the Oklahoma Department of Labor. The  
16 Commissioner of Labor may propose rules for the prevention of  
17 injuries and transmit the rules to the Commission. The Commission  
18 may recommend proposed rules for prevention of injuries to the  
19 Commissioner of Labor; and

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

22          B. 1. In addition to the other powers and duties granted to  
23 the Commission in this section and otherwise provided by law, the  
24 Commission is authorized to establish and impose reasonable

1 administrative fees to recover the cost of preparation of various  
2 informative materials distributed by the Commission.

3 2. The administrative fees shall be established by regulation  
4 of the Commission.

5 3. Funds derived from administrative fees shall be deposited  
6 into the Workers' Compensation Commission Revolving Fund to be used  
7 to defray expenses incurred in preparation and distribution of  
8 materials.

9 SECTION 12. AMENDATORY Section 21, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 21), is amended to read as  
11 follows:

12 Section 21. A. Commissioners shall be considered officers and  
13 shall take the oath prescribed by the Oklahoma Constitution and the  
14 laws of this state.

15 B. 1. A majority of the Workers' Compensation Commission shall  
16 constitute a quorum for the transaction of business, and vacancies  
17 shall not impair the right of the remaining commissioners to  
18 exercise all the powers of the full Commission, so long as a  
19 majority remains.

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

24

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

4 D. Except with respect to the Commission's authority to hear  
5 appeals of decisions from administrative law judges, any reference  
6 in this ~~act~~ title to the Commission's ability to hear and decide the  
7 rights of interested parties under this ~~act~~ title shall not prevent  
8 it from delegating that responsibility to an administrative law  
9 judge.

10 SECTION 13. AMENDATORY Section 22, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2018, Section 22), is amended to read as  
12 follows:

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

- 16 a. to make rules necessary for the administration and  
17 operation of the Commission,
- 18 b. to appoint and fix the compensation of temporary  
19 technical assistants, medical and legal advisers,  
20 clerical assistants and other officers and employees,  
21 and
- 22 c. to make such expenditures, including those for  
23 personal service, rent, books, periodicals, office  
24

1 equipment, and supplies, and for printing and binding  
2 as may be necessary.

3 2. a. ~~Before~~ The Commission shall vote on any substantive  
4 change to any form and the effective date of such  
5 substantive change.

6 b. The Commission shall comply with the provisions of the  
7 Administrative Procedures Act applicable to the filing  
8 and publication requirements for rules before the  
9 adoption, prescription, amendment, modification, or  
10 repeal of any rule, ~~regulation, or form,~~ the  
11 Commission shall give at least thirty (30) days'  
12 notice of its intended action.

13 ~~b. The notice shall include a statement of the terms or~~  
14 ~~substance of the intended action or description of the~~  
15 ~~subjects and issues involved, and the time, place, and~~  
16 ~~manner in which interested persons may present their~~  
17 ~~views thereon.~~

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

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

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

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

8       B. 1. The Commission may appoint as many persons as may be  
9 necessary to be administrative law judges and in addition may  
10 appoint such examiners, investigators, medical examiners, clerks,  
11 and other employees as it deems necessary to effectuate the  
12 provisions of this ~~act~~ title.

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

15       C. Additionally, the Commission shall have the following powers  
16 and duties:

17       1. To hear and approve compromise settlements;

18       2. To review and approve own-risk applications and group self-  
19 insurance association applications;

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

22       4. To contract with an appropriate state governmental entity,  
23 insurance carrier or approved service organization to process,  
24 investigate and pay valid claims against an impaired self-insurer

1 which fails, due to insolvency or otherwise, to pay its workers'  
2 compensation obligations, charges for which shall be paid from the  
3 proceeds of security posted with the Commission as provided in  
4 Section 38 of this ~~act~~ title;

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

7 6. To hear and determine claims concerning disputed medical  
8 bills;

9 7. To promulgate necessary rules for administering this ~~act~~  
10 title and develop uniform forms and procedures for use by  
11 administrative law judges. Such rules shall be reviewable by the  
12 Legislature;

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

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

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

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

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

7        SECTION 14.        AMENDATORY        Section 27, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 27), is amended to read as  
9 follows:

10        Section 27. A. The Workers' Compensation Commission shall be  
11 vested with jurisdiction over all claims filed pursuant to the  
12 Administrative Workers' Compensation Act. All claims so filed shall  
13 be heard by the administrative law judge sitting without a jury.  
14 The Commission shall have full power and authority to determine all  
15 questions in relation to claims for compensation under the  
16 provisions of the Administrative Workers' Compensation Act. The  
17 Commission, upon application of either party, shall order a hearing.  
18 Upon a hearing, either party may present evidence and be represented  
19 by counsel. Except as provided in this act, the decision of the  
20 administrative law judge shall be final as to all questions of fact  
21 and law. The decision of the administrative law judge shall be  
22 issued within thirty (30) days following the submission of the case  
23 by the parties. The power and jurisdiction of the Commission over  
24 each case shall be continuing and it may, from time to time, make

1 such modifications or changes with respect to former findings or  
2 orders relating thereto if, in its opinion, it may be justified.

3 B. In addition to the duties set forth in this section, the  
4 administrative law judges shall have the following duties and  
5 powers:

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

10 2. To hear and determine challenges to an agreement to  
11 arbitrate under the Workers' Compensation Arbitration Act; and

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

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

16 SECTION 15. AMENDATORY Section 29, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 29), is amended to read as  
18 follows:

19 Section 29. A. Each carrier writing compensation insurance in  
20 this state shall pay to the Workers' Compensation Commission ~~at the~~  
21 ~~time of securing a license to transact business in this state an~~  
22 annual fee of One Thousand Dollars (\$1,000.00) ~~for the privilege of~~  
23 ~~qualifying with the Commission for the writing of compensation~~  
24 insurance.

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

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

6 D. Fees required pursuant to this section shall be deposited  
7 ~~into~~ to the credit of the Workers' Compensation Commission Revolving  
8 Fund.

9 SECTION 16. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 35.1 of Title 85A, unless there  
11 is created a duplication in numbering, reads as follows:

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

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

23 C. An employer or insurance carrier shall contract for language  
24 interpreter services for medical appointments, depositions,

1 statements, mediations and hearings directly with a language  
2 interpreter whose principal place of business is in the State of  
3 Oklahoma. The charge for such service shall be limited to the  
4 actual fee of the interpreter.

5 D. A court reporter employed by or contracted by the Workers'  
6 Compensation Commission shall be authorized to stenographically  
7 report both joint petition settlements and compromise settlements in  
8 the Court of Existing Claims. A court reporter employed by or  
9 contracted by the Court of Existing Claims shall be authorized to  
10 stenographically report both compromise settlements and joint  
11 petition settlements under the jurisdiction of the Commission.

12 SECTION 17. AMENDATORY Section 38, Chapter 208, O.S.L.  
13 2013 (85A O.S. Supp. 2018, Section 38), is amended to read as  
14 follows:

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

17 1. By insuring and keeping insured the payment of compensation  
18 with any stock corporation, mutual association, or other concerns  
19 authorized to transact the business of workers' compensation  
20 insurance in this state. When an insurer issues a policy to provide  
21 workers' compensation benefits under the provisions of this act, it  
22 shall file a notice with the Workers' Compensation Commission  
23 containing the name, address, and principal occupation of the  
24 employer, the number, effective date, and expiration date of the

1 policy, and such other information as may be required by the  
2 Commission. The notice shall be filed by the insurer within thirty  
3 (30) days after the effective date of the policy. Any insurer who  
4 does not file the notice required by this paragraph shall be subject  
5 to a fine by the Commission of not more than One Thousand Dollars  
6 (\$1,000.00);

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

15 3. By furnishing satisfactory proof to the Commission of the  
16 employer's financial ability to pay the compensation. ~~The~~  
17 ~~Commission, under~~ Under rules adopted by the ~~Insurance Department~~  
18 Commission, the Commission shall require any employer that has:

- 19 a. less than one hundred employees or less than One  
20 Million Dollars (\$1,000,000.00) in net assets to:
- 21 (1) deposit with the Commission securities, an  
22 irrevocable letter of credit or a surety bond  
23 payable to the state, in an amount determined by  
24 the Commission which shall be at least an average

1 of the yearly claims for the last three (3)  
2 years, or

3 (2) provide proof of excess coverage with such terms  
4 and conditions as is commensurate with their  
5 ability to pay the benefits required by the  
6 provisions of this act, and

7 b. one hundred or more employees and One Million Dollars  
8 (\$1,000,000.00) or more in net assets to:

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

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

18 4. By forming a group self-insurance association consisting of  
19 two or more employers which shall have a common interest and which  
20 shall have entered into an agreement to pool their liabilities under  
21 the Administrative Workers' Compensation Act. Such agreement shall  
22 be subject to rules of the Commission. Any employer, upon  
23 application to become a member of a group self-insurance  
24 association, shall file with the Commission a notice, in such form

1 as prescribed by the Commission, acknowledging that the employer  
2 accepts joint and several liability. Upon approval by the  
3 Commission of such application for membership, said member shall be  
4 a qualified self-insured employer; or

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

7 B. The Commission may waive the requirements of this section in  
8 an amount which is commensurate with the ability of the employer to  
9 pay the benefits required by the provisions of this act.

10 Irrevocable letters of credit required by this subsection shall  
11 contain such terms as may be prescribed by the Commission and shall  
12 be issued for the benefit of the state by a financial institution  
13 whose deposits are insured by the Federal Deposit Insurance  
14 Corporation.

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

21 D. Failure on the part of any employer to secure the payment of  
22 compensation provided in this act shall have the effect of enabling  
23 the Commission to assert the rights of an injured employee against  
24 the employer.

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

5 SECTION 18. AMENDATORY Section 40, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 40), is amended to read as  
7 follows:

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

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

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

22 2. a. An employer may contest a proposed judgment of the  
23 Commission issued under paragraph 1 of this subsection  
24 by filing with the Commission, within twenty (20) days

1 of receipt of the proposed judgment, a written request  
2 for a hearing.

3 b. The request for a hearing does not need to be in any  
4 particular form but shall specify the grounds on which  
5 the person contests the proposed judgment, the  
6 proposed assessment, or both.

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

14 d. A proposed judgment by the Commission under this  
15 section shall be prima facie correct, and the burden  
16 is on the employer to prove that the proposed judgment  
17 is incorrect.

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

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

1 c. The carrier shall promptly, and no later than five (5)  
2 days before the hearing, respond in writing to the  
3 employer's allegation by providing evidence of  
4 coverage for the period in question or by  
5 affirmatively denying the employer's allegation.

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

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

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

21 C. If an employee injury occurs during a period when an  
22 employer has failed to secure the payment of compensation and the  
23 employer has paid a civil penalty assessed pursuant to this section,  
24 the Commission may, upon application of the injured employee and

1 hearing before an administrative law judge, award as compensation to  
2 the injured employee an amount from the proceeds of the civil  
3 penalty not to exceed the amount of the civil penalty.

4 SECTION 19. AMENDATORY Section 43, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 43), is amended to read as  
6 follows:

7 Section 43. A. Liability Unaffected.

- 8 1. a. The making of a claim for compensation against any  
9 employer or carrier for the injury ~~or death~~ of an  
10 employee shall not affect the right of the employee,  
11 or his or her dependents, to make a claim or maintain  
12 an action in court against any third party for the  
13 injury.
- 14 b. The employer or the employer's carrier shall be  
15 entitled to reasonable notice and opportunity to join  
16 in the action.
- 17 c. If the employer or employer's carrier join in the  
18 action against a third party for injury ~~or death~~, they  
19 shall be entitled to a first lien on two-thirds (2/3)  
20 of the net proceeds recovered in the action that  
21 remain after the payment of the reasonable costs of  
22 collection, for the payment to them of the amount paid  
23 and to be paid by them as compensation to the injured  
24 employee or his or her dependents.

1           2. The commencement of an action by an employee or his or her  
2 dependents against a third party for damages by reason of an injury  
3 to which this act is applicable, or the adjustment of any claim,  
4 shall not affect the rights of the injured employee or his or her  
5 dependents to recover compensation, but any amount recovered by the  
6 injured employee or his or her dependents from a third party shall  
7 be applied as follows:

8           a. reasonable fees and costs of collection shall be  
9           deducted,

10          b. the employer or carrier, as applicable, shall receive  
11           two-thirds (2/3) of the remainder of the recovery or  
12           the amount of the workers' compensation lien,  
13           whichever is less, and

14          c. the remainder of the recovery shall go to the injured  
15           employee or his or her dependents.

16          B. Subrogation.

17          1. An employer or carrier liable for compensation under this  
18 act for the injury ~~or death~~ of an employee shall have the right to  
19 maintain an action in tort against any third party responsible for  
20 the injury ~~or death~~. However, the employer or the carrier shall  
21 notify the claimant in writing that the claimant has the right to  
22 hire a private attorney to pursue any benefits to which the claimant  
23 is entitled in addition to the subrogation interest against any  
24 third party responsible for the injury ~~or death~~.

1           2. After reasonable notice and opportunity to be represented in  
2 the action has been given to the injured employee, the liability of  
3 the third party to the compensation beneficiary shall be determined  
4 in the action, as well as the third party's liability to the  
5 employer and carrier.

6           3. If the employer recovers against the third party, by suit or  
7 otherwise, the injured employee shall be entitled to any amount  
8 recovered in excess of the amount that the employer and carrier have  
9 paid or are liable for in compensation, after deducting reasonable  
10 costs of collection.

11           4. An employer or carrier who is liable for compensation under  
12 this act on account of injury ~~or death~~ of an employee shall be  
13 entitled to maintain a third-party action against the employer's  
14 uninsured motorist coverage or underinsured motorist coverage.

15           SECTION 20.           AMENDATORY           Section 45, Chapter 208, O.S.L.  
16 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S.  
17 Supp. 2018, Section 45), is amended to read as follows:

18           Section 45. A. Temporary Total Disability.

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

1 Commission by clear and convincing evidence finds that the employee  
2 remains temporarily disabled and under active medical treatment.  
3 The original and extended periods of temporary total disability  
4 shall not exceed three hundred (300) weeks. Provided, there shall  
5 be no payment for the first three (3) days of the initial period of  
6 temporary total disability. If an administrative law judge finds  
7 that a consequential injury has occurred and that additional time is  
8 needed to reach maximum medical improvement, temporary total  
9 disability may continue for a period of not more than an additional  
10 fifty-two (52) weeks. Such finding shall be based upon a showing of  
11 medical necessity by clear and convincing evidence. An employer  
12 shall have the right to recover any overpayment of temporary total  
13 disability payments from a subsequent permanent partial disability  
14 award if the offset is deemed justified.

15 2. When the injured employee is released from active medical  
16 treatment by the treating physician for all body parts found by the  
17 Commission to be injured, or in the event that the employee, without  
18 a valid excuse, misses three consecutive medical treatment  
19 appointments, fails to comply with medical orders of the treating  
20 physician, or otherwise abandons medical care, the employer shall be  
21 entitled to terminate temporary total disability by notifying the  
22 employee, or if represented, his or her counsel. If, however, an  
23 objection to the termination is filed by the employee within ten  
24 (10) days of termination, the Commission shall set the matter within

1 twenty (20) days for a determination if temporary total disability  
2 compensation shall be reinstated. The temporary total disability  
3 shall remain terminated ~~unless the employee proves the existence of~~  
4 ~~a valid excuse for his or her failure to comply~~ until such time as  
5 the employee complies with medical orders of the treating physician  
6 ~~or his or her abandonment of medical care.~~ The administrative law  
7 judge may appoint an independent medical examiner to determine if  
8 further medical treatment is reasonable and necessary. The  
9 independent medical examiner shall not provide treatment to the  
10 injured worker, unless agreed upon by the parties.

11 B. Temporary Partial Disability.

12 1. If the injured employee is temporarily unable to perform his  
13 or her job, but may perform alternative work offered by the  
14 employer, he or she shall be entitled to receive compensation equal  
15 to ~~the greater of~~ seventy percent (70%) of the difference between  
16 the injured employee's average weekly wage before the injury and his  
17 or her weekly wage for performing alternative work after the injury,  
18 but only if his or her weekly wage for performing the alternative  
19 work is less than the temporary total disability rate. The injured  
20 employee's actual earnings plus temporary partial disability  
21 compensation shall not exceed the temporary total disability rate.

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

24

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

4           C. Permanent Partial Disability.

5           1. A permanent partial disability award or combination of  
6 awards granted an injured worker may not exceed a permanent partial  
7 disability rating of one hundred percent (100%) to any body part or  
8 to the body as a whole. The determination of permanent partial  
9 disability shall be the responsibility of the Commission through its  
10 administrative law judges. Any claim by an employee for  
11 compensation for permanent partial disability must be supported by  
12 competent medical testimony of a medical doctor, osteopathic  
13 physician, or chiropractor, and shall be supported by objective  
14 medical findings, as defined in this act. The opinion of the  
15 physician shall include employee's percentage of permanent partial  
16 disability and whether or not the disability is job-related and  
17 caused by the accidental injury or occupational disease. A  
18 physician's opinion of the nature and extent of permanent partial  
19 disability to parts of the body other than scheduled members must be  
20 based solely on criteria established by the current edition of the  
21 American Medical Association's "Guides to the Evaluation of  
22 Permanent Impairment" or an alternative evaluation method approved  
23 by the Commission. A copy of any written evaluation shall be sent  
24 to both parties within seven (7) days of issuance. Medical opinions

1 addressing compensability and permanent disability must be stated  
2 within a reasonable degree of medical certainty. Any party may  
3 submit the report of an evaluating physician.

4 2. Permanent partial disability shall not be allowed to a part  
5 of the body for which no medical treatment has been received. A  
6 determination of permanent partial disability made by the Commission  
7 or administrative law judge which is not supported by objective  
8 medical findings provided by a treating physician who is a medical  
9 doctor, doctor of osteopathy, chiropractor or a qualified  
10 independent medical examiner shall be considered an abuse of  
11 discretion.

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

14 4. In cases of permanent partial disability, the compensation  
15 shall be seventy percent (70%) of the employee's average weekly  
16 wage, not to exceed ~~Three Hundred Twenty-three Dollars (\$323.00)~~  
17 Three Hundred Ninety-one Dollars (\$391.00) per week, for a term not  
18 to exceed a total of ~~three hundred fifty (350)~~ four hundred (400)  
19 weeks for the body as a whole.

20 ~~5. Except pursuant to settlement agreements entered into by the~~  
21 ~~employer and employee, payment of a permanent partial disability~~  
22 ~~award shall be deferred and held in reserve by the employer or~~  
23 ~~insurance company if the employee has reached maximum medical~~  
24 ~~improvement and has been released to return to work by his or her~~

1 ~~treating physician, and then returns to his pre-injury or equivalent~~  
2 ~~job for a term of weeks determined by dividing the total dollar~~  
3 ~~value of the award by seventy percent (70%) of the employee's~~  
4 ~~average weekly wage.~~

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

9 b. ~~If, for any reason other than misconduct as defined in~~  
10 ~~Section 2 of this act, the employer terminates the~~  
11 ~~employee or the position offered is not the pre-injury~~  
12 ~~or equivalent job, the remaining permanent partial~~  
13 ~~disability award shall be paid in a lump sum. If the~~  
14 ~~employee is discharged for misconduct, the employer~~  
15 ~~shall have the burden to prove that the employee~~  
16 ~~engaged in misconduct.~~

17 c. ~~If the employee refuses an offer to return to his pre-~~  
18 ~~injury or equivalent job, the permanent partial~~  
19 ~~disability award shall continue to be deferred and~~  
20 ~~shall be reduced by seventy percent (70%) of the~~  
21 ~~employee's average weekly wage for each week he~~  
22 ~~refuses to return to his pre-injury or equivalent job.~~

23 d. ~~Attorney fees for permanent partial disability awards,~~  
24 ~~as approved by the Commission, shall be calculated~~

1                   ~~based upon the total permanent partial disability~~  
2                   ~~award and paid in full at the time of the deferral.~~

3                   ~~e.~~

4           5. Assessments pursuant to Sections 31, 98, 112 and 165 of this  
5 ~~act~~ title shall be calculated based upon the amount of the permanent  
6 partial disability award ~~and shall be paid at the time of the~~  
7 ~~deferral.~~

8           6. Previous Disability: The fact that an employee has suffered  
9 previous disability or received compensation therefor shall not  
10 preclude the employee from compensation for a later accidental  
11 personal injury or occupational disease. In the event there exists  
12 a previous permanent partial disability, including a previous non-  
13 work-related injury or condition which produced permanent partial  
14 disability and the same is aggravated or accelerated by an  
15 accidental personal injury or occupational disease, compensation for  
16 permanent partial disability shall be only for such amount as was  
17 caused by such accidental personal injury or occupational disease  
18 and no additional compensation shall be allowed for the preexisting  
19 disability or impairment. Any such reduction shall not apply to  
20 temporary total disability, nor shall it apply to compensation for  
21 medical treatment.

22                   ~~a.~~

23           If workers' compensation benefits have previously been awarded  
24 through settlement or judicial or administrative determination in

1 Oklahoma, the percentage basis of the prior settlement or award  
2 shall conclusively establish the amount of permanent partial  
3 disability determined to be preexisting. If workers' compensation  
4 benefits have not previously been awarded through settlement or  
5 judicial or administrative determination in Oklahoma, the amount of  
6 preexisting permanent partial disability shall be established by  
7 competent evidence and determined by the Commission.

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

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

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

5           7. No payments on any permanent partial disability order shall  
6 begin until payments on any preexisting permanent partial disability  
7 orders have been completed.

8           8. The whole body shall represent a maximum of ~~three hundred~~  
9 ~~fifty (350)~~ four hundred (400) weeks.

10          9. The permanent partial disability rate of compensation for  
11 amputation or permanent total loss of use of a scheduled member  
12 specified in Section 46 of this ~~act~~ title shall be seventy percent  
13 (70%) of the employee's average weekly wage, not to exceed ~~Three~~  
14 ~~Hundred Twenty-three Dollars (\$323.00)~~ Three Hundred Ninety-one  
15 Dollars (\$391.00), multiplied by the number of weeks set forth for  
16 the member in Section 46 of this ~~act~~ title, regardless of whether  
17 the injured employee is able to return to his or her pre-injury or  
18 equivalent job.

19          10. An injured employee who is eligible for permanent partial  
20 disability under this subsection shall be entitled to receive  
21 vocational rehabilitation services provided by a technology center  
22 or public secondary school offering vocational-technical education  
23 courses, or a member institution of The Oklahoma State System of  
24 Higher Education, which shall include retraining and job placement

1 to restore the employee to gainful employment. Vocational  
2 rehabilitation services or training shall not extend for a period of  
3 more than ~~fifty-two (52)~~ one hundred four (104) weeks.

4 D. Permanent Total Disability.

5 1. In case of total disability adjudged to be permanent,  
6 seventy percent (70%) of the employee's average weekly wages, but  
7 not in excess of the state's average weekly wage, shall be paid to  
8 the employee during the continuance of the disability until such  
9 time as the employee reaches the age of maximum Social Security  
10 retirement benefits or for a period of fifteen (15) years, whichever  
11 is longer. In the event the claimant dies of causes unrelated to  
12 the injury or illness, benefits shall cease on the date of death.  
13 Provided, however, any person entitled to revive the action shall  
14 receive a one-time lump-sum payment equal to twenty-six (26) weeks  
15 of weekly benefits for permanent total disability awarded the  
16 claimant. If more than one person is entitled to revive the claim,  
17 the lump-sum payment shall be evenly divided between or among such  
18 persons. In the event the Commission awards both permanent partial  
19 disability and permanent total disability benefits, the permanent  
20 total disability award shall not be due until the permanent partial  
21 disability award is paid in full. If otherwise qualified according  
22 to the provisions of this act, permanent total disability benefits  
23 may be awarded to an employee who has exhausted the maximum period  
24

1 of temporary total disability even though the employee has not  
2 reached maximum medical improvement.

3 2. The Workers' Compensation Commission shall annually review  
4 the status of any employee receiving benefits for permanent total  
5 disability against the last employer. The Commission shall require  
6 the employee to annually file an affidavit under penalty of perjury  
7 stating that he or she is not and has not been gainfully employed  
8 and is not capable of gainful employment. Failure to file such  
9 affidavit shall result in suspension of benefits; provided, however,  
10 reinstatement of benefits may occur after proper hearing before the  
11 Commission.

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

15 2. ~~The Vocational Rehabilitation Director shall help injured~~  
16 ~~workers return to the work force. If the injured employee is unable~~  
17 ~~to return to his or her pre-injury or equivalent position due to~~  
18 ~~permanent restrictions as determined by the treating physician, upon~~  
19 ~~the request of either party, the Vocational Rehabilitation Director~~  
20 ~~shall determine if it is appropriate for a claimant to receive~~  
21 ~~vocational rehabilitation training or services, and will oversee~~  
22 ~~such training. If appropriate, the Vocational Rehabilitation~~  
23 ~~Director shall issue administrative orders, including, but not~~  
24 ~~limited to, an order for a vocational rehabilitation evaluation for~~

1 ~~any injured employee unable to work for at least ninety (90) days.~~  
2 ~~In addition, the Vocational Rehabilitation Director may assign~~  
3 ~~injured workers to vocational rehabilitation counselors for~~  
4 ~~coordination of recommended services. The cost of the services~~  
5 ~~shall be paid by the employer. All administrative orders are~~  
6 ~~subject to appeal to the full Commission.~~

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

- 10 ~~a. if the employee's occupation is truck driver or~~  
11 ~~laborer and the medical condition is traumatic brain~~  
12 ~~injury, stroke or uncontrolled vertigo,~~
- 13 ~~b. if the employee's occupation is truck driver or~~  
14 ~~laborer performing high-risk tasks and the medical~~  
15 ~~condition is seizures,~~
- 16 ~~c. if the employee's occupation is manual laborer and the~~  
17 ~~medical condition is bilateral wrist fusions,~~
- 18 ~~d. if the employee's occupation is assembly-line worker~~  
19 ~~and the medical condition is radial head fracture with~~  
20 ~~surgical excision,~~
- 21 ~~e. if the employee's occupation is heavy laborer and the~~  
22 ~~medical condition is myocardial infarction with~~  
23 ~~congestive heart failure,~~

24

- 1           ~~f. if the employee's occupation is heavy manual laborer~~  
2           ~~and the medical condition is multilevel neck or back~~  
3           ~~fusions greater than two levels,~~
- 4           ~~g. if the employee's occupation is laborer performing~~  
5           ~~overhead work and the medical condition is massive~~  
6           ~~rotator cuff tears, with or without surgery,~~
- 7           ~~h. if the employee's occupation is heavy laborer and the~~  
8           ~~medical condition is recurrent inguinal hernia~~  
9           ~~following unsuccessful surgical repair,~~
- 10          ~~i. if the employee's occupation is heavy manual laborer~~  
11          ~~and the medical condition is total knee replacement or~~  
12          ~~total hip replacement,~~
- 13          ~~j. if the employee's occupation is roofer and the medical~~  
14          ~~condition is calcaneal fracture, medically or~~  
15          ~~surgically treated,~~
- 16          ~~k. if the employee's occupation is laborer of any kind~~  
17          ~~and the medical condition is total shoulder~~  
18          ~~replacement,~~
- 19          ~~l. if the employee's occupation is laborer and the~~  
20          ~~medical condition is amputation of a hand, arm, leg,~~  
21          ~~or foot,~~
- 22          ~~m. if the employee's occupation is laborer and the~~  
23          ~~medical condition is tibial plateau fracture, pilon~~  
24          ~~fracture,~~

- 1           n. ~~if the employee's occupation is laborer and the~~  
2           ~~medical condition is ankle fusion or knee fusion,~~  
3           o. ~~if the employee's occupation is driver or heavy~~  
4           ~~equipment operator and the medical condition is~~  
5           ~~unilateral industrial blindness, or~~  
6           p. ~~if the employee's occupation is laborer and the~~  
7           ~~medical condition is 3, 4, or 5 level positive~~  
8           ~~discogram of the cervical spine or lumbar spine,~~  
9           ~~medically treated.~~

10           4. Upon the request of either party, ~~or by order of an~~  
11           ~~administrative law judge, the Vocational Rehabilitation Director~~  
12           ~~shall assist the Workers' Compensation Commission in determining~~  
13           determine if it is appropriate for a claimant to receive vocational  
14           rehabilitation training or services. If appropriate, the  
15           administrative law judge shall refer the employee to a qualified  
16           expert for evaluation of the practicability of, need for and kind of  
17           rehabilitation services or training necessary and appropriate in  
18           order to restore the employee to gainful employment. The cost of  
19           the evaluation shall be paid by the employer. ~~Following the~~  
20           ~~evaluation, if the employee refuses the services or training ordered~~  
21           ~~by the administrative law judge, or fails to complete in good faith~~  
22           ~~the vocational rehabilitation training ordered by the administrative~~  
23           ~~law judge, then the cost of the evaluation and services or training~~  
24           ~~rendered may, in the discretion of the administrative law judge, be~~

1 ~~deducted from any award of benefits to the employee which remains~~  
2 ~~unpaid by the employer.~~

3 3. Upon receipt of such report, and after affording all parties  
4 an opportunity to be heard, the administrative law judge shall order  
5 that any rehabilitation services or training, recommended in the  
6 report, or such other rehabilitation services or training as the  
7 administrative law judge may deem necessary, provided the employee  
8 elects to receive such services, shall be provided at the expense of  
9 the employer. Except as otherwise provided in this subsection,  
10 refusal to accept rehabilitation services by the employee shall in  
11 no way diminish any benefits allowable to an employee.

12 ~~5.~~ 4. The administrative law judge may order vocational  
13 rehabilitation before the injured employee reaches maximum medical  
14 improvement, if the treating physician believes that it is likely  
15 that the employee's injury will prevent the employee from returning  
16 to his or her former employment. In granting early benefits for  
17 vocational rehabilitation, the Commission shall consider temporary  
18 restrictions and the likelihood that such rehabilitation will return  
19 the employee to gainful employment earlier than if such benefits are  
20 granted after the permanent partial disability hearing in the claim.

21 ~~6.~~ 5. Vocational rehabilitation services or training shall not  
22 extend for a period of more than ~~fifty-two (52)~~ one hundred four  
23 (104) weeks. A request for vocational rehabilitation services or  
24 training shall be filed with the Commission by an interested party

1 not later than sixty (60) days from the date of receiving permanent  
2 ~~restrictions~~ disability that ~~prevent~~ prevents the injured employee  
3 from returning to his or her pre-injury or equivalent position.

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

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

23 F. Disfigurement.  
24

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

5 2. No award for disfigurement shall be entered until twelve  
6 (12) months after the injury unless the treating physician deems the  
7 wound or incision to be fully healed.

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

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

18 SECTION 21. AMENDATORY Section 46, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2018, Section 46), is amended to read as  
20 follows:

21 Section 46. A. An injured employee who is entitled to receive  
22 permanent partial disability compensation under Section 45 of this  
23 ~~act~~ title shall receive compensation for each part of the body in  
24

1 accordance with the number of weeks for the scheduled loss set forth  
2 below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 18. Shoulder, three hundred (300) weeks; and

4 19. Hip, three hundred (300) weeks.

5 B. The permanent partial disability rate of compensation for  
6 amputation or permanent total loss of use of a scheduled member  
7 specified in this section shall be seventy percent (70%) of the  
8 employee's average weekly wage, not to exceed ~~Three Hundred Twenty-~~  
9 ~~three Dollars (\$323.00)~~ Three Hundred Ninety-one Dollars (\$391.00),  
10 multiplied by the number of weeks as set forth in this section,  
11 regardless of whether or not the injured employee is able to return  
12 to his or her pre-injury job.

13 C. Other cases: In cases in which the Workers' Compensation  
14 Commission finds an injury to a part of the body not specifically  
15 covered by the foregoing provisions of this section, the employee  
16 may be entitled to compensation for permanent partial disability.  
17 The compensation ordered paid shall be seventy percent (70%) of the  
18 employee's average weekly wage, not to exceed ~~Three Hundred Twenty-~~  
19 ~~three Dollars (\$323.00)~~ Three Hundred Ninety-one Dollars (\$391.00)  
20 for the number of weeks which the partial disability of the employee  
21 bears to ~~three hundred fifty (350)~~ four hundred (400) weeks.

22 D. 1. Compensation for amputation of the first phalange of a  
23 digit shall be one-half (1/2) of the compensation for the amputation  
24 of the entire digit.

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

3           E. 1. Compensation for the permanent loss of eighty percent  
4 (80%) or more of the vision of an eye shall be the same as for the  
5 loss of an eye.

6           2. In all cases of permanent loss of vision, the use of  
7 corrective lenses may be taken into consideration in evaluating the  
8 extent of loss of vision.

9           F. Compensation for amputation or loss of use of two or more  
10 digits or one or more phalanges of two or more digits of a hand or a  
11 foot may be proportioned to the total loss of use of the hand or the  
12 foot occasioned thereby but shall not exceed the compensation for  
13 total loss of a hand or a foot.

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

16           H. The sum of all permanent partial disability awards,  
17 excluding awards against the Multiple Injury Trust Fund, shall not  
18 exceed ~~three hundred fifty (350)~~ four hundred (400) weeks.

19           SECTION 22.           AMENDATORY           Section 47, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 47), is amended to read as  
21 follows:

22           Section 47. A. Time of death. If death does not result within  
23 one (1) year from the date of the accident or within the first three  
24 (3) years of the period for compensation payments fixed by the

1 compensation judgment, a rebuttable presumption shall arise that the  
2 death did not result from the injury.

3 B. Common law spouse. A common law spouse shall not be  
4 entitled to benefits under this section unless he or she obtains an  
5 order from ~~a court with competent jurisdiction~~ the Workers'  
6 Compensation Commission ruling that a common law marriage existed  
7 between the decedent and the surviving spouse.

8 C. Beneficiaries - Amounts. If an injury or occupational  
9 illness causes death, weekly income benefits shall be payable as  
10 follows:

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

17 2. If there is a surviving spouse and a child or children, a  
18 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and  
19 fifteen percent (15%) of the lesser of the deceased employee's  
20 average weekly wage and the state average weekly wage to each child.  
21 If there are more than two children, each child shall receive a pro  
22 rata share of Fifty Thousand Dollars (\$50,000.00) and thirty percent  
23 (30%) of the deceased employee's average weekly wage;

24

1           3. If there is a child or children and no surviving spouse, a  
2 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and  
3 fifty percent (50%) of the lesser of the deceased employee's average  
4 weekly wage and the state average weekly wage to each child. If  
5 there are more than two children, each child shall receive a pro  
6 rata share of one hundred percent (100%) of the lesser of the  
7 deceased employee's average weekly wage and the state average weekly  
8 wage. With respect to the lump-sum payment, if there are more than  
9 six children, each child shall receive a pro rata share of One  
10 Hundred Fifty Thousand Dollars (\$150,000.00);

11           4. If there is no surviving spouse or children, each legal  
12 guardian, if financially dependent on the employee at the time of  
13 death, shall receive twenty-five percent (25%) of the lesser of the  
14 deceased employee's average weekly wage and the state average weekly  
15 wage until the earlier of death, becoming eligible for social  
16 security, obtaining full-time employment, or five (5) years from the  
17 date benefits under this section begin; and

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

20           D. The weekly income benefits payable to the surviving spouse  
21 under this section shall continue while the surviving spouse remains  
22 unmarried. In no event shall this spousal weekly income benefit be  
23 diminished by the award to other beneficiaries. The weekly income  
24 benefits payable to any child under this section shall terminate on

1 the earlier of death, marriage, or reaching the age of eighteen  
2 (18). However, if the child turns eighteen (18) and is:

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

5 2. Enrolled as a full-time student in any accredited  
6 institution of higher education or vocational or technology  
7 education; or

8 3. Physically or mentally incapable of self-support,  
9 then he or she may continue to receive weekly income benefits under  
10 this section until the earlier of reaching the age of twenty-three  
11 (23) or, with respect to paragraphs 1 and 2 of this subsection, no  
12 longer being enrolled as a student, and with respect to paragraph 3  
13 of this subsection, becoming capable of self-support.

14 E. If any member of the class of beneficiaries who receive a  
15 pro rata share of weekly income benefits becomes ineligible to  
16 continue to receive benefits, the remaining members of the class  
17 shall receive adjusted weekly income benefits equal to the new class  
18 size.

19 F. To receive benefits under this section, a beneficiary or his  
20 or her guardian, if applicable, shall file a proof of loss form with  
21 the Commission. All questions of dependency shall be determined as  
22 of the time of the injury. The employer shall initiate payment of  
23 benefits within fifteen (15) days of the Commission's determination  
24 of the proper beneficiaries. The Commission shall appoint a

1 guardian ad litem to represent known and unknown minor children and  
2 the guardian ad litem shall be paid a reasonable fee for his or her  
3 services.

4 SECTION 23. AMENDATORY Section 50, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 50), is amended to read as  
6 follows:

7 Section 50. A. The employer shall promptly provide an injured  
8 employee with medical, surgical, hospital, optometric, podiatric,  
9 and nursing services, along ~~any~~ with any medicine, crutches,  
10 ambulatory devices, artificial limbs, eyeglasses, contact lenses,  
11 hearing aids, and other apparatus as may be reasonably necessary in  
12 connection with the injury received by the employee. The employer  
13 shall have the right to choose the treating physician.

14 B. If the employer fails or neglects to provide medical  
15 treatment within five (5) days after actual knowledge is received of  
16 an injury, the injured employee may select a physician to provide  
17 medical treatment at the expense of the employer; provided, however,  
18 that the injured employee, or another in the employee's behalf, may  
19 obtain emergency treatment at the expense of the employer where such  
20 emergency treatment is not provided by the employer.

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

24

1 D. Unless recommended by the treating doctor at the time  
2 claimant reaches maximum medical improvement or by an independent  
3 medical examiner, continuing medical maintenance shall not be  
4 awarded by the Commission. The employer or insurance carrier shall  
5 not be responsible for continuing medical maintenance or pain  
6 management treatment that is outside the parameters established by  
7 the Physician Advisory Committee or ODG. The employer or insurance  
8 carrier shall not be responsible for continuing medical maintenance  
9 or pain management treatment not previously ordered by the  
10 Commission or approved in advance by the employer or insurance  
11 carrier. An administrative law judge may order an employer to  
12 provide detoxification treatment for employees who are prescribed  
13 opioids or other narcotics. If an employee refuses such  
14 detoxification treatment, the administrative law judge may terminate  
15 pain management after reasonable notice and hearing.

16 E. An employee claiming or entitled to benefits under this act,  
17 shall, if ordered by the Commission or requested by the employer or  
18 insurance carrier, submit himself or herself for medical  
19 examination. If an employee refuses to submit himself or herself to  
20 examination, ~~his or her right to prosecute any proceeding under this~~  
21 ~~act shall be suspended, and no compensation shall be payable for the~~  
22 period of such refusal.

23 F. For compensable injuries resulting in the use of a medical  
24 device, ongoing service for the medical device shall be provided in

1 situations including, but not limited to, medical device battery  
2 replacement, ongoing medication refills related to the medical  
3 device, medical device repair, or medical device replacement.

4 G. The employer shall reimburse the employee for the actual  
5 mileage in excess of twenty (20) miles round-trip to and from the  
6 employee's home to the location of a medical service provider for  
7 all reasonable and necessary treatment, for an evaluation of an  
8 independent medical examiner and for any evaluation made at the  
9 request of the employer or insurance carrier. The rate of  
10 reimbursement for such travel expense shall be the official  
11 reimbursement rate as established by the State Travel Reimbursement  
12 Act. In no event shall the reimbursement of travel for medical  
13 treatment or evaluation exceed six hundred (600) miles round trip.  
14 After the employee submits a documented travel expense reimbursement  
15 request in regard to medical treatment of an admitted or adjudicated  
16 part of the body, the employer shall pay such expense within sixty  
17 (60) days. If the employer does not reimburse the employee within  
18 that time, the employer is subject to a penalty, paid to the  
19 employee, of up to fifty percent (50%) of the requested amount, to  
20 be determined by the administrative law judge. Proper documentation  
21 shall include the date the request is filed, the date of each trip,  
22 the name and city or town of each medical provider, and the round-  
23 trip mileage between the home of the employee and medical service

1 provider. The Commission shall develop a form for submitting a  
2 travel expense reimbursement request pursuant to this subsection.

3 H. Fee Schedule.

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

16 2. Reimbursement for medical care shall be prescribed and  
17 limited by the Fee Schedule as adopted by the Commission, after  
18 notice and public hearing, and after approval by the Legislature by  
19 joint resolution. A new Fee Schedule, with updated codes, shall be  
20 approved by the Commission no later than December 31, 2019, and  
21 shall include a five-percent increase for each reimbursement code.

22 The director of the Employees Group Insurance Division of the Office  
23 of Management and Enterprise Services shall provide the Commission  
24 such information as may be relevant for the development of the Fee

1 Schedule. The Commission shall develop the Fee Schedule in a manner  
2 in which quality of medical care is assured and maintained for  
3 injured employees. The Commission shall give due consideration to  
4 additional requirements for physicians treating an injured worker  
5 under this act, including, but not limited to, communication with  
6 claims representatives, case managers, attorneys, and  
7 representatives of employers, and the additional time required to  
8 complete forms for the Commission, insurance carriers, and  
9 employers.

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

24

1 trade area for comparable treatment of a person with similar  
2 injuries.

3 a. No reimbursement shall be allowed for any magnetic  
4 resonance imaging (MRI) unless the MRI is provided by  
5 an entity that meets Medicare requirements for the  
6 payment of MRI services or is accredited by the  
7 American College of Radiology, the Intersocietal  
8 Accreditation Commission or the Joint Commission on  
9 Accreditation of Healthcare Organizations. For all  
10 other radiology procedures, the reimbursement rate  
11 shall be the lesser of the reimbursement rate allowed  
12 by the 2010 Oklahoma Fee Schedule and two hundred  
13 seven percent (207%) of the Medicare Fee Schedule.

14 b. For reimbursement of medical services for Evaluation  
15 and Management of injured employees as defined in the  
16 Fee Schedule adopted by the Commission, the  
17 reimbursement rate shall not be less than one hundred  
18 fifty percent (150%) of the Medicare Fee Schedule.

19 c. Any entity providing durable medical equipment,  
20 prosthetics, orthotics or supplies shall be accredited  
21 by a CMS-approved accreditation organization. If a  
22 physician provides durable medical equipment,  
23 prosthetics, orthotics, prescription drugs, or  
24 supplies to a patient ancillary to the patient's

1 visit, reimbursement shall be no more than ten percent  
2 (10%) above cost.

3 d. The Commission shall develop a reasonable stop-loss  
4 provision of the Fee Schedule to provide for adequate  
5 reimbursement for treatment for major burns, severe  
6 head and neurological injuries, multiple system  
7 injuries, and other catastrophic injuries requiring  
8 extended periods of intensive care. An employer or  
9 insurance carrier has the right to audit or question  
10 the reasonableness and necessity of medical treatment  
11 contained in a bill for treatment covered by the stop-  
12 loss provision.

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

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

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

5           7. The Commission's review of medical and treatment charges  
6 pursuant to this section shall be conducted pursuant to the Fee  
7 Schedule in existence at the time the medical care or treatment was  
8 provided. The judgment approving the medical and treatment charges  
9 pursuant to this section shall be enforceable by the Commission in  
10 the same manner as provided in this act for the enforcement of other  
11 compensation payments.

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

17 Physicians shall prescribe and pharmacies shall dispense generic  
18 equivalent drugs when available. If the National Drug Code, or  
19 "NDC", for the drug product dispensed is for a repackaged drug, then  
20 the maximum reimbursement shall be the lesser of the original  
21 labeler's NDC and the lowest-cost therapeutic equivalent drug  
22 product. Compounded medications shall be billed by the compounding  
23 pharmacy at the ingredient level, with each ingredient identified  
24 using the applicable NDC of the drug product, and the corresponding

1 quantity. Ingredients with no NDC area are not separately  
2 reimbursable. Payment shall be based on a sum of the allowable fee  
3 for each ingredient plus a dispensing fee of Five Dollars (\$5.00)  
4 per prescription.

5 9. When medical care includes prescription drugs dispensed by a  
6 physician or other medical care provider and the NDC for the drug  
7 product dispensed is for a repackaged drug, then the maximum  
8 reimbursement shall be the lesser of the original labeler's NDC and  
9 the lowest-cost therapeutic equivalent drug product. Payment for  
10 compounded medications or repackaged drugs shall be based upon a sum  
11 of the allowable fee for each ingredient plus a dispensing fee of  
12 Five Dollars (\$5.00) per prescription. Compounded medications shall  
13 be billed by the compounding pharmacy.

14 10. Implantables are paid in addition to procedural  
15 reimbursement paid for medical or surgical services. A  
16 manufacturer's invoice for the actual cost to a physician, hospital  
17 or other entity of an implantable device shall be adjusted by the  
18 physician, hospital or other entity to reflect, at the time  
19 implanted, all applicable discounts, rebates, considerations and  
20 product replacement programs and shall be provided to the payer by  
21 the physician or hospital as a condition of payment for the  
22 implantable device. If the physician, or an entity in which the  
23 physician has a financial interest other than an ownership interest  
24 of less than five percent (5%) in a publically traded company,

1 provides implantable devices, this relationship shall be disclosed  
2 to patient, employer, insurance company, third-party commission,  
3 certified workplace medical plan, case managers, and attorneys  
4 representing claimant and defendant. If the physician, or an entity  
5 in which the physician has a financial interest other than an  
6 ownership interest of less than five percent (5%) in a ~~publically~~  
7 publicly traded company, buys and resells implantable devices to a  
8 hospital or another physician, the markup shall be limited to ten  
9 percent (10%) above cost.

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

22 12. If an employee fails to appear for a scheduled appointment  
23 with a physician, the employer or insurance company shall pay to the  
24 physician a reasonable charge, to be determined by the Commission,

1 for the missed appointment. In the absence of a good-faith reason  
2 for missing the appointment, the Commission shall order the employee  
3 to reimburse the employer or insurance company for the charge.

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

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

1 SECTION 24. AMENDATORY Section 53, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 53), is amended to read as  
3 follows:

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

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

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

19 SECTION 25. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 54.1 of Title 85A, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. If a treating physician recommends a surgery that is subject  
23 to choice, and does not involve medical urgency or emergency, the  
24 Workers' Compensation Commission, upon request by the employer,

1 shall appoint an Independent Medical Examiner to determine the  
2 reasonableness and necessity of such surgery.

3 B. The Commission shall either approve, deny or modify the  
4 request for surgery within sixty (60) days of the receipt of the  
5 report of the Independent Medical Examiner.

6 SECTION 26. AMENDATORY Section 57, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2018, Section 57), is amended to read as  
8 follows:

9 Section 57. ~~A.~~ If an injured employee misses two or more  
10 consecutive scheduled appointments for treatment without a valid  
11 reason, he or she shall no longer be eligible to receive temporary  
12 total disability benefits under this act title, ~~unless his or her~~  
13 ~~absence was:~~

14 ~~1. Caused by extraordinary circumstances beyond the employee's~~  
15 ~~control as determined by the Commission; or~~

16 ~~2. The employee gave the employer at least two (2) hours prior~~  
17 ~~notice of the absence and had a valid excuse.~~

18 ~~B. Inability to get transportation to or from the appointment~~  
19 ~~shall not be considered extraordinary circumstances nor a valid~~  
20 ~~excuse for the absence.~~

21 SECTION 27. AMENDATORY Section 60, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 60), is amended to read as  
23 follows:

24

1 Section 60. The Physician Advisory Committee may recommend the  
2 adoption of a method or system to evaluate permanent disability that  
3 shall deviate from, or be used in place of or in combination with  
4 the Guides. Such recommendation shall be made to the Workers'  
5 Compensation Commission which may adopt the recommendation in part  
6 or in whole. The adopted method or system shall be submitted by the  
7 Executive Director of the Commission to the Governor, the Speaker of  
8 the House of Representatives and the President Pro Tempore of the  
9 Senate within the first ten (10) legislative days of a regular  
10 session of the Legislature. Such method or system so submitted  
11 shall be subject to disapproval by joint or concurrent resolution of  
12 the Legislature during the legislative session in which submitted.  
13 If disapproved, the existing method of determining permanent partial  
14 disability shall continue in effect. If the Legislature takes no  
15 action on the method or system submitted by the Executive Director,  
16 the method or system shall become operative thirty (30) days  
17 following the adjournment of the Legislature.

18 SECTION 28. AMENDATORY Section 62, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2018, Section 62), is amended to read as  
20 follows:

21 Section 62. A. Notwithstanding the provisions of Section 45 of  
22 this ~~act~~ title, if an employee suffers a nonsurgical soft tissue  
23 injury, temporary total disability compensation shall not exceed  
24 eight (8) weeks, regardless of the number of parts of the body to

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

19 B. For purposes of this section, "soft tissue injury" means  
20 damage to one or more of the tissues that surround bones and joints.  
21 Soft tissue injury includes, but is not limited to, sprains,  
22 strains, contusions, tendonitis and muscle tears. Cumulative trauma  
23 is to be considered a soft tissue injury unless corrective surgery  
24

1 is necessary. Soft tissue injury does not include any of the  
2 following:

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

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

6 a. sensory or motor disturbances,

7 b. communication disturbances,

8 c. complex integrated disturbances of cerebral function,

9 d. episodic neurological disorders, or

10 e. other brain and closed-head injury conditions at least  
11 as severe in nature as any condition provided in  
12 subparagraphs a through d of this paragraph; or

13 3. Any joint replacement.

14 SECTION 29. AMENDATORY Section 63, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2018, Section 63), is amended to read as  
16 follows:

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

20 1. The name, address, and business of the employer;

21 2. The name, address, and occupation of the employee;

22 3. The cause and nature of the injury or death;

23 4. The year, month, day, approximately when, and the particular  
24 locality where, the injury or death occurred; and

1 5. Such other information as the Commission may require.

2 B. Additional reports with respect to the injury and of the  
3 condition of the employee shall be sent by the employer to the  
4 Commission at such time and in such manner as the Commission may  
5 prescribe. However, an employer may refuse to provide any  
6 information that it deems privileged or confidential.

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

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

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

22 2. Whenever the employer has failed or refused to comply as  
23 provided in this section, the Commission may serve on the employer a  
24 proposed judgment declaring the employer to be in violation of this

1 act and containing the amount, if any, of the civil penalty to be  
2 assessed against the employer under this section.

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

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

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

1 SECTION 30. AMENDATORY Section 65, Chapter 208, O.S.L.  
2 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S.  
3 Supp. 2018, Section 65), is amended to read as follows:

4 Section 65. A. If an employee suffers from an occupational  
5 disease as defined in this section and is disabled or dies as a  
6 result of the disease, the employee, or, in case of death, his or  
7 her dependents, shall be entitled to compensation as if the  
8 disability or death were caused by injury arising out of work  
9 activities within the scope of employment, except as otherwise  
10 provided in this section.

11 B. No compensation shall be payable for an occupational disease  
12 if the employee, at the time of entering into the employment of the  
13 employer by whom the compensation would otherwise be payable,  
14 falsely represented himself or herself in writing as not having  
15 previously been disabled, laid off, or compensated in damages or  
16 otherwise, because of the disease.

17 C. 1. If an occupational disease is aggravated by any other  
18 disease or infirmity, not itself compensable, or if disability or  
19 death from any other cause, not itself compensable, is aggravated,  
20 prolonged, accelerated, or in any way contributed to by an  
21 occupational disease, the compensation payable shall be reduced and  
22 limited to the proportion only of the compensation that would be  
23 payable if the occupational disease were the major cause of the  
24

1 disability or death as the occupational disease, as a causative  
2 factor, bears to all the causes of the disability or death.

3 2. The reduction in compensation is to be effected by reducing  
4 the number of weekly or monthly payments or the amounts of the  
5 payments, as under the circumstances of the particular case may be  
6 for the best interest of the claimant.

7 D. 1. "Occupational disease", as used in this act, unless the  
8 context otherwise requires, means any disease that results in  
9 disability or death and arises out of and in the course of the  
10 occupation or employment of the employee or naturally follows or  
11 unavoidably results from an injury as that term is defined in this  
12 act. A causal connection between the occupation or employment and  
13 the occupational disease shall be established by a preponderance of  
14 the evidence.

15 2. No compensation shall be payable for any contagious or  
16 infectious disease unless contracted in the course and scope of  
17 employment.

18 3. No compensation shall be payable for any ordinary disease of  
19 life to which the general public is exposed.

20 E. 1. When compensation is payable for an occupational  
21 disease, the employer in whose employment the employee was last  
22 injuriously exposed to the hazards of the disease and the carrier,  
23 if any, on the risk when the employee was last injuriously exposed  
24 under the employer shall be liable.

1           2. The amount of the compensation shall be based on the average  
2 weekly wage of the employee when last injuriously exposed under the  
3 employer, and the notice of injury and claim for compensation shall  
4 be given and made to that employer.

5           F. ~~1.~~ An employer shall not be liable for any compensation for  
6 an occupational disease unless:

7           a. ~~the disease is due to the nature of an employment in~~  
8 ~~which the hazards of the disease actually exist and is~~  
9 ~~actually incurred in the course and scope of his or~~  
10 ~~her employment. This includes any disease due to or~~  
11 ~~attributable to exposure to or contact with any~~  
12 ~~radioactive material by an employee in the course and~~  
13 ~~scope of his or her employment,~~

14           b. ~~disablement or death results within three (3) years in~~  
15 ~~case of silicosis or asbestosis, or one (1) year in~~  
16 ~~case of any other occupational disease, except a~~  
17 ~~diseased condition caused by exposure to X-rays,~~  
18 ~~radioactive substances, or ionizing radiation, after~~  
19 ~~the last injurious exposure to the disease in the~~  
20 ~~employment, or~~

21           c. ~~in case of death, death follows continuous disability~~  
22 ~~from the disease, commencing within the period, for~~  
23 ~~which compensation has been paid or awarded or timely~~  
24 ~~claim made as provided in subparagraph b of this~~

1                   ~~paragraph and results within seven (7) years after the~~  
2                   ~~last exposure.~~

3           2. ~~However, in case of a diseased condition caused by exposure~~  
4 ~~to X-rays, radioactive substances, or ionizing radiation only, the~~  
5 ~~limitations expressed do not apply.~~

6           SECTION 31.           AMENDATORY           Section 66, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2018, Section 66), is amended to read as  
8 follows:

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

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

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

15           B. In the absence of ~~conclusive~~ a preponderance of the evidence  
16 in favor of the claim, disability or death from silicosis or  
17 asbestosis shall be presumed not to be due to the nature of any  
18 occupation within the provision of this section unless during the  
19 ten (10) years immediately preceding the date of disablement the  
20 employee has been exposed to the inhalation of silica dust or  
21 asbestos dust over a period of not less than five (5) years, two (2)  
22 years of which shall have been in this state, under a contract of  
23 employment performed in this state. However, if the employee has  
24 been employed by the same employer during the entire five-year

1 period, his or her right to compensation against the employer shall  
2 not be affected by the fact that he or she had been employed during  
3 any part of the period outside of this state.

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

8 D. 1. In case of disability or death from silicosis or  
9 asbestosis complicated with tuberculosis of the lungs, compensation  
10 shall be payable as for uncomplicated silicosis or asbestosis,  
11 provided that the silicosis or asbestosis was an essential factor in  
12 the causing of disability or death.

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

17 ~~E. 1. When an employee, though not actually disabled, is found~~  
18 ~~by the Commission to be affected by silicosis or asbestosis to such~~  
19 ~~a degree as to make it unduly hazardous for him or her to continue~~  
20 ~~in an employment involving exposure to the hazards of the disease,~~  
21 ~~the Commission may order that he or she be removed from his or her~~  
22 ~~employment. In such a case, or in case he or she has already been~~  
23 ~~discharged from the employment and is unemployed, he or she shall be~~  
24 ~~entitled to compensation until he or she can obtain steady~~

1 ~~employment in some other suitable occupation in which there are no~~  
2 ~~hazards of the disease.~~

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

8 SECTION 32. AMENDATORY Section 67, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 67), is amended to read as  
10 follows:

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

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

20 ~~B.~~ ~~An award or denial of award of compensation for an~~  
21 ~~occupational disease or cumulative trauma may be reviewed and~~  
22 ~~compensation increased, reduced, or terminated where previously~~  
23 ~~awarded, or awarded where previously denied, only on proof of fraud~~  
24 ~~or undue influence or of change of condition, and then only on~~

1 ~~application by a party in interest made not later than one (1) year~~  
2 ~~after the denial of award or, where compensation has been awarded,~~  
3 ~~after the award or the date when the last payment was made under the~~  
4 ~~award, except in cases of silicosis or asbestosis, where the statute~~  
5 ~~of limitations shall be two (2) years.~~

6 SECTION 33. AMENDATORY Section 69, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2018, Section 69), is amended to read as  
8 follows:

9 Section 69. A. Time for Filing.

10 1. A claim for benefits under this act, other than an  
11 occupational disease, shall be barred unless it is filed with the  
12 Workers' Compensation Commission within one (1) year from the date  
13 of the injury. ~~If during the one-year period following the filing~~  
14 ~~of the claim the employee receives no weekly benefit compensation~~  
15 ~~and receives no medical treatment resulting from the alleged injury,~~  
16 ~~the claim shall be barred thereafter~~ Provided, however, a claim may  
17 be filed with the Commission within one (1) year of the date of the  
18 last payment of compensation or wages in lieu thereof, or the date  
19 of the last authorized medical appointment attended by the employee,  
20 whichever is later. When a claim for compensation has been filed,  
21 unless the employee shall in good faith request a hearing for  
22 benefits within one (1) year from the date of the filing thereof, or  
23 within one (1) year from the date of last payment of compensation or  
24 wages in lieu thereof, or the date of the last authorized medical

1 appointment attended by the employee, the claim shall be dismissed  
2 with prejudice for want of prosecution. For purposes of this  
3 section, the date of the injury shall be defined as the date an  
4 injury is caused by an accident as set forth in paragraph 9 of  
5 Section 2 of this ~~act~~ title.

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

12 b. A claim for compensation for disability on account of  
13 silicosis or asbestosis shall be filed with the  
14 Commission within one (1) year after the time of  
15 disablement, and the disablement shall occur within  
16 three (3) years from the date of the last injurious  
17 exposure to the hazard of silicosis or asbestosis.

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

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

4 4. If within ~~six (6) months~~ one (1) year after the filing of a  
5 controverted claim for compensation no bona fide request for a  
6 hearing has been made with respect to the claim, the claim may, on  
7 motion and after hearing, be dismissed ~~with~~ without prejudice.

8 B. Time for Filing Additional Compensation.

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

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

23 C. A claim for additional compensation shall specifically state  
24 that it is a claim for additional compensation. Documents which do

1 not specifically request additional benefits shall not be considered  
2 a claim for additional compensation.

3 D. If within ~~six (6) months~~ one (1) year after the filing of a  
4 claim for additional compensation no bona fide request for a hearing  
5 has been made with respect to the claim, the claim shall be  
6 dismissed without prejudice to the refileing of the claim within the  
7 limitation period specified in subsection B of this section.

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

14 F. Persons under Disability.

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

20 2. Subsections A and B of this section shall not apply to a  
21 mental incompetent or minor so long as the person has no guardian or  
22 similar legal representative. The limitations prescribed in  
23 subsections A and B of this section shall apply to the mental  
24 incompetent or minor from the date of the appointment of a guardian

1 or similar legal representative for that person, and when no  
2 guardian or similar representative has been appointed, to a minor on  
3 reaching the age of majority.

4 G. A latent injury or condition shall not delay or toll the  
5 limitation periods specified in this section. This subsection shall  
6 not apply to the limitation period for occupational diseases  
7 specified in paragraph 2 of subsection A of this section.

8 SECTION 34. AMENDATORY Section 71, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 71), is amended to read as  
10 follows:

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

15 B. Investigation - Hearing.

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

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

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

24

1 4. If a hearing on the claim is ordered, the administrative law  
2 judge shall give the claimant and other interested parties ten (10)  
3 days' notice of the hearing served personally on the claimant and  
4 other parties, or by registered mail, facsimile, electronic mail or  
5 by other electronic means with receipt of confirmation. The hearing  
6 ~~shall~~ may be held in ~~Tulsa or Oklahoma County~~ any county of this  
7 state, as determined by the Commission.

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

13 C. Evidence and Construction.

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

21 b. Any determination of the existence or extent of  
22 physical impairment shall be supported by objective  
23 and measurable physical or mental findings.  
24

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

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

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

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

16           E. No compensation for disability of an injured employee shall  
17 be payable for any period beyond his or her death; provided,  
18 however, an award of compensation for permanent partial disability  
19 may be made after the death of the injured employee ~~for the period~~  
20 ~~of disability preceding death.~~ Such reviver action may be brought  
21 only by the injured employee's spouse, minor children or children  
22 under a disability as defined by Section 67 of this title.

23  
24

1 SECTION 35. AMENDATORY Section 78, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 78), is amended to read as  
3 follows:

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

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

18 C. The judgment, decision or award of the Commission shall be  
19 final and conclusive on all questions within its jurisdiction  
20 between the parties unless an action is commenced in the Supreme  
21 Court of this state to review the judgment, decision or award within  
22 twenty (20) days of being sent to the parties. Any judgment,  
23 decision or award made by an administrative law judge shall be  
24 stayed until all appeal rights have been waived or exhausted. The

1 Supreme Court may modify, reverse, remand for rehearing, or set  
2 aside the judgment or award only if it was:

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

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

1 application and for good cause shown. The action shall be subject  
2 to the law and practice applicable to other civil actions cognizable  
3 in the Supreme Court.

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

13 E. During the pendency of an appeal filed by an employer or the  
14 employer's insurance carrier pursuant to this section, payment for  
15 any prescription drugs prescribed by the treating physician shall be  
16 continued. If payment for prescription drugs is an issue on appeal,  
17 and the employer is held not to be liable for payment for the  
18 prescription drugs, the employee shall reimburse the employer or the  
19 employer's insurance carrier for the cost of prescriptions filled  
20 during the time of the appeals process.

21 SECTION 36. AMENDATORY Section 80, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 80), is amended to read as  
23 follows:  
24

1       Section 80. A. A final order for permanent disability is a  
2 final adjudication of all issues pending in the claim unless  
3 reserved in the order or by operation of law. Except where a joint  
4 petition settlement has been approved, the Workers' Compensation  
5 Commission may reopen for review any compensation judgment, award,  
6 or decision. Such review ~~may be done at any time~~ based on a change  
7 of physical condition must be requested by the filing of a Request  
8 for Rehearing within six (6) months ~~of termination of the~~  
9 ~~compensation period fixed in the original compensation judgment or~~  
10 ~~award~~ from the date of the last order in which monetary benefits  
11 were awarded or active medical treatment was provided, on the  
12 Commission's own motion or on the application of any party in  
13 interest, ~~on the ground of a change in physical condition or on~~  
14 ~~proof of erroneous wage rate~~ and unless filed within such period of  
15 time shall be forever barred. A change of condition shall be proved  
16 with objective medical evidence which must be filed within thirty  
17 (30) days of the filing of the Request for Rehearing. On review,  
18 the Commission may ~~make a judgment or award terminating, continuing,~~  
19 ~~decreasing, or increasing for the future the~~ additional compensation  
20 ~~previously awarded~~ and medical treatment, subject to the maximum  
21 limits provided for in this act. An order denying an application to  
22 reopen a claim shall not extend the period of time set out in this  
23 title for reopening the claim. A failure to comply with a medical  
24

1 treatment plan ordered by the Commission shall bar the reopening of  
2 a claim.

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

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

10 D. Aging and the effects of aging on a compensable injury are  
11 not to be considered in determining whether there has been a change  
12 in physical condition. Aging or the effect of aging on a  
13 compensable injury shall not be considered in determining permanent  
14 disability under this section or any other section in this act.

15 SECTION 37. AMENDATORY Section 82, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 82), is amended to read as  
17 follows:

18 Section 82.

19 A. 1. a. Each party shall be responsible for its legal services  
20 and litigation expenses. Fees for legal services  
21 ~~rendered in a claim shall not be valid unless approved~~  
22 may be reviewed by the Workers' Compensation  
23 Commission.

24

1           b. An attorney representing an injured employee may only  
2           recover attorney fees up to ten percent (10%) of any  
3           temporary total disability or temporary partial  
4           disability compensation and twenty percent (20%) of  
5           any permanent partial disability, permanent total  
6           disability, or death compensation awarded to an  
7           injured employee by the Commission from a controverted  
8           claim. If the employer makes a written offer to  
9           settle permanent partial disability, permanent total  
10          disability, or death compensation and that offer is  
11          rejected, the employee's attorney may not recover  
12          attorney fees in excess of thirty percent (30%) of the  
13          difference between the amount of any award and the  
14          settlement offer.

15           (1) Attorney fees may not be collected for recovery  
16           on noncontroverted claims.

17           (2) Attorney fees shall not be awarded on medical  
18           benefits or services.

19           (3) The fee for legal services rendered by an  
20           attorney representing an employee in connection  
21           with a change of physician requested by the  
22           injured employee, controverted by the employer,  
23           and awarded by the Commission, shall be Two  
24           Hundred Dollars (\$200.00).

1 (4) Attorney fees may include not more than ten  
2 percent (10%) of the value, or reasonable  
3 estimate thereof, of vocational rehabilitation  
4 services.

5 c. A "controverted claim" means that ~~there has been a~~  
6 ~~contested hearing before the Commission over the~~  
7 employer or the employer's insurance carrier has  
8 controverted whether there has been a compensable  
9 injury or whether the employee is entitled to  
10 temporary total disability, temporary partial  
11 disability, permanent partial disability, permanent  
12 total disability, or death compensation. A request  
13 for a change in physician shall not trigger a  
14 controverted claim for purposes of recovering any  
15 attorney fees except the fees under division 3 of  
16 subparagraph b of this paragraph. A controverted  
17 claim shall not exist if the employee or his or her  
18 representative has withheld pertinent information in  
19 his or her possession related to the claim from the  
20 employer or has violated the provisions of Section 6  
21 of this act title.

22 2. ~~Any person who or entity that brings a controverted claim~~  
23 ~~against the State Treasurer, as a custodian of the Multiple Injury~~  
24 ~~Trust Fund, shall provide notice of the claim to the Commission.~~

1 ~~Thereafter, the Commission shall direct fees for legal services be~~  
2 ~~paid from the Fund, in addition to any compensation award. The fees~~  
3 ~~shall be authorized only on the difference between the amount of~~  
4 ~~compensation controverted and the amount awarded from the Fund.~~

5 3. In any case where attorney fees are allowed by the  
6 Commission, the limitations expressed in subparagraph b of paragraph  
7 1 of this subsection shall apply.

8 4. 3. Medical providers may voluntarily contract with the  
9 attorney for the employee to recover disputed charges, and the  
10 ~~provider~~ attorney may charge a reasonable fee for the cost of  
11 collection.

12 B. An attorney representing an employee under this act may not  
13 recover fees for services except as expressly provided in this  
14 section or for good cause shown.

15 SECTION 38. AMENDATORY Section 86, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 86), is amended to read as  
17 follows:

18 Section 86. A. 1. Each employer desiring to controvert an  
19 employee's right to compensation ~~shall~~ may file with the Workers'  
20 Compensation Commission on or before the fifteenth day following  
21 notice of the alleged injury or death a statement on a form  
22 prescribed by the Commission that the right to compensation is  
23 controverted and the grounds for the controversion, the names of the  
24

1 claimant, employer, and carrier, if any, and the date and place of  
2 the alleged injury or death.

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

7 B. If an employer is unable to obtain sufficient medical  
8 information as to the alleged injury or death within fifteen (15)  
9 days following receipt of notice, although the employer has acted in  
10 good faith and with all due diligence, the employer may apply in  
11 writing for an extension of time for making payment of the first  
12 installment or controverting the claim. This written application is  
13 to be postmarked within the fifteen-day period. The Commission may,  
14 in its discretion, grant the extension and fix the additional time  
15 to be allowed. Filing of application for an extension shall not be  
16 deemed to be a controversion of the claim.

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

21 SECTION 39. AMENDATORY Section 87, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 87), is amended to read as  
23 follows:  
24

1 Section 87. If the employer or carrier and the injured employee  
2 desire to settle the claim, they shall file a joint petition for  
3 settlement with the Workers' Compensation Commission. After the  
4 joint petition has been filed, the Commission shall order that all  
5 workers' compensation claims between the parties covered by the  
6 joint petition have been settled. No appeal shall lie from a  
7 judgment or award denying a joint petition.

8 SECTION 40. AMENDATORY Section 89, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 89), is amended to read as  
10 follows:

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

1 SECTION 41. AMENDATORY Section 90, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 90), is amended to read as  
3 follows:

4 Section 90. A. The Workers' Compensation Commission may  
5 require any employer to make a deposit or bond with the Commission  
6 to secure the prompt and convenient payment of compensation, and  
7 payments shall be made on judgment of the Commission.

8 B. No proceeding to reverse, vacate or modify any order,  
9 decision or award of the Commission en banc or administrative law  
10 judge of the Commission wherein compensation has been awarded to an  
11 injured employee shall be entertained by the Supreme Court unless  
12 the Executive Director of the Commission shall take a written  
13 undertaking to the claimant executed on the part of the respondent  
14 or insurance carrier, or both the respondent and insurance carrier,  
15 with one or more sureties to be approved by the Executive Director,  
16 to the effect that the appellant shall pay the amount of the award  
17 rendered therein, together with interest thereon from the date of  
18 the award by the administrative law judge of the Commission and all  
19 costs of the proceeding, or on the further order of the Commission  
20 en banc or administrative law judge of the Commission after the  
21 appeal has been decided by the Supreme Court. Municipalities and  
22 other political subdivisions of this state are exempt from making  
23 such written undertakings.

24

1 SECTION 42. AMENDATORY Section 94, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 94), is amended to read as  
3 follows:

4 Section 94. An employee who is incarcerated shall not be  
5 eligible to receive ~~medical or~~ temporary total disability benefits  
6 under this ~~act~~ title.

7 SECTION 43. AMENDATORY Section 101, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 101), is amended to read as  
9 follows:

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

22 B. After public hearing and consultation with representatives  
23 of employers, insurance carriers, and employees, the Commission  
24 shall implement, with the assistance of the Insurance Commissioner,

1 ~~by July 1, 2014,~~ an electronic data interchange (EDI) system that  
2 provides relevant data concerning the Oklahoma workers' compensation  
3 system and the delivery of benefits to injured workers on a  
4 timetable to be reasonably determined by the Commission.

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

13 SECTION 44. AMENDATORY Section 105, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2018, Section 105), is amended to read as  
15 follows:

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

23 B. The commissioners and employees of the Commission shall not  
24 solicit employment for any attorney or physician nor shall they

1 recommend or refer any claimant or employer to an attorney or  
2 physician. If any employee of the Commission makes such a  
3 solicitation, recommendation or reference, that person, upon  
4 conviction, shall be guilty of a misdemeanor punishable, for each  
5 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)  
6 or by imprisonment in the county jail not to exceed one (1) year, or  
7 by both such fine and imprisonment. The Commission shall  
8 immediately terminate the employment of any employee who is guilty  
9 of such solicitation, recommendation or reference. A commissioner  
10 guilty of such solicitation, recommendation or reference shall be  
11 subject to removal from office.

12 C. No administrative law judge shall engage in any ex parte  
13 communication with any party to an action pending before the  
14 Commission or with any witness or medical provider regarding the  
15 merits of a specific matter pending before the judge for resolution.  
16 Any 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 SECTION 45. AMENDATORY Section 152, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 109), is amended to read as  
21 follows:

22 Section 109. A. The Workers' Compensation Commission shall  
23 establish a workers' compensation counselor or ombudsman program to  
24 assist injured workers, employers and persons claiming death

1 benefits in obtaining benefits under this act. A special effort  
2 shall be made to equip counselors or ombudsmen with sufficient  
3 resources to assist injured workers through the system without the  
4 necessity of retaining legal representation.

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

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

20 D. The Commission shall develop a program that provides for  
21 annual training for own-risk employers and claims representatives  
22 handling workers' compensation claims in Oklahoma. The training  
23 shall include information about the alternative dispute resolution  
24

1 program, including counselor and ombudsman programs, mediation, and  
2 other services provided by the Commission.

3 SECTION 46. AMENDATORY Section 158, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 115), is amended to read as  
5 follows:

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

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

1 be signed by the parties and approved by the Commission as set forth  
2 herein.

3 C. In the absence of fraud, a Joint Petition shall be deemed  
4 binding upon the parties thereto and a final adjudication of all  
5 rights pursuant to this ~~act~~ title or the workers' compensation law  
6 in effect at the time of the injury or final order of the Workers'  
7 Compensation ~~Court~~ Commission. An official record shall be made by  
8 an official Commission reporter of the testimony taken to effect the  
9 Joint Petition.

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

20 E. If an employee has not filed a claim for compensation and  
21 the employer and the injured employee reach a final agreement as to  
22 the facts with relation to an injury and the resulting disability  
23 for which compensation is claimed under the Administrative Workers'  
24 Compensation Act, a memorandum of such agreement in a form

1 prescribed by the Commission shall be filed with the Commission by  
2 the employer. The memorandum shall be signed by both the employer  
3 and the employee and approved by an administrative law judge.

4 SECTION 47. AMENDATORY Section 161, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 118), is amended to read as  
6 follows:

7 Section 118. A. A filing fee of One Hundred Forty Dollars  
8 (\$140.00) per case, including any Joint Petition, medical fee  
9 dispute, claim for discrimination or retaliation, or claim for  
10 benefits under the Multiple Injury Trust Fund authorized by this ~~act~~  
11 title, shall be collected by the Workers' Compensation Commission  
12 and assessed as costs to be paid by the party against whom any award  
13 becomes final, to be deposited as follows:

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

16 2. Ten Dollars (\$10.00) to the credit of the Attorney General's  
17 Workers' Compensation Fraud Unit Revolving Fund created by Section  
18 19.2 of Title 74 of the Oklahoma Statutes; and

19 3. Twenty-five Dollars (\$25.00) to the credit of the Workers'  
20 Compensation Commission Revolving Fund for purposes of implementing  
21 the provisions of this ~~act~~ title, including strengthening and  
22 providing additional funding for the Attorney General's Workers'  
23 Compensation Fraud Unit, providing counseling services pursuant to  
24

1 the workers' compensation counselor or ombudsman program and safety  
2 in the workplace.

3 B. A fee of One Hundred Thirty Dollars (\$130.00) per action to  
4 reopen any case pursuant to Section 32 of this ~~act~~ title shall be  
5 collected by the Commission and assessed as costs to be paid by the  
6 party that reopens the case. The fee collected pursuant to this  
7 subsection shall be deposited to the credit of the Workers'  
8 Compensation Commission Revolving Fund for purposes of implementing  
9 the provisions of this ~~act~~ title, including strengthening and  
10 providing additional funding for the Attorney General's Workers'  
11 Compensation Fraud Unit, providing counseling services pursuant to  
12 the workers' compensation counselor or ombudsman program and safety  
13 in the workplace.

14 SECTION 48. AMENDATORY Section 162, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2018, Section 119), is amended to read as  
16 follows:

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

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

1 SECTION 49. AMENDATORY Section 163, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 120), is amended to read as  
3 follows:

4 Section 120. A. Except as otherwise provided by state or  
5 federal law and subject to the provisions of this section, an  
6 employer may inquire about previous workers' compensation claims  
7 paid to an employee while the employee was employed by a previous  
8 employer. If the employee fails to answer truthfully about any  
9 previous permanent partial disability awards made pursuant to  
10 workers' compensation claims, the employee shall be subject to  
11 discharge by the employer.

12 B. 1. All requests made to the Workers' Compensation  
13 Commission for information on ~~prior~~ workers' compensation claims  
14 involving a worker, including written inquiries about prior claims  
15 and requests to access a worker's compensation claim file, must be  
16 in writing, on a form prescribed by the Commission, and accompanied  
17 by a fee of One Dollar (\$1.00) per search request, not to exceed One  
18 Dollar (\$1.00) per claims record of a particular worker. The fee  
19 shall be deposited to the credit of the Workers' Compensation  
20 Commission Revolving Fund. The form shall require identification of  
21 the person requesting the information, and the person for whom a  
22 search is being made if different from the requester. The form must  
23 contain an affidavit signed by the requester under penalty of  
24 perjury that the information sought is not requested for a purpose

1 in violation of state or federal law. The form must be used by all  
2 repositories of archived Court claim files. All request forms shall  
3 be maintained by the Commission as a public record, together with a  
4 record of a worker's written authorization permitting a search  
5 indexed by the worker's social security number as required by  
6 Section 3113 of Title 74 of the Oklahoma Statutes. The request  
7 forms and authorizations shall be indexed alphabetically by the last  
8 name of the worker.

9 2. This subsection shall not apply:

- 10 a. to requests for claims information made by a public  
11 officer or by a public employee in the performance of  
12 his or her duties on behalf of a governmental entity  
13 or as may be allowed by law,
- 14 b. to requests for claims information made by an insurer,  
15 self-insured employer, third-party claims  
16 administrator, or a legal representative thereof, when  
17 necessary to process or defend a workers' compensation  
18 claim,
- 19 c. when a worker or the worker's representative requests  
20 review of the worker's claims information,
- 21 d. when the disclosure is made for educational or  
22 research purposes and in such a manner that the  
23 disclosed information cannot be used to identify any  
24 worker who is the subject of a claim,

- 1 e. to requests for claims information made by a health  
2 care or rehabilitation provider or the provider's  
3 legal representative when necessary to process payment  
4 of health care or rehabilitation services rendered to  
5 a worker, and
- 6 f. to requests for claims information made by an employer  
7 or personnel service company, including but not  
8 limited to an individual or entity, where the worker  
9 executes a written authorization permitting the search  
10 and designating the employer or personnel service  
11 company as the worker's representative for that  
12 purpose; however, nothing in this subparagraph shall  
13 relieve the employer or personnel service company from  
14 complying with the requirements of utilizing the form  
15 set forth in paragraph 1 of this subsection.

16 SECTION 50. AMENDATORY Section 164, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 121), is amended to read as  
18 follows:

19 Section 121. A. There is hereby created an Advisory Council on  
20 Workers' Compensation.

21 B. The voting membership of the Advisory Council shall consist  
22 of nine (9) members. Any member serving on the effective date of  
23 this section shall serve the remainder of his or her term. The  
24

1 chair of the Workers' Compensation Commission shall be an ex officio  
2 nonvoting member.

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

7 2. The Speaker of the House of Representatives shall appoint  
8 three members representing employees in this state, one of whom  
9 shall be from a list of nominees provided by the most representative  
10 labor organization in the state.

11 3. The President Pro Tempore of the Senate shall appoint three  
12 members, two who are attorneys representing the legal profession in  
13 this state, one of whom shall be an attorney who practices primarily  
14 in the area of defense of workers' compensation claims, and one of  
15 whom shall be an attorney who primarily represents claimants, and a  
16 medical doctor or doctor of osteopathy actively engaged in the  
17 treatment of injured workers.

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

19 1. The term of office for three positions, one each appointed  
20 by the Governor, the President Pro Tempore of the Senate and the  
21 Speaker of the House of Representatives shall expire on January 1,  
22 2015;

23 2. The term of office for three positions, one each appointed  
24 by the Governor, the President Pro Tempore of the Senate and the

1 Speaker of the House of Representatives shall expire on January 1,  
2 2016; and

3 3. The term of office for three positions, one each appointed  
4 by the Governor, the President Pro Tempore of the Senate and the  
5 Speaker of the House of Representatives shall expire on January 1,  
6 2017.

7 D. Thereafter, successors in office shall be appointed for a  
8 three-year term. Members shall be eligible to succeed themselves in  
9 office.

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

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

14 G. Members shall receive their traveling and other necessary  
15 expenses incurred in the performance of their duties as provided in  
16 the State Travel Reimbursement Act.

17 H. Meetings of the Advisory Council shall be quarterly or as  
18 called by the chair or upon petition by a majority of the voting  
19 members. The presence of five voting members constitutes a quorum.  
20 No action shall be taken by the Advisory Council without the  
21 affirmative vote of at least five members.

22 I. The Commission shall provide office supplies and personnel  
23 of the Commission to carry out any of the duties that have been  
24 entrusted to the Advisory Council.

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

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

13 ~~L. The Advisory Council shall review the Oklahoma Treatment~~  
14 ~~Guidelines as provided in the Workers' Compensation Code, and report~~  
15 ~~the findings of such review to the Commission as provided in this~~  
16 ~~act.~~

17 SECTION 51. AMENDATORY Section 165, Chapter 208, O.S.L.  
18 2013, as amended by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.  
19 Supp. 2018, Section 122), is amended to read as follows:

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

24

1 B. For the purpose of providing funds for the Workers'  
2 Compensation Commission Revolving Fund, for the Workers'  
3 Compensation Administrative Fund created in Section ~~5~~ 401.1 of this  
4 ~~act~~ title, for the Multiple Injury Trust Fund created in Section 28  
5 of this title, and to fund other provisions within this title, the  
6 following tax rates shall apply:

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

23 2. When an employer is authorized to become a self-insurer, the  
24 Workers' Compensation Commission shall so notify the Tax Commission,

1 giving the effective date of such authorization. The Tax Commission  
2 shall then assess and collect from the employers carrying their own  
3 risk an assessment at the rate of two percent (2%) of the total  
4 compensation for permanent total disability awards, permanent  
5 partial disability awards and death benefits paid out during each  
6 quarter of the calendar year by the employers. Such assessment  
7 shall be payable by the employers and collected by the Tax  
8 Commission according to the provisions of this section regarding  
9 payment and collection of the assessment created in paragraph 1 of  
10 this subsection.

11 C. It shall be the duty of the Tax Commission to collect the  
12 payments provided for in this title. The Tax Commission is hereby  
13 authorized to bring an action for the recovery of any delinquent or  
14 unpaid payments required in this section. The Tax Commission may  
15 also enforce payments by proceeding in accordance with the  
16 provisions of Section 98 of this title.

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

21 1. Five Million Dollars (\$5,000,000.00) shall be payable in  
22 equal monthly installments to the credit of the Workers'  
23 Compensation Commission Revolving Fund established in Section ~~2~~ 28.1  
24 of this ~~act for the fiscal year ending June 30, 2016, and Three~~

1 ~~Million Dollars (\$3,000,000.00) title for the fiscal year ending~~  
2 ~~June 30, 2017 2020, and for all subsequent years to be used to~~  
3 ~~implement the provisions of this title; and~~

4 2. Four Million Dollars (\$4,000,000.00) shall be payable in  
5 equal monthly installments to the credit of the Workers'  
6 Compensation Administrative Fund established in Section ~~5~~ 401.1 of  
7 this ~~act~~ title for the fiscal year ending ~~June 30, 2016, Three~~  
8 ~~Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal~~  
9 ~~year ending June 30, 2017, Three Million Five Hundred Thousand~~  
10 ~~Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2018,~~  
11 ~~Three Million Dollars (\$3,000,000.00) for the fiscal year ending~~  
12 ~~June 30, 2019, and Two Million Five Hundred Thousand Dollars~~  
13 ~~(\$2,500,000.00) for the fiscal year ending June 30, 2020 and all~~  
14 ~~subsequent years through the fiscal year ending June 30, 2024.~~

15 Monies deposited in the Workers' Compensation Administrative Fund  
16 shall be used by the Workers' Compensation Court of Existing Claims  
17 to implement provisions provided for in this title.

18 E. The refund provisions of Sections 227 through 229 of Title  
19 68 of the Oklahoma Statutes shall be applicable to any payments made  
20 pursuant to this section.

21 SECTION 52. AMENDATORY Section 167, Chapter 208, O.S.L.  
22 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.  
23 Supp. 2018, Section 124), is amended to read as follows:

24

1 Section 124. A. 1. All unexpended funds, assets, property,  
2 records, personnel and any outstanding financial obligations and  
3 encumbrances of the Workers' Compensation Court before February 1,  
4 2014, are hereby transferred to the Workers' Compensation  
5 Commission, except for personnel transferred to the Workers'  
6 Compensation Court of Existing Claims on July 9, 2014. The  
7 personnel transferred to the Commission and retained by the  
8 Commission shall retain leave, sick and annual time earned and any  
9 retirement and longevity benefits which have accrued during their  
10 employment with the state. The salaries of employees who are  
11 transferred shall not be reduced as a direct and immediate result of  
12 the transfer. There shall be no reduction-in-force as a result of  
13 the transfer. The Workers' Compensation Court of Existing Claims  
14 shall pay the expense of maintaining the records of the Court and  
15 the records of the former Workers' Compensation Court for as long as  
16 the Legislature appropriates funding to the Court independent of  
17 funding for the Commission. Thereafter, all such records shall be  
18 transferred to the Commission.

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

1 to the Workers' Compensation Commission. Such funds shall be  
2 expended by the Commission only for the purpose of paying workers'  
3 compensation obligations of the self-insured employer, and costs  
4 related to the administration of such obligations, to the extent of  
5 the availability of such funds.

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

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

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

1 for all liabilities and obligations of the Workers' Compensation  
2 Self-insurance Guaranty Fund Board.

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

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

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

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

1 and the transfer of funds, outstanding financial obligations or  
2 encumbrances provided for in subsection B of this section.

3 SECTION 53. AMENDATORY Section 121, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 300), is amended to read as  
5 follows:

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

9 SECTION 54. AMENDATORY Section 125, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 304), is amended to read as  
11 follows:

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

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

19 1. Waive or agree to vary the effect of the requirements of  
20 subsection A of Section ~~126~~ 305, subsection A of Section ~~127~~ 306,  
21 Section ~~128~~ 307, subsection A or B of Section ~~138~~ 317, Section ~~147~~  
22 326 or Section ~~149~~ 328 of this ~~act~~ title;

23  
24

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

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

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

9 5. Agree to conduct arbitration proceedings outside of this  
10 state.

11 C. A party to an agreement to arbitrate or to an arbitration  
12 proceeding may not waive, or the parties may not vary the effect of,  
13 the requirements of this section or subsection A or C of Section ~~124~~  
14 304, Sections ~~128, 135 and 139~~ 307, 314 and 318, subsection D or E  
15 of Section ~~141~~ 320, Sections ~~143, 144 and 145~~ 322, 323 and 324, or  
16 subsection A or B of Section ~~146~~ 325 of this ~~act~~ title.

17 SECTION 55. AMENDATORY Section 126, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2018, Section 305), is amended to read as  
19 follows:

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

1 B. Unless a civil action involving the agreement to arbitrate  
2 is pending, notice of an initial application and motion to the  
3 Commission under this act shall be served in the manner provided by  
4 law for the service of a summons in the filing of a civil action.  
5 Otherwise, notice of the motion shall be given in the manner  
6 provided by law or rule of court for serving motions in pending  
7 cases.

8 SECTION 56. AMENDATORY Section 128, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 307), is amended to read as  
10 follows:

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

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

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

1 B. On motion of a person alleging that an arbitration  
2 proceeding has been initiated or threatened but that there is no  
3 agreement to arbitrate, the Commission shall proceed summarily to  
4 decide the issue. If the Commission finds that there is an  
5 enforceable agreement to arbitrate, it shall order the parties to  
6 arbitrate. The Commission may also assess costs against the party  
7 opposing the motion if the Commission concludes the opposition was  
8 not brought in good faith to be deposited in the Workers'  
9 Compensation Fund created by the Administrative Workers'  
10 Compensation Act.

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

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

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

22 SECTION 57. AMENDATORY Section 133, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 312), is amended to read as  
24 follows:

1 Section 312. A. Before accepting appointment, an individual  
2 who is requested to serve as an arbitrator, after making a  
3 reasonable inquiry, shall disclose to the parties to the arbitration  
4 agreement, the parties to the arbitration proceeding, and any other  
5 arbitrators any known facts that a reasonable person would consider  
6 likely to affect the impartiality of the arbitrator in the  
7 arbitration proceeding, including but not limited to:

8 1. A financial or personal interest in the outcome of the  
9 arbitration proceeding; and

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

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

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

1 SECTION 58. AMENDATORY Section 134, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 313), is amended to read as  
3 follows:

4 Section 313. If there is more than one arbitrator, the powers  
5 of an arbitrator shall be exercised by a majority of the  
6 arbitrators, but all of them shall conduct the hearing under Section  
7 ~~136~~ 315 of this ~~act~~ title.

8 SECTION 59. AMENDATORY Section 135, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 314), is amended to read as  
10 follows:

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

15 B. The immunity afforded by this section supplements any  
16 immunity under other law.

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

20 D. An arbitrator or representative of an arbitration  
21 organization is not competent to testify in a judicial,  
22 administrative, or similar proceeding and may not be required to  
23 produce records as to any statement, conduct, decision, or ruling  
24 occurring during the arbitration proceeding, to the same extent as a

1 judge of a court of this state acting in a judicial capacity. This  
2 subsection shall not apply to:

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

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

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

23

24

1 SECTION 60. AMENDATORY Section 137, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 316), is amended to read as  
3 follows:

4 Section 316. A. A party to an arbitration proceeding may be  
5 represented by a lawyer.

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

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

11 SECTION 61. AMENDATORY Section 139, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 318), is amended to read as  
13 follows:

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

24

1 SECTION 62. AMENDATORY Section 141, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 320), is amended to read as  
3 follows:

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

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

8 2. Because the arbitrator has not made a final and definite  
9 award upon a claim submitted by the parties to the arbitration  
10 proceeding; or

11 3. To clarify the award.

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

15 C. A party to the arbitration proceeding shall give notice of  
16 any objection to the motion within ten (10) days after receipt of  
17 the motion.

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

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

24

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

4           3. To clarify the award.

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

7           SECTION 63.           AMENDATORY           Section 142, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 321), is amended to read as  
9 follows:

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

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

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

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

1 E. If an arbitrator awards relief under subsection A of this  
2 section, the arbitrator shall specify in the award the basis in fact  
3 justifying and the basis in law authorizing the award.

4 SECTION 64. AMENDATORY Section 143, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 322), is amended to read as  
6 follows:

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

14 SECTION 65. AMENDATORY Section 144, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2018, Section 323), is amended to read as  
16 follows:

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

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

23 2. There was:  
24

- a. evident partiality by an arbitrator appointed as a neutral arbitrator,
- b. corruption by an arbitrator, or
- c. misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

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

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

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

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

B. An application and motion under this section shall be filed within thirty (30) days after the movant receives notice of the award or within thirty (30) days after the movant receives notice of a modified or corrected award, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion shall be made within ninety (90) days after

1 the ground is known or by the exercise of reasonable care would have  
2 been known by the movant.

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

12 D. If the Commission denies a motion to vacate an award, it  
13 shall confirm the award unless a motion to modify or correct the  
14 award is pending.

15 SECTION 66. AMENDATORY Section 148, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 327), is amended to read as  
17 follows:

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

- 20 1. An order denying a motion to compel arbitration;
- 21 2. An order granting a motion to stay arbitration;
- 22 3. An order confirming or denying confirmation of an award;
- 23 4. An order modifying or correcting an award;
- 24 5. An order vacating an award without directing a rehearing; or

1 6. A final judgment entered under the Workers' Compensation  
2 Arbitration Act.

3 SECTION 67. AMENDATORY Section 169, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 400), is amended to read as  
5 follows:

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

15 Position 1 shall expire 7-1-14.

16 Position 2 shall expire 7-1-14.

17 Position 3 shall expire 7-1-14.

18 Position 4 shall expire ~~7-1-20~~ 7-1-24.

19 Position 5 shall expire 7-1-20.

20 Position 6 shall expire 7-1-16.

21 Position 7 shall expire 7-1-16.

22 Position 8 shall expire 7-1-20.

23 Position 9 shall expire ~~7-1-20~~ 7-1-24.

24 Position 10 shall expire 7-1-14.

1        Provided, judges who are serving unexpired terms on the Workers'  
2 Compensation Court on the effective date of this section shall serve  
3 on the Court created by this section until their respective terms  
4 expire as provided in this act. Thereafter, each position shall be  
5 dissolved. After a judge serves this term, such judge shall be  
6 eligible to reapply for an administrative law judge with the  
7 Workers' Compensation Commission.

8        B. When a vacancy on the Court occurs or is certain to occur,  
9 ~~the Workers' Compensation Commission shall assign administrative law~~  
10 ~~judges from the Commission to assist in the duties of the Workers'~~  
11 ~~Compensation Court of Existing Claims~~ the Governor shall appoint a  
12 judge to serve the remainder of the term from a list of three  
13 applicants submitted to the Governor by the Judicial Nominating  
14 Commission. The Presiding Judge serving on the effective date of  
15 this act shall continue to serve for as long as the Court of  
16 Existing Claims is authorized to exist. The Presiding Judge shall  
17 perform supervisory duties as the needs of the Court may require and  
18 supervise the work of all employees of the Court and handle,  
19 oversee, and be responsible for all administrative affairs of the  
20 Court. The Presiding Judge shall employ a sufficient number of  
21 court reporters, order writers, and other personnel necessary to  
22 carry out the duties of the Court. In addition, the Presiding Judge  
23 shall be authorized to contract with the Workers' Compensation  
24

1 Commission or other individuals or entities for services and shared  
2 services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 SECTION 68. AMENDATORY 25 O.S. 2011, Section 307, as  
13 last amended by Section 1, Chapter 252, O.S.L. 2018 (25 O.S. Supp.  
14 2018, Section 307), is amended to read as follows:

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

17 B. Executive sessions of public bodies will be permitted only  
18 for the purpose of:

19 1. Discussing the employment, hiring, appointment, promotion,  
20 demotion, disciplining or resignation of any individual salaried  
21 public officer or employee;

22 2. Discussing negotiations concerning employees and  
23 representatives of employee groups;

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

1 4. Confidential communications between a public body and its  
2 attorney concerning a pending investigation, claim, or action if the  
3 public body, with the advice of its attorney, determines that  
4 disclosure will seriously impair the ability of the public body to  
5 process the claim or conduct a pending investigation, litigation, or  
6 proceeding in the public interest;

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

11 6. Discussing matters involving a specific handicapped child;

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

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

17 9. Discussing matters involving safety and security at state  
18 penal institutions or correctional facilities used to house state  
19 inmates;

20 10. Discussing contract negotiations involving contracts  
21 requiring approval of the Board of Corrections, which shall be  
22 limited to members of the public body, the attorney for the public  
23 body, and the immediate staff of the public body. No person who may  
24 profit directly or indirectly by a proposed transaction which is

1 under consideration may be present or participate in the executive  
2 session; or

3 11. Discussing the following:

4 a. the investigation of a plan or scheme to commit an act  
5 of terrorism,

6 b. assessments of the vulnerability of government  
7 facilities or public improvements to an act of  
8 terrorism,

9 c. plans for deterrence or prevention of or protection  
10 from an act of terrorism,

11 d. plans for response or remediation after an act of  
12 terrorism,

13 e. information technology of the public body but only if  
14 the discussion specifically identifies:

15 (1) design or functional schematics that demonstrate  
16 the relationship or connections between devices  
17 or systems,

18 (2) system configuration information,

19 (3) security monitoring and response equipment  
20 placement and configuration,

21 (4) specific location or placement of systems,  
22 components or devices,

23 (5) system identification numbers, names, or  
24 connecting circuits,

1 (6) business continuity and disaster planning, or  
2 response plans, or

3 (7) investigation information directly related to  
4 security penetrations or denial of services, or

5 f. the investigation of an act of terrorism that has  
6 already been committed.

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

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

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

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

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

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

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

23 ~~6.~~ The Oklahoma Health Research Committee for purposes of  
24 conferring on matters pertaining to research and development of

1 products, if public disclosure of the matter discussed would  
2 interfere with the development of patents, copyrights, products, or  
3 services;

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

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

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

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

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

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

1 services or if public disclosure would violate the confidentiality  
2 of the business;

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

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

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

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

24

1 1. The proposed executive session is noted on the agenda as  
2 provided in Section 311 of this title;

3 2. The executive session is authorized by a majority vote of a  
4 quorum of the members present and the vote is a recorded vote; and

5 3. Except for matters considered in executive sessions of the  
6 State Banking Board and the Oklahoma Savings and Loan Board, and  
7 which are required by state or federal law to be confidential, any  
8 vote or action on any item of business considered in an executive  
9 session shall be taken in public meeting with the vote of each  
10 member publicly cast and recorded.

11 F. A willful violation of the provisions of this section shall:

12 1. Subject each member of the public body to criminal sanctions  
13 as provided in Section 314 of this title; and

14 2. Cause the minutes and all other records of the executive  
15 session, including tape recordings, to be immediately made public.

16 SECTION 69. REPEALER Section 15, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 15), is hereby repealed.

18 SECTION 70. REPEALER Sections 107, 108, 109, 110, as  
19 amended by Section 4, Chapter 390, O.S.L. 2015, 111, 112, as amended  
20 by Section 5, Chapter 390, O.S.L. 2015, 113, 114, 115, 116, 117,  
21 118, as amended by Section 6, Chapter 390, O.S.L. 2015, 119 and 120,  
22 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 200, 201,  
23 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212 and 213), are  
24 hereby repealed.

1           SECTION 71. It being immediately necessary for the preservation  
2 of the public peace, health or safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

5

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO  
7 PASS, As Amended.

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