

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 701

By: Daniels

4  
5  
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending  
8 Sections 2, as amended by Section 1, Chapter 150,  
9 O.S.L. 2018, and 3, Chapter 208, O.S.L. 2013 (85A  
10 O.S. Supp. 2018, Sections 2 and 3), which relate to  
11 the Administrative Workers' Compensation Act;  
12 modifying definitions; specifying application of the  
13 Administrative Workers' Compensation Act; amending  
14 Section 6, Chapter 208, O.S.L. 2013, as amended by  
15 Section 1, Chapter 390, O.S.L. 2015 (85A O.S. Supp.  
16 2018, Section 6), which relates to crimes in  
17 violation of the Administrative Workers' Compensation  
18 Act; modifying certain notice requirement; amending  
19 Section 18, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
20 2018, Section 18), which relates to billing and  
21 collection of fees for services; expanding methods of  
22 providing notice; amending Section 19, Chapter 208,  
23 O.S.L. 2013, as amended by Section 4, H.J.R. No.  
24 1096, O.S.L. 2014 (85A O.S. Supp. 2018, Section 19),  
which relates to exempting certain communications  
from Open Meetings and Open Records Acts; providing  
for confidentiality of certain communications;  
amending Section 22, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Section 22), which relates to  
administration of the Administrative Workers'  
Compensation Act; modifying powers and duties of the  
Workers' Compensation Commission; amending Sections  
28, Chapter 208, O.S.L. 2013, as last amended by  
Section 1, Chapter 344, O.S.L. 2015, 29, Chapter 208,  
O.S.L. 2013 and 31, Chapter 208, O.S.L. 2013, as  
amended by Section 3, Chapter 344, O.S.L. 2015, (85A  
O.S. Supp. 2018, Sections 28, 29 and 31), which  
relate to the Multiple Injury Trust Fund; eliminating  
certain requirements for the administration or  
disbursement of certain funds; modifying requirements  
for certain annual fees; modifying responsibility for

1 administration of Multiple Injury Trust Fund;  
2 amending Sections 38 and 40, Chapter 208, O.S.L. 2013  
3 (85A O.S. Supp. 2018, Sections 38 and 40), which  
4 relate to securing workers' compensation for  
5 employees; changing certain rule-making authority;  
6 capping certain penalty; authorizing certain  
7 collection proceedings; authorizing disclosure of  
8 information under certain circumstances; authorizing  
9 proceeds of penalty to be awarded as certain  
10 compensation; amending Section 45, Chapter 208,  
11 O.S.L. 2013, as amended by Section 2, Chapter 390,  
12 O.S.L. 2015 (85A O.S. Supp. 2018, Section 45), which  
13 relates to disability; modifying temporary partial  
14 disability compensation; amending Section 60, Chapter  
15 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 60),  
16 which relates to evaluation of permanent disability;  
17 modifying reference to title of the director of the  
18 Commission; amending Sections 63, 67, 69, 71, 78, 80  
19 and 82, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
20 2018, Sections 63, 67, 69, 71, 78, 80 and 82), which  
21 relate to notification and procedure after injury;  
22 making certain reports confidential and not subject  
23 to the Oklahoma Open Records Act; modifying scope of  
24 review and compensation modification; expanding  
25 methods for certain notice; modifying allowable venue  
26 for hearings; directing deposit of certain filing  
27 fee; modifying procedure and requirements for review  
28 of compensation rulings; placing limitations on  
29 review; modifying entity that certain claims are  
30 brought against; amending Section 90, Chapter 208,  
31 O.S.L. 2013 (85A O.S. Supp. 2018, Section 90), which  
32 relates to bond or other deposit requirements;  
33 limiting Supreme Court review unless certain  
34 requirements are met; amending Section 101, Chapter  
35 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 101),  
36 which relates to certain reports and electronic data;  
37 modifying time for implementation of electronic data  
38 interchange system; amending Section 152, Chapter  
39 208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 109),  
40 which relates to the workers' compensation counselor  
41 or ombudsman program; eliminating the authority of  
42 the Commission to provide additional information  
43 regarding program; amending Section 158, Chapter 208,  
44 O.S.L. 2013 (85A O.S. Supp. 2018, Section 115), which  
45 relates to joint petitions for settlement; correcting  
46 references; amending Section 161, Chapter 208, O.S.L.  
47 2013 (85A O.S. Supp. 2018, Section 118), which

1 relates to fees; modifying scope of fee requirement;  
2 correcting statutory references; amending Section  
3 163, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
4 Section 120), which relates to inquiries about  
5 compensation claims; modifying scope of certain  
6 requests; correcting statutory reference; amending  
7 Section 164, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
8 2018, Section 121), which relates to the Advisory  
9 Council on Workers' Compensation; modifying duties of  
10 the Council; amending Section 165, Chapter 208,  
11 O.S.L. 2013, as amended by Section 4, Chapter 344,  
12 O.S.L. 2015 (85A O.S. Supp. 2018, Section 122), which  
13 relates to tax rates and distribution of certain  
14 funds; modifying certain apportionment and funding  
15 amount; amending Section 166, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 123), which  
17 relates to perjury; establishing exception to certain  
18 filing requirement; amending Section 167, Chapter  
19 208, O.S.L. 2013, as amended by Section 7, Chapter  
20 169, O.S.L. 2014 (85A O.S. Supp. 2018, Section 124),  
21 which relates to transfers from the Workers'  
22 Compensation Court; modifying transfer; amending  
23 Sections 121, 125, 126, 133, 134, 135, 137, 139, 141,  
24 142, 143, 144 and 148, Chapter 208, O.S.L. 2013 (85A  
O.S. Supp. 2018, Sections 300, 304, 305, 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; eliminating  
the authority of the Workers' Compensation Commission  
to appoint administrative law judges to assist the  
Court when vacancies occur on the Court; eliminating  
procedure whereby rulings of the Court are appealable  
to the Commission; eliminating certain duty of  
administrative law judges; repealing Section 15,  
Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018,  
Section 15), which relates to reports regarding  
funding needs for the Workers' Compensation Fraud  
Investigation Unit; repealing Section 25, Chapter  
208, O.S.L. 2013 (85A O.S. Supp. 2018, Section 25),  
which relates to annual publication of aggregate  
information; updating statutory references; repealing  
Section 57, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
2018, Section 57), which relates to scheduled  
treatment appointments; repealing Sections 107, 108,

1 109, 110, as amended by Section 4, Chapter 390,  
2 O.S.L. 2015, 111, 112, as amended by Section 5,  
3 Chapter 390, O.S.L. 2015, 113, 114, 115, 116, 117,  
4 118, as amended by Section 6, Chapter 390, O.S.L.  
5 2015, 119 and 120, Chapter 208, O.S.L. 2013 (85A O.S.  
6 Supp. 2018, Sections 200, 201, 202, 203, 204, 205,  
7 206, 207, 208, 209, 210, 211, 212 and 213), which  
8 relate to the Oklahoma Employee Injury Benefit Act;  
9 providing an effective date; and declaring an  
10 emergency.

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

12 SECTION 1. AMENDATORY Section 2, Chapter 208, O.S.L.  
13 2013, as amended by Section 1, Chapter 150, O.S.L. 2018 (85A O.S.  
14 Supp. 2018, Section 2), is amended to read as follows:

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

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

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

25 3. "Case management" means the ongoing coordination, by a case  
26 manager, of health care services provided to an injured or disabled  
27 worker, including but not limited to systematically monitoring the

1 treatment rendered and the medical progress of the injured or  
2 disabled worker; ensuring that any treatment plan follows all  
3 appropriate treatment protocols, utilization controls and practice  
4 parameters; assessing whether alternative health care services are  
5 appropriate and delivered in a cost-effective manner based upon  
6 acceptable medical standards; and ensuring that the injured or  
7 disabled worker is following the prescribed health care plan;

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

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

22 5. "Certified workplace medical plan" means an organization of  
23 health care providers or any other entity, certified by the State  
24 Commissioner of Health, that is authorized to enter into a

1 contractual agreement with an employer, group self-insurance  
2 association plan, an employer's workers' compensation insurance  
3 carrier, third-party administrator or an insured to provide medical  
4 care under the Administrative Workers' Compensation Act. Certified  
5 plans shall only include plans which provide medical services and  
6 payment for services on a fee-for-service basis to medical  
7 providers;

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

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

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

1 9. a. "Compensable injury" means damage or harm to the  
2 physical structure of the body, or prosthetic  
3 appliances, including eyeglasses, contact lenses, or  
4 hearing aids, caused solely as the result of either an  
5 accident, cumulative trauma or occupational disease  
6 arising out of the course and scope of employment. An  
7 "accident" means an event involving factors external  
8 to the employee that:

9 (1) was unintended, unanticipated, unforeseen,  
10 unplanned and unexpected,

11 (2) occurred at a specifically identifiable time and  
12 place,

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

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

16 b. "Compensable injury" does not include:

17 (1) injury to any active participant in assaults or  
18 combats which, although they may occur in the  
19 workplace, are the result of non-employment-  
20 related hostility or animus of one, both, or all  
21 of the combatants and which assault or combat  
22 amounts to a deviation from customary duties;  
23 provided, however, injuries caused by horseplay  
24

1 shall not be considered to be compensable  
2 injuries, except for innocent victims,

3 (2) injury incurred while engaging in or performing  
4 or as the result of engaging in or performing any  
5 recreational or social activities for the  
6 employee's personal pleasure,

7 (3) injury which was inflicted on the employee at a  
8 time when employment services were not being  
9 performed or before the employee was hired or  
10 after the employment relationship was terminated,

11 (4) injury where the accident was caused by the use  
12 of alcohol, illegal drugs, or prescription drugs  
13 used in contravention of physician's orders. If  
14 a biological specimen is collected within twenty-  
15 four (24) hours of the employee being injured or  
16 reporting an injury, ~~an~~ or if at any time after  
17 the injury a biological specimen is collected by  
18 the Oklahoma Office of the Chief Medical Examiner  
19 if the injured employee does not survive at least  
20 twenty-four (24) hours after the accident and the  
21 employee tests positive for intoxication, an  
22 illegal controlled substance, or a legal  
23 controlled substance used in contravention to a  
24 treating physician's orders, or refuses to



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

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

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

- 1 c. The definition of "compensable injury" shall not be  
2 construed to limit or abrogate the right to recover  
3 for mental injuries as described in Section 13 of this  
4 title, heart or lung injury or illness as described in  
5 Section 14 of this title, or occupational diseases as  
6 described in Section 65 of this title.
- 7 d. A compensable injury shall be established by medical  
8 evidence supported by objective findings as defined in  
9 paragraph 31 of this section.
- 10 e. The injured employee shall prove by a preponderance of  
11 the evidence that he or she has suffered a compensable  
12 injury.
- 13 f. Benefits shall not be payable for a condition which  
14 results from a non-work-related independent  
15 intervening cause following a compensable injury which  
16 causes or prolongs disability, aggravation, or  
17 requires treatment. A non-work-related independent  
18 intervening cause does not require negligence or  
19 recklessness on the part of a claimant.
- 20 g. An employee who suffers a compensable injury shall be  
21 entitled to receive compensation as prescribed in this  
22 act. Notwithstanding other provisions of law, if it  
23 is determined that a compensable injury did not occur,  
24

1           the employee shall not be entitled to compensation  
2           under this act;

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

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

13           12. "Continuing medical maintenance" means medical treatment  
14 that is reasonable and necessary to maintain claimant's condition  
15 resulting from the compensable injury or illness after reaching  
16 maximum medical improvement. Continuing medical maintenance shall  
17 not include diagnostic tests, surgery, injections, counseling,  
18 physical therapy, or pain management devices or equipment;

19           13. "Course and scope of employment" means an activity of any  
20 kind or character for which the employee was hired and that relates  
21 to and derives from the work, business, trade or profession of an  
22 employer, and is performed by an employee in the furtherance of the  
23 affairs or business of an employer. The term includes activities  
24 conducted on the premises of an employer or at other locations

1 designated by an employer and travel by an employee in furtherance  
2 of the affairs of an employer that is specifically directed by the  
3 employer. This term does not include:

- 4 a. an employee's transportation to and from his or her  
5 place of employment,
- 6 b. travel by an employee in furtherance of the affairs of  
7 an employer if the travel is also in furtherance of  
8 personal or private affairs of the employee,
- 9 c. any injury occurring in a parking lot or other common  
10 area adjacent to an employer's place of business  
11 before the employee clocks in or otherwise begins work  
12 for the employer or after the employee clocks out or  
13 otherwise stops work for the employer, or
- 14 d. any injury occurring while an employee is on a work  
15 break, unless the injury occurs while the employee is  
16 on a work break inside the employer's facility and the  
17 work break is authorized by the employee's supervisor;

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

1 independently of all other causes and the employee shall have  
2 completed at least one hundred eighty (180) days of continuous  
3 active employment with the employer;

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

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

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

15 18. a. "Employee" means any person, including a minor, in the  
16 service of an employer under any contract of hire or  
17 apprenticeship, written or oral, expressed or implied,  
18 but excluding one whose employment is casual and not  
19 in the course of the trade, business, profession, or  
20 occupation of his or her employer and excluding one  
21 who is required to perform work for a municipality or  
22 county or the state or federal government on having  
23 been convicted of a criminal offense or while  
24 incarcerated. "Employee" shall also include a member

1 of the Oklahoma National Guard while in the  
2 performance of duties only while in response to state  
3 orders and any authorized voluntary or uncompensated  
4 worker, rendering services as a firefighter, peace  
5 officer or emergency management worker. Travel by a  
6 policeman, fireman, or a member of a first aid or  
7 rescue squad, in responding to and returning from an  
8 emergency, shall be deemed to be in the course of  
9 employment.

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

11 (1) any person for whom an employer is liable under  
12 any Act of Congress for providing compensation to  
13 employees for injuries, disease or death arising  
14 out of and in the course of employment including,  
15 but not limited to, the Federal Employees'  
16 Compensation Act, the Federal Employers'  
17 Liability Act, the Longshore and Harbor Workers'  
18 Compensation Act and the Jones Act, to the extent  
19 his or her employees are subject to such acts,

20 (2) any person who is employed in agriculture,  
21 ranching or horticulture by an employer who had a  
22 gross annual payroll in the preceding calendar  
23 year of less than One Hundred Thousand Dollars  
24 (\$100,000.00) wages for agricultural, ranching or  
25

1 horticultural workers, or any person who is  
2 employed in agriculture, ranching or horticulture  
3 who is not engaged in operation of motorized  
4 machines. This exemption applies to any period  
5 of time for which such employment exists,  
6 irrespective of whether or not the person is  
7 employed in other activities for which the  
8 exemption does not apply. If the person is  
9 employed for part of a year in exempt activities  
10 and for part of a year in nonexempt activities,  
11 the employer shall be responsible for providing  
12 workers' compensation only for the period of time  
13 for which the person is employed in nonexempt  
14 activities,

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

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

1 (5) any person employed by an employer with five or  
2 fewer total employees, all of whom are related  
3 within the second degree by blood or marriage to  
4 the employer, ~~if the employer is a natural person~~  
5 ~~or a general or limited partnership, or an~~  
6 ~~incorporator of a corporation if the corporation~~  
7 ~~is the employer,~~ all of whom are dependents  
8 living in the household of the employer, or all  
9 of whom are a combination of such relatives and  
10 dependents. In the event the employer is not a  
11 natural person, such relative shall be related  
12 within the second degree by blood or marriage to  
13 a person who owns fifty percent (50%) or more of  
14 the employer or such dependent shall live in the  
15 household of a person who owns fifty percent  
16 (50%) or more of the employe,

17 (6) any person employed by an employer which is a  
18 youth sports league which qualifies for exemption  
19 from federal income taxation pursuant to federal  
20 law,

21 (7) sole proprietors, members of a partnership,  
22 individuals who are party to a franchise  
23 agreement as set out by the Federal Trade  
24 Commission franchise disclosure rule, 16 CFR



1 436.1 through 436.11, members of a limited  
2 liability company who own at least ten percent  
3 (10%) of the capital of the limited liability  
4 company or any stockholder-employees of a  
5 corporation who own ten percent (10%) or more  
6 stock in the corporation, unless they elect to be  
7 covered by a policy of insurance covering  
8 benefits under the Administrative Workers'  
9 Compensation Act,

10 (8) any person providing or performing voluntary  
11 service who receives no wages for the services  
12 other than meals, drug or alcohol rehabilitative  
13 therapy, transportation, lodging or reimbursement  
14 for incidental expenses except for volunteers  
15 specifically provided for in subparagraph a of  
16 this paragraph,

17 (9) a person, commonly referred to as an owner-  
18 operator, who owns or leases a truck-tractor or  
19 truck for hire, if the owner-operator actually  
20 operates the truck-tractor or truck and if the  
21 person contracting with the owner-operator is not  
22 the lessor of the truck-tractor or truck.

23 Provided, however, an owner-operator shall not be  
24 precluded from workers' compensation coverage

1 under the Administrative Workers' Compensation  
2 Act if the owner-operator elects to participate  
3 as a sole proprietor,

4 (10) a person referred to as a drive-away owner-  
5 operator who privately owns and utilizes a tow  
6 vehicle in drive-away operations and operates  
7 independently for hire, if the drive-away owner-  
8 operator actually utilizes the tow vehicle and if  
9 the person contracting with the drive-away owner-  
10 operator is not the lessor of the tow vehicle.

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

16 (11) any person who is employed as a domestic servant  
17 or as a casual worker in and about a private home  
18 or household, which private home or household had  
19 a gross annual payroll in the preceding calendar  
20 year of less than Fifty Thousand Dollars

21 (\$50,000.00) for such workers;

22 19. "Employer" means a natural person, partnership,  
23 association, limited liability company, corporation, and the legal  
24 representatives of a deceased employer, or the receiver or trustee

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

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

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

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

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

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

12           25. "Insurance Commissioner" means the Insurance Commissioner  
13 of the State of Oklahoma;

14           26. "Insurance Department" means the Insurance Department of  
15 the State of Oklahoma;

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

1           28. "Maximum medical improvement" means that no further  
2 material improvement would reasonably be expected from medical  
3 treatment or the passage of time;

4           29. "Medical services" means those services specified in  
5 Section 50 of this title;

6           30. "Misconduct" shall include the following:

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

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

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

6 (b) For the purpose of making permanent  
7 disability ratings to the spine, physicians  
8 shall use criteria established by the most  
9 current edition of the American Medical  
10 Association "Guides to the Evaluation of  
11 Permanent Impairment".

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

20 (b) Any difference in the baseline hearing  
21 levels shall be confirmed by subsequent  
22 testing; provided, however, such test shall  
23 be given within four (4) weeks of the  
24 initial baseline hearing level test but not

1 before five (5) days after being adjusted  
2 for presbycusis.

3 b. Medical opinions addressing compensability and  
4 permanent disability shall be stated within a  
5 reasonable degree of medical certainty;

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

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

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

21 35. "Permanent total disability" means, based on objective  
22 findings, incapacity, based upon accidental injury or occupational  
23 disease, to earn wages in any employment for which the employee may  
24 become physically suited and reasonably fitted by education,

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

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

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

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

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

21 40. "Scheduled member" or "member" means hands, fingers, arms,  
22 legs, feet, toes, and eyes. In addition, for purposes of the  
23 Multiple Injury Trust Fund only, "scheduled member" means hearing  
24 impairment;



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

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

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

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

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

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

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

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

11 SECTION 2. AMENDATORY Section 3, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 3), is amended to read as  
13 follows:

14 Section 3. A. ~~Every employer and every employee, unless~~  
15 ~~otherwise specifically provided in this act, shall be~~ subject and  
16 bound to the provisions of the Administrative Workers' Compensation  
17 Act. ~~However, nothing shall pay or provide benefits according to~~  
18 the provisions of this act for the accidental injury or death of an  
19 employee arising out of and in the course of his or her employment,  
20 without regard to fault for such injury, if the employee's contract  
21 of employment was made in this state or if the injury occurred  
22 within this state. If an employee makes a claim for an injury in  
23 another jurisdiction and a final adjudication is entered in the  
24 case, the employee is precluded from a right of action under the

1 Administrative Workers' Compensation Act of this state. If the  
2 employee makes a claim or brings an action in this state prior to a  
3 final adjudication in another jurisdiction, any receipt of benefits  
4 in the other jurisdiction shall not bar the claim or action in this  
5 state; provided, however, in no event shall the Workers'  
6 Compensation Commission grant benefits that duplicate benefits paid  
7 by the employer or the employer's insurance carrier in the other  
8 jurisdiction. Nothing in this act shall be construed to conflict  
9 with any valid Act of Congress governing the liability of employers  
10 for injuries received by their employees.

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

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

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

8        SECTION 3.        AMENDATORY        Section 6, Chapter 208, O.S.L.  
9 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.  
10 Supp. 2018, Section 6), is amended to read as follows:

11        Section 6. A. 1. a. Any person or entity who makes any material  
12 false statement or representation, who willfully and knowingly omits  
13 or conceals any material information, or who employs any device,  
14 scheme, or artifice, or who aids and abets any person for the  
15 purpose of:

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

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

22        b. A material false statement or representation includes,  
23        but is not limited to, attempting to obtain treatment  
24

1 or compensation for body parts that were not injured  
2 in the course and scope of employment.

3 c. Fifty percent (50%) of any criminal fine imposed and  
4 collected under this section shall be paid and  
5 allocated in accordance with applicable law to the  
6 Workers' Compensation Commission Revolving Fund  
7 ~~administered by the Commission.~~

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

12 B. A Except for forms submitted through the Electronic Data  
13 Interchange system employed by the Commission pursuant to Section  
14 101 of this title, copy of division (1) of subparagraph a of  
15 paragraph 1 of subsection A of this section shall be included on all  
16 forms prescribed by the Commission for the use of injured employees  
17 claiming benefits and for the use of employers in responding to  
18 employees' claims under this act.

19 C. Where the Commission or the Attorney General finds that a  
20 violation of division (1) of subparagraph a of paragraph 1 of  
21 subsection A of this section has been committed, or that any other  
22 criminal violations in furtherance of this act were committed, the  
23 chair of the Commission or the Attorney General shall refer the  
24

1 matter for appropriate action to the prosecuting attorney having  
2 criminal jurisdiction over the matter.

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

9 b. (1) The Unit shall investigate workers' compensation  
10 fraud, any additional criminal violations that  
11 may be related to workers' compensation fraud,  
12 and any other insurance fraud matters as may be  
13 assigned at the discretion of the Attorney  
14 General.

15 (2) The Attorney General shall designate the  
16 personnel assigned to the Unit, who, on meeting  
17 the qualifications established by the Oklahoma  
18 Council on Law Enforcement Education and  
19 Training, shall have the powers of specialized  
20 law enforcement officers of the State of Oklahoma  
21 for the purpose of conducting investigations  
22 under this subparagraph. Personnel hired as  
23 specialized law enforcement officers shall have a  
24 minimum of three (3) years of certified law  
25

1 enforcement experience or its equivalent in  
2 national or military law enforcement experience  
3 as approved by the Oklahoma Council on Law  
4 Enforcement Education and Training.

5 2. The Attorney General and his or her deputies and assistants  
6 and the Director of the Workers' Compensation Fraud Investigation  
7 Unit and his or her deputies and assistants shall be vested with the  
8 power of enforcing the requirements of this section.

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

17 4. a. In the course of any investigation being conducted by  
18 the Unit, the Attorney General and his or her deputies  
19 and assistants and the Director and his or her  
20 deputies and assistants shall have the power of  
21 subpoena and may:

22 (1) subpoena witnesses,

23 (2) administer oaths or affirmations and examine any  
24 individual under oath, and  
25

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

3 b. The issuance of subpoenas for witnesses shall be  
4 served in the same manner as if issued by a district  
5 court.

6 c. (1) Upon application by the commissioner or the  
7 Director of the Unit, the district court located in  
8 the county where a subpoena was served may issue an  
9 order compelling an individual to comply with the  
10 subpoena to testify.

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

13 d. If any person has refused in connection with an  
14 investigation by the Director to be examined under  
15 oath concerning his or her affairs, then the Director  
16 is authorized to conduct and enforce by all  
17 appropriate and available means any examination under  
18 oath in any state or territory of the United States in  
19 which any officer, director, or manager may then  
20 presently be to the full extent permitted by the laws  
21 of the state or territory.

22 e. In addition to the punishments described in paragraph  
23 1 of subsection A of this section, any person  
24 providing false testimony under oath or affirmation in  
25



1 this state as to any matter material to any  
2 investigation or hearing conducted under this  
3 subparagraph, or any workers' compensation hearing,  
4 shall upon conviction be guilty of perjury.

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

7 6. a. Every carrier or employer who has reason to suspect  
8 that a violation of division (1) of subparagraph a of  
9 paragraph 1 of subsection A of this section has  
10 occurred shall be required to report all pertinent  
11 matters to the unit.

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

18 c. (1) Any carrier or employer who willfully and  
19 knowingly fails to report a violation under  
20 division (1) of subparagraph a of paragraph 1 of  
21 subsection A of this section shall be guilty of a  
22 misdemeanor and on conviction shall be punished  
23 by a fine not to exceed One Thousand Dollars  
24 (\$1,000.00).

1 (2) Fifty percent (50%) of any criminal fine imposed  
2 and collected under this subparagraph shall be  
3 paid and allocated in accordance with applicable  
4 law to the ~~fund administered by the~~ Workers'  
5 Compensation Commission Revolving Fund.

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

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

16 2. The prosecuting attorney of the district to whom a suspected  
17 violation of subsection A of this section, or any other criminal  
18 violations that may be related thereto, have been referred shall,  
19 for the purpose of assisting him or her in such prosecutions, have  
20 the authority to appoint as special deputy prosecuting attorneys  
21 licensed attorneys-at-law in the employment of the Unit or any other  
22 designated insurance fraud investigation division within the  
23 Attorney General's office. Such special deputy prosecuting  
24 attorneys shall, for the purpose of the prosecutions to which they

1 are assigned, be responsible to and report to the prosecuting  
2 attorney.

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

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

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

14 I. The Except for forms submitted through the Electronic Data  
15 Interchange system employed by the Commission pursuant to Section  
16 101 of this title, Commission shall include a statement on all forms  
17 for notices and instructions to employees, employers, carriers and  
18 third-party administrators that any person who commits workers'  
19 compensation fraud, upon conviction, shall be guilty of a felony  
20 punishable by imprisonment, a fine or both.

21 ~~¶~~ If an injured employee is charged with workers' compensation  
22 fraud, any pending workers' compensation proceeding, including  
23 benefits, shall be stayed after the preliminary hearing is concluded  
24 and the claimant is bound over and shall remain stayed until the  
25

1 final disposition of the criminal case. All notice requirements  
2 shall continue during the stay.

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

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

16        SECTION 4.        AMENDATORY        Section 18, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 18), is amended to read as  
18 follows:

19        Section 18. A. No hospital, physician, or other health care  
20 provider shall bill or attempt to collect any fee or any portion of  
21 a fee for services rendered to an employee due to a work-related  
22 injury or report to any credit-reporting agency any failure of the  
23 employee to make the payment, when a claim for compensation has been  
24 filed under this act and the hospital, physician, or health care  
25

1 provider has received actual notice given in writing by the employee  
2 or the employee's representative. Actual notice shall be deemed  
3 received by the hospital, physician, or health care provider five  
4 (5) days after mailing by certified mail or sending by facsimile,  
5 electronic mail or other electronic means with receipt of  
6 confirmation by the employee or his or her representative to the  
7 hospital, physician, or health care provider.

8 B. The notice shall include:

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

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

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

3 E. An order by the Commission under this section shall stay all  
4 proceedings for collection.

5 SECTION 5. AMENDATORY Section 19, Chapter 208, O.S.L.  
6 2013, as amended by Section 4, H.J.R. No. 1096, O.S.L. 2014 (85A  
7 O.S. Supp. 2018, Section 19), is amended to read as follows:

8 Section 19. A. There is hereby created the Oklahoma Workers'  
9 Compensation Commission, an executive agency of the State of  
10 Oklahoma, which shall have the exclusive responsibility and duty to  
11 carry out the provisions of ~~this act~~ the Administrative Workers'  
12 Compensation Act, except as otherwise provided.

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

1 six (6) years, respectively, as determined by the Governor. If the  
2 Legislature is not in session at the time of appointment, the  
3 appointment shall be subject to confirmation by the Senate upon  
4 convening of the next regular session of the Legislature.

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

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

20 D. The principal office of the Commission shall be situated in  
21 the City of Oklahoma City in quarters assigned by the Office of  
22 Management and Enterprise Services. The Commission shall maintain  
23 and keep open, during reasonable business hours, the office in  
24 Oklahoma City, for the transaction of business, at which office its



1 official records and papers shall be kept. The Commission or any  
2 commissioner may hold hearings in any city of this state.

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

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

10 2. To employ administrative staff for the Commission, within  
11 budgetary limitation; and

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

14 F. All appeals or disputes arising from actions of the  
15 Commission shall be governed by provisions of ~~this act~~ the  
16 Administrative Workers' Compensation Act and the Commission shall  
17 not be subject to the provisions of the Oklahoma Administrative  
18 Procedures Act, except as provided in ~~this act~~ the Administrative  
19 Workers' Compensation 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. Communications, whether in person, by electronic medium or  
14 in writing, that reflect the pre-decisional deliberations of the  
15 Commissioners among each other or with Commission staff, and which  
16 occur while exercising their quasi-judicial duties such as reviewing  
17 decisions or awards made by the administrative law judges of the  
18 Commission pursuant to Section 78 of this title or reviewing  
19 arbitration awards pursuant to Section 322 and Section 323 of this  
20 title, shall not be subject to requirements of the Oklahoma Open  
21 Meeting Act or Oklahoma Open Records Act, shall be confidential and  
22 shall be considered protected deliberative communications.  
23  
24  
25

1 SECTION 6. AMENDATORY Section 22, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2018, Section 22), is amended to read as  
3 follows:

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

7 a. to make rules necessary for the administration and  
8 operation of the Commission,

9 b. to appoint and fix the compensation of temporary  
10 technical assistants, medical and legal advisers,  
11 clerical assistants and other officers and employees,  
12 and

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

17 2. a. ~~Before~~ The Commission shall vote on any substantive  
18 change to any form and the effective date of such  
19 substantive change.

20 b. The Commission shall comply with the Administrative  
21 Procedures Act applicable to the filing and  
22 publication requirements for rules before the  
23 adoption, prescription, amendment, modification, or  
24 repeal of any rule, ~~regulation, or form,~~ the

1           ~~Commission shall give at least thirty (30) days'~~  
2           ~~notice of its intended action.~~

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

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

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

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

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

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

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

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

5           1. To hear and approve compromise settlements;

6           2. To review and approve own-risk applications and group self-  
7 insurance association applications, except for those established  
8 pursuant to Section 85.58A of Title 74 of the Oklahoma Statutes;

9           3. To monitor own-risk, self-insurer and group self-insurance  
10 programs, in accordance with the rules of the Commission, except for  
11 those established pursuant to Section 85.58A of Title 74 of the  
12 Oklahoma Statutes;

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

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

22           6. To hear and determine claims concerning disputed medical  
23 bills;

1           7. To promulgate necessary rules for administering this ~~act~~  
2 title and develop uniform forms and procedures for use by  
3 administrative law judges. Such rules shall be reviewable by the  
4 Legislature;

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

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

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

17           10. Such other duties and responsibilities authorized by law.

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

1 SECTION 7. AMENDATORY Section 28, Chapter 208, O.S.L.  
2 2013, as last amended by Section 1, Chapter 344, O.S.L. 2015 (85A  
3 O.S. Supp. 2018, Section 28), is amended to read as follows:

4 Section 28. A. There are established within the Office of the  
5 State Treasurer two separate funds:

- 6 1. The "Multiple Injury Trust Fund"; and
- 7 2. The "Self-insurance Guaranty Fund".

8 ~~B. Except as provided in Section 97 of this title, no money~~  
9 ~~shall be appropriated from these funds for any purpose except for~~  
10 ~~the use and benefit, or at the direction, of the Oklahoma Workers'~~  
11 ~~Compensation Commission.~~

12 ~~C. Except as provided in Section 96 of this title, all funds~~  
13 ~~established under this section shall be administered, disbursed, and~~  
14 ~~invested under the direction of the Commission and the State~~  
15 ~~Treasurer.~~

16 ~~D.~~ All incomes derived through investment of the Multiple  
17 Injury Trust Fund shall be credited as investment income to the fund  
18 that participated in the investment.

19 ~~E.~~ C. No monies deposited to these funds shall be subject to  
20 any deduction, tax, levy, or any other type of assessment.

21 ~~F.~~ D. If the balance in the Multiple Injury Trust Fund becomes  
22 insufficient to fully compensate those employees to whom it is  
23 obligated, payment shall be suspended until such time as the  
24

1 Multiple Injury Trust Fund is capable of meeting its obligations,  
2 paying all arrearages, and restoring normal benefit payments.

3 ~~G.~~ E. On the effective maturity dates of each investment, the  
4 investment shall be transferred to the State Treasurer for deposit  
5 into the Multiple Injury Trust Fund created in this section.

6 ~~H.~~ F. Unless provided otherwise in the Administrative Workers'  
7 Compensation Act, all fines and penalties assessed under the  
8 Administrative Workers' Compensation Act shall be deposited into the  
9 Workers' Compensation Commission Revolving Fund. Any monies  
10 remaining in the Workers' Compensation Fund on June 30, 2015, shall  
11 be transferred to the Workers' Compensation Commission Revolving  
12 Fund.

13 SECTION 8. AMENDATORY Section 29, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2018, Section 29), is amended to read as  
15 follows:

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

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



1 C. ~~The Commission may assess~~ Each third-party ~~administrators~~  
2 administrator and marketing firm shall pay to the Commission an  
3 annual fee of One Thousand Dollars (\$1,000.00).

4 D. Fees required pursuant to this section shall be deposited  
5 into the Workers' Compensation Commission Revolving Fund.

6 SECTION 9. AMENDATORY Section 31, Chapter 208, O.S.L.  
7 2013, as amended by Section 3, Chapter 344, O.S.L. 2015 (85A O.S.  
8 Supp. 2018, Section 31), is amended to read as follows:

9 Section 31. A. The Multiple Injury Trust Fund shall be derived  
10 from the following additional sources:

11 1. As soon as practicable after January 1 of each year, the  
12 commissioners of the Workers' Compensation Commission shall  
13 establish an assessment rate applicable to each mutual or  
14 interinsurance association, stock company, CompSource Oklahoma, or  
15 other insurance carrier writing workers' compensation insurance in  
16 this state, each employer carrying its own risk, and each group  
17 self-insurance association, for amounts for purposes of computing  
18 the assessment authorized by this section necessary to pay the  
19 annual obligations of the Multiple Injury Trust Fund determined on  
20 or before December 31 of each year by the MITF Director, provided  
21 for in subsection P of this section, to be outstanding for the next  
22 calendar year, and to pay the allocations provided for in subsection  
23 I of this section. The rate shall be equal for all parties required  
24 to pay the assessment. If CompSource begins operating as a mutual

1 insurance company, the Board of Directors for CompSource Mutual  
2 Insurance Company shall have the power to disapprove the rate  
3 established by the MITF Director until the Multiple Injury Trust  
4 Fund repays in full the amount due on any loan from CompSource  
5 Mutual Insurance Company or its predecessor CompSource Oklahoma. If  
6 the MITF Director and CompSource have not agreed on the assessment  
7 rate within thirty (30) days, the Commission shall set an assessment  
8 rate sufficient to cover all foreseeable obligations of the Multiple  
9 Injury Trust Fund, including interest and principal owed by the Fund  
10 on any loan. The rate in effect on the effective date of this act  
11 shall remain effective through June 30, 2014;

12 2. The Oklahoma Tax Commission shall assess and collect from  
13 any uninsured employer a temporary assessment at the rate of five  
14 percent (5%) of the total compensation for permanent total  
15 disability awards, permanent partial disability awards, and death  
16 benefits paid out during each quarter of the calendar year by the  
17 employers;

18 3. The assessments shall be paid to the Tax Commission.  
19 Insurance carriers, self-insurers, group self-insurance associations  
20 and CompSource Oklahoma shall pay the assessment in four equal  
21 installments not later than the fifteenth day of the month following  
22 the close of each quarter of the calendar year of the assessment.  
23 Assessments shall be determined based upon gross direct written  
24 premiums, normal premiums or actual paid losses of the paying party,

1 as applicable, during the calendar quarter for which the assessment  
2 is due. Uninsured employers shall pay the assessment not later than  
3 the fifteenth day of the month following the close of each quarter  
4 of the calendar year of the assessment. For purposes of this  
5 section, "uninsured employer" means an employer required by law to  
6 carry workers' compensation insurance but who has failed or  
7 neglected to do so.

8 a. The assessment authorized in this section shall be  
9 determined using a rate equal to the proportion that  
10 the sum of the outstanding obligations of the Multiple  
11 Injury Trust Fund as determined pursuant to paragraph  
12 1 of this subsection and the allocations provided for  
13 in subsection I of this section bear to the combined  
14 gross direct written premiums of all such insurers;  
15 all actual paid losses of all individual self-  
16 insureds; and the normal premium of all group self-  
17 insurance associations, for the year period from  
18 January 1 to December 31 preceding the assessment.

19 b. For purposes of this subsection:

20 (1) "actual paid losses" means all medical and  
21 indemnity payments, including temporary  
22 disability, permanent disability, and death  
23 benefits, and excluding loss adjustment expenses  
24 and reserves, and

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

3 4. By April 15 of each year, the Insurance Commissioner, the  
4 MITF Director and each individual and group self-insured shall  
5 provide the Commission with such information as the Commission may  
6 determine is necessary to effectuate the purposes of this section;

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

16 6. a. No mutual or interinsurance association, stock  
17 company, CompSource Oklahoma, or other insurance  
18 carrier writing workers' compensation insurance in  
19 this state may be assessed in any year an amount  
20 greater than six percent (6%) of the gross direct  
21 written premiums of that insurer.

22 b. No employer carrying its own risk may be assessed in  
23 any year an amount greater than six percent (6%) of  
24

1 the total actual paid losses of that individual self-  
2 insured.

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

7 d. If the maximum assessment does not provide in any one  
8 year an amount sufficient to make all necessary  
9 payments for obligations of the Multiple Injury Trust  
10 Fund and for the allocations provided for in  
11 subsection I of this section, the unpaid portion shall  
12 be paid as soon thereafter as funds become available.

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

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

19 D. Any mutual or interinsurance association, stock company, or  
20 other insurance company, which is subject to regulation by the  
21 Insurance Commissioner, or CompSource Oklahoma, failing to make  
22 payments required in this act promptly and correctly, and failing to  
23 report payment of the same to the Insurance Commission within ten  
24 (10) days of payment shall be subject to administrative penalties as

1 allowed by law, including but not limited to a fine in the amount of  
2 Five Hundred Dollars (\$500.00) or an amount equal to one percent  
3 (1%) of the unpaid amount, whichever is greater, to be paid to the  
4 Insurance Commissioner.

5 E. Any employer carrying its own risk, or group self-insurance  
6 association failing to make payments required in this act promptly  
7 and correctly, and failing to report payment of the same to the  
8 Commission within ten (10) days of payment shall be subject to  
9 administrative penalties as allowed by law, including but not  
10 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or  
11 an amount equal to one percent (1%) of the unpaid amount, whichever  
12 is greater, to be paid to the Commission.

13 F. 1. On or before the first day of April of each year, the  
14 State Treasurer shall advise the Commission, the MITF Director and  
15 the Tax Commission of the amount of money held as of March 1 of that  
16 year by the State Treasurer to the credit of the Multiple Injury  
17 Trust Fund. On or before the first day of November of each year,  
18 the State Treasurer shall advise the Commission, the MITF Director  
19 and the Tax Commission of the amount of money held as of October 1  
20 of that year by the State Treasurer to the credit of the Multiple  
21 Injury Trust Fund.

22 2. Until such time as the Multiple Injury Trust Fund fully  
23 satisfies any loan obligation payable to CompSource Mutual Insurance  
24

1 Company or its predecessor CompSource Oklahoma, the State Treasurer  
2 shall:

- 3 a. advise the Chief Executive Officer of CompSource on or  
4 before the first day of April of the money held as of  
5 March 1 of that year by the State Treasurer to the  
6 credit of the Multiple Injury Trust Fund, and  
7 b. advise the Chief Executive Officer of CompSource on or  
8 before the first day of November of the money held as  
9 of October 1 of that year by the State Treasurer to  
10 the credit of the Multiple Injury Trust Fund.

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

1 Trust Fund for the making of such investments, when signed by the  
2 MITF Director, upon delivery of such securities or evidence of  
3 indebtedness to the State Treasurer. The MITF Director may sell any  
4 of such securities, the proceeds thereof to be paid over to the  
5 State Treasurer for the Multiple Injury Trust Fund.

6 H. The refund provisions of Sections 227 through 229 of Title  
7 68 of the Oklahoma Statutes shall be applicable to any payments made  
8 to the Multiple Injury Trust Fund. Refunds shall be paid from and  
9 out of the Multiple Injury Trust Fund.

10 I. The Tax Commission shall pay, monthly, to the State  
11 Treasurer to the credit of the Multiple Injury Trust Fund all monies  
12 collected pursuant to the provisions of this section. The State  
13 Treasurer shall pay out of the Multiple Injury Trust Fund only upon  
14 the order and direction of the Workers' Compensation Commission  
15 acting under the provisions hereof.

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

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

22 L. The MITF Director shall have authority to fulfill all  
23 payment obligations of the Multiple Injury Trust Fund.  
24



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

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

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

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

19 ~~O. The Workers' Compensation Commission shall be charged with~~  
20 ~~the administration and protection of the Multiple Injury Trust Fund.~~

21 ~~P.~~ The person serving as the Administrator of the Multiple  
22 Injury Trust Fund on the date of passage and approval of this act  
23 shall serve as the initial MITF Director, provided such person is  
24 serving as the Administrator of the Multiple Injury Trust Fund on

1 the effective date of this act. The MITF Director shall be  
2 appointed by and serve at the pleasure of the Governor.

3 ~~Q.~~ P. Any party interested shall have a right to bring a  
4 proceeding in the Supreme Court to review an award of the Commission  
5 affecting such Multiple Injury Trust Fund, in the same manner as is  
6 provided by law with reference to other awards by the Commission.

7 ~~R.~~ ~~The State Treasurer shall allocate to the Commission out of~~  
8 ~~the Multiple Injury Trust Fund sufficient funds for administration~~  
9 ~~expenses thereof in amounts to be fixed and approved by the~~  
10 ~~Administrator for the Multiple Injury Trust Fund, unless rejected by~~  
11 ~~the Commission.~~

12 SECTION 10. 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 11. 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 Revolving Fund, but not to exceed a total of  
12 Fifty Thousand Dollars (\$50,000.00) for the first violation.

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

22 7. Upon any penalty becoming final under this section, the  
23 Commission may institute collection proceedings independently or in  
24 district court including, but not limited to, an asset hearing,



1 garnishment of income and wages, judgment lien against personal or  
2 business property, or an intercept of an employer's income tax  
3 refund consistent with Section 205.2 of Title 68 of the Oklahoma  
4 Statutes.

5 8. Information subject to subsections A or B of Section 4-508  
6 of Title 40 of the Oklahoma Statutes may be disclosed to employees  
7 of the Commission for purposes of investigation and enforcement of  
8 workers' compensation coverage requirements pursuant to this title,  
9 and any such information shall be admissible in any hearing before  
10 an administrative law judge of the Commission.

11 SECTION 12. AMENDATORY Section 45, Chapter 208, O.S.L.  
12 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S.  
13 Supp. 2018, Section 45), is amended to read as follows:

14 Section 45. A. Temporary Total Disability. 1. If the injured  
15 employee is temporarily unable to perform his or her job or any  
16 alternative work offered by the employer, he or she shall be  
17 entitled to receive compensation equal to seventy percent (70%) of  
18 the injured employee's average weekly wage, but not to exceed  
19 seventy percent (70%) of the state average weekly wage, for one  
20 hundred four (104) weeks. Provided, there shall be no payment for  
21 the first three (3) days of the initial period of temporary total  
22 disability. If an administrative law judge finds that a  
23 consequential injury has occurred and that additional time is needed  
24 to reach maximum medical improvement, temporary total disability may

1 continue for a period of not more than an additional fifty-two (52)  
2 weeks. Such finding shall be based upon a showing of medical  
3 necessity by clear and convincing evidence.

4 2. When the injured employee is released from active medical  
5 treatment by the treating physician for all body parts found by the  
6 Commission to be injured, or in the event that the employee, without  
7 a valid excuse, misses three consecutive medical treatment  
8 appointments, fails to comply with medical orders of the treating  
9 physician, or otherwise abandons medical care, the employer shall be  
10 entitled to terminate temporary total disability by notifying the  
11 employee, or if represented, his or her counsel. If, however, an  
12 objection to the termination is filed by the employee within ten  
13 (10) days of termination, the Commission shall set the matter within  
14 twenty (20) days for a determination if temporary total disability  
15 compensation shall be reinstated. The temporary total disability  
16 shall remain terminated unless the employee proves the existence of  
17 a valid excuse for his or her failure to comply with medical orders  
18 of the treating physician or his or her abandonment of medical care.  
19 The administrative law judge may appoint an independent medical  
20 examiner to determine if further medical treatment is reasonable and  
21 necessary. The independent medical examiner shall not provide  
22 treatment to the injured worker, unless agreed upon by the parties.

23 B. Temporary Partial Disability.  
24  
25

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

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

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

16 C. Permanent Partial Disability.

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

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

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

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

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

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

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

19           b. If, for any reason other than misconduct as defined in  
20 Section 2 of this ~~act~~ title, the employer terminates  
21 the employee or the position offered is not the pre-  
22 injury or equivalent job, the remaining permanent  
23 partial disability award shall be paid in a lump sum.  
24 If the employee is discharged for misconduct, the

1 employer shall have the burden to prove that the  
2 employee engaged in misconduct.

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

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

13 e. Assessments pursuant to Sections 31, 98, ~~112~~ and ~~165~~  
14 122 of this ~~act~~ title shall be calculated based upon  
15 the amount of the permanent partial disability award  
16 and shall be paid at the time of the deferral.

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

1 permanent partial disability shall be only for such amount as was  
2 caused by such accidental personal injury or occupational disease  
3 and no additional compensation shall be allowed for the preexisting  
4 disability or impairment. Any such reduction shall not apply to  
5 temporary total disability, nor shall it apply to compensation for  
6 medical treatment.

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

18 b. In all cases, the applicable reduction shall be  
19 calculated as follows:

20 (1) if the preexisting impairment is the result of  
21 injury sustained while working for the employer  
22 against whom workers' compensation benefits are  
23 currently being sought, any award of compensation  
24 shall be reduced by the current dollar value

1                   attributable under the Administrative Workers'  
2                   Compensation Act to the percentage of permanent  
3                   partial disability determined to be preexisting.  
4                   The current dollar value shall be calculated by  
5                   multiplying the percentage of preexisting  
6                   permanent partial disability by the compensation  
7                   rate in effect on the date of the accident or  
8                   injury against which the reduction will be  
9                   applied, and

10                   (2) in all other cases, the employer against whom  
11                   benefits are currently being sought shall be  
12                   entitled to a credit for the percentage of  
13                   preexisting permanent partial disability.

14                   7. No payments on any permanent partial disability order shall  
15                   begin until payments on any preexisting permanent partial disability  
16                   orders have been completed.

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

19                   9. The permanent partial disability rate of compensation for  
20                   amputation or permanent total loss of use of a scheduled member  
21                   specified in Section 46 of this ~~act~~ title shall be seventy percent  
22                   (70%) of the employee's average weekly wage, not to exceed Three  
23                   Hundred Twenty-three Dollars (\$323.00), multiplied by the number of  
24                   weeks set forth for the member in Section 46 of this ~~act~~ title,



1 regardless of whether the injured employee is able to return to his  
2 or her pre-injury or equivalent job.

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

12 D. Permanent Total Disability.

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

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

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

19 E. 1. The Workers' Compensation Commission shall hire or  
20 contract for a Vocational Rehabilitation Director to oversee the  
21 vocational rehabilitation program of the Commission.

22 2. The Vocational Rehabilitation Director shall help injured  
23 workers return to the work force. If the injured employee is unable  
24 to return to his or her pre-injury or equivalent position due to  
25

1 permanent restrictions as determined by the treating physician, upon  
2 the request of either party, the Vocational Rehabilitation Director  
3 shall determine if it is appropriate for a claimant to receive  
4 vocational rehabilitation training or services, and will oversee  
5 such training. If appropriate, the Vocational Rehabilitation  
6 Director shall issue administrative orders, including, but not  
7 limited to, an order for a vocational rehabilitation evaluation for  
8 any injured employee unable to work for at least ninety (90) days.  
9 In addition, the Vocational Rehabilitation Director may assign  
10 injured workers to vocational rehabilitation counselors for  
11 coordination of recommended services. The cost of the services  
12 shall be paid by the employer. All administrative orders are  
13 subject to appeal to the full Commission.

14 3. There shall be a presumption in favor of ordering vocational  
15 rehabilitation services or training for an eligible injured employee  
16 under the following circumstances:

- 17 a. if the employee's occupation is truck driver or  
18 laborer and the medical condition is traumatic brain  
19 injury, stroke or uncontrolled vertigo,
- 20 b. if the employee's occupation is truck driver or  
21 laborer performing high-risk tasks and the medical  
22 condition is seizures,
- 23 c. if the employee's occupation is manual laborer and the  
24 medical condition is bilateral wrist fusions,

- 1 d. if the employee's occupation is assembly-line worker  
2 and the medical condition is radial head fracture with  
3 surgical excision,  
4 e. if the employee's occupation is heavy laborer and the  
5 medical condition is myocardial infarction with  
6 congestive heart failure,  
7 f. if the employee's occupation is heavy manual laborer  
8 and the medical condition is multilevel neck or back  
9 fusions greater than two levels,  
10 g. if the employee's occupation is laborer performing  
11 overhead work and the medical condition is massive  
12 rotator cuff tears, with or without surgery,  
13 h. if the employee's occupation is heavy laborer and the  
14 medical condition is recurrent inguinal hernia  
15 following unsuccessful surgical repair,  
16 i. if the employee's occupation is heavy manual laborer  
17 and the medical condition is total knee replacement or  
18 total hip replacement,  
19 j. if the employee's occupation is roofer and the medical  
20 condition is calcaneal fracture, medically or  
21 surgically treated,  
22 k. if the employee's occupation is laborer of any kind  
23 and the medical condition is total shoulder  
24 replacement,  
25

- 1           l.    if the employee's occupation is laborer and the  
2                    medical condition is amputation of a hand, arm, leg,  
3                    or foot,
- 4           m.    if the employee's occupation is laborer and the  
5                    medical condition is tibial plateau fracture, pilon  
6                    fracture,
- 7           n.    if the employee's occupation is laborer and the  
8                    medical condition is ankle fusion or knee fusion,
- 9           o.    if the employee's occupation is driver or heavy  
10                   equipment operator and the medical condition is  
11                   unilateral industrial blindness, or
- 12           p.    if the employee's occupation is laborer and the  
13                   medical condition is 3-, 4-, or 5-level positive  
14                   discogram of the cervical spine or lumbar spine,  
15                   medically treated.

16           4.    Upon the request of either party, or by order of an  
17    administrative law judge, the Vocational Rehabilitation Director  
18    shall assist the Workers' Compensation Commission in determining if  
19    it is appropriate for a claimant to receive vocational  
20    rehabilitation training or services.  If appropriate, the  
21    administrative law judge shall refer the employee to a qualified  
22    expert for evaluation of the practicability of, need for and kind of  
23    rehabilitation services or training necessary and appropriate in  
24    order to restore the employee to gainful employment.  The cost of

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

18 5. The administrative law judge may order vocational  
19 rehabilitation before the injured employee reaches maximum medical  
20 improvement, if the treating physician believes that it is likely  
21 that the employee's injury will prevent the employee from returning  
22 to his or her former employment. In granting early benefits for  
23 vocational rehabilitation, the Commission shall consider temporary  
24 restrictions and the likelihood that such rehabilitation will return

1 the employee to gainful employment earlier than if such benefits are  
2 granted after the permanent partial disability hearing in the claim.

3 6. Vocational rehabilitation services or training shall not  
4 extend for a period of more than fifty-two (52) weeks. A request  
5 for vocational rehabilitation services or training shall be filed  
6 with the Commission by an interested party not later than sixty (60)  
7 days from the date of receiving permanent restrictions that prevent  
8 the injured employee from returning to his or her pre-injury or  
9 equivalent position.

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

17 8. During the period when an employee is actively and in good  
18 faith being evaluated or participating in a retraining or job  
19 placement program for purposes of evaluating permanent total  
20 disability status, the employee shall be entitled to receive  
21 benefits at the same rate as the employee's temporary total  
22 disability benefits for an additional fifty-two (52) weeks. All  
23 tuition related to vocational rehabilitation services shall be paid  
24 by the employer or the employer's insurer on a periodic basis

1 directly to the facility providing the vocational rehabilitation  
2 services or training to the employee. The employer or employer's  
3 insurer may deduct the amount paid for tuition from compensation  
4 awarded to the employee.

5 F. Disfigurement.

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

10 2. No award for disfigurement shall be entered until twelve  
11 (12) months after the injury.

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

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

22 SECTION 13. AMENDATORY Section 60, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 60), is amended to read as  
24 follows:



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 14. AMENDATORY Section 63, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2018, Section 63), is amended to read as  
20 follows:

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

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

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

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

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

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

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

11           C. Any report provided for in subsection A or B of this section  
12 shall not be evidence of any fact stated in the report in any  
13 proceeding with respect to the injury or death on account of which  
14 the report is made. Any such report shall be kept confidential and  
15 shall not be open to public inspection; provided, however, such  
16 report shall be made available immediately upon request of the  
17 injured employee named in the report, the injured employee's legal  
18 representative or any prosecutorial authority, at such time as an  
19 employee's first notice of claim for compensation shall be filed.

20           D. The mailing of any report in a stamped envelope, properly  
21 addressed, within the time prescribed in subsection A or B of this  
22 section, shall be in compliance with this section. In addition, the  
23 Commission shall establish a means of electronic delivery of any  
24 report or other information required by this section.

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

4 2. Whenever the employer has failed or refused to comply as  
5 provided in this section, the Commission may serve on the employer a  
6 proposed judgment declaring the employer to be in violation of this  
7 act and containing the amount, if any, of the civil penalty to be  
8 assessed against the employer under this section.

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

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

23 H. If an employer fails to pay any civil penalty assessed  
24 against the employer after a judgment issued under this section has  
25

1 become final by operation of law, the Commission may petition the  
2 district court of the county where the employer's principal place of  
3 business is located for an order enjoining the employer from  
4 engaging in further employment or conduct of business until such  
5 time as the employer makes all required reports and pays all civil  
6 penalties.

7 SECTION 15. AMENDATORY Section 67, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 67), is amended to read as  
9 follows:

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

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

19 B. An award or denial of award of compensation for an  
20 occupational disease ~~or cumulative trauma~~ may be reviewed and  
21 compensation increased, reduced, or terminated where previously  
22 awarded, or awarded where previously denied, only on proof of fraud  
23 or undue influence or of change of condition, and then only on  
24 application by a party in interest made not later than one (1) year

1 after the denial of award or, where compensation has been awarded,  
2 after the award or the date when the last payment was made under the  
3 award, except in cases of silicosis or asbestosis, where the statute  
4 of limitations shall be two (2) years.

5 SECTION 16. AMENDATORY Section 69, Chapter 208, O.S.L.  
6 2013 (85A O.S. Supp. 2018, Section 69), is amended to read as  
7 follows:

8 Section 69. A. Time for Filing.

9 1. A claim for benefits under this act, other than an  
10 occupational disease, shall be barred unless it is filed with the  
11 Commission within one (1) year from the date of the injury. If  
12 during the one-year period following the filing of the claim the  
13 employee receives no weekly benefit compensation and receives no  
14 medical treatment resulting from the alleged injury, the claim shall  
15 be barred thereafter. For purposes of this section, the date of the  
16 injury shall be defined as the date an injury is caused by an  
17 accident as set forth in paragraph 9 of Section 2 of this ~~act~~ title.

18 2. a. A claim for compensation for disability on account of  
19 injury which is either an occupational disease or  
20 occupational infection shall be barred unless filed  
21 with the Workers' Compensation Commission within two  
22 (2) years from the date of the last injurious exposure  
23 to the hazards of the disease or infection.

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

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

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

17          4. If within six (6) months after the filing of a claim for  
18          compensation no bona fide request for a hearing has been made with  
19          respect to the claim, the claim may, on motion and after hearing, be  
20          dismissed with prejudice.

21            B. Time for Filing Additional Compensation.

22          1. In cases in which any compensation, including disability or  
23          medical, has been paid on account of injury, a claim for additional  
24          compensation shall be barred unless filed with the Commission within

1 one (1) year from the date of the last payment of ~~disability~~  
2 compensation or two (2) years from the date of the injury, whichever  
3 is ~~greater~~ later.

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

12 C. A claim for additional compensation shall specifically state  
13 that it is a claim for additional compensation. Documents which do  
14 not specifically request additional benefits shall not be considered  
15 a claim for additional compensation.

16 D. If within six (6) months after the filing of a claim for  
17 additional compensation no bona fide request for a hearing has been  
18 made with respect to the claim, the claim shall be dismissed without  
19 prejudice to the refiling of the claim within the limitation period  
20 specified in subsection B of this section.

21 E. Failure to File. Failure to file a claim within the period  
22 prescribed in subsection A or B of this section shall not be a bar  
23 to the right to benefits hereunder unless objection to the failure  
24 is made at the first hearing on the claim in which all parties in  
25

1 interest have been given a reasonable notice and opportunity to be  
2 heard by the Commission.

3 F. Persons under Disability.

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

9 2. Subsections A and B of this section shall not apply to a  
10 mental incompetent or minor so long as the person has no guardian or  
11 similar legal representative. The limitations prescribed in  
12 subsections A and B of this section shall apply to the mental  
13 incompetent or minor from the date of the appointment of a guardian  
14 or similar legal representative for that person, and when no  
15 guardian or similar representative has been appointed, to a minor on  
16 reaching the age of majority.

17 G. A latent injury or condition shall not delay or toll the  
18 limitation periods specified in this section. This subsection shall  
19 not apply to the limitation period for occupational diseases  
20 specified in paragraph 2 of subsection A of this section.

21 SECTION 17. AMENDATORY Section 71, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 71), is amended to read as  
23 follows:  
24



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

5 B. Investigation - Hearing.

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

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

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

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

21 5. The award, together with the statement of the findings of  
22 fact and other matters pertinent to the issues, shall be filed with  
23 the record of the proceedings, and a copy of the award shall  
24

1 immediately be sent to the parties in or to counsels of record, if  
2 any.

3 C. Evidence and Construction.

4 1. a. At the hearing the claimant and the employer may each  
5 present evidence relating to the claim. Evidence may  
6 be presented by any person authorized in writing for  
7 such purpose. The evidence may include verified  
8 medical reports which shall be accorded such weight as  
9 may be warranted when considering all evidence in the  
10 case.

11 b. Any determination of the existence or extent of  
12 physical impairment shall be supported by objective  
13 and measurable physical or mental findings.

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

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

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

1 D. Judgment. The judgment denying the claim or making the  
2 award shall be filed in the office of the Commission, and a copy  
3 shall be sent by registered mail, facsimile, electronic mail or by  
4 other electronic means with receipt of confirmation to the claimant  
5 and to the employer or to their attorneys.

6 E. No compensation for disability of an injured employee shall  
7 be payable for any period beyond his or her death; provided,  
8 however, an award of compensation for disability may be made after  
9 the death of the injured employee for the period of disability  
10 preceding death.

11 SECTION 18. AMENDATORY Section 78, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 78), is amended to read as  
13 follows:

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

1 B. The appellant shall pay a filing fee of One Hundred Seventy-  
2 five Dollars (\$175.00) to the Commission at the time of filing his  
3 or her appeal. The fee shall be deposited in the Workers'  
4 Compensation Commission Revolving Fund.

5 C. The judgment, decision or award of the Commission shall be  
6 final and conclusive on all questions within its jurisdiction  
7 between the parties unless an action is commenced in the Supreme  
8 Court of this state to review the judgment, decision or award within  
9 twenty (20) days of being sent to the parties. Any judgment,  
10 decision or award made by an administrative law judge shall be  
11 stayed until all appeal rights have been waived or exhausted. The  
12 Supreme Court may modify, reverse, remand for rehearing, or set  
13 aside the judgment or award only if it was:

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

1 This action shall be commenced by filing with the Clerk of the  
2 Supreme Court a certified copy of the judgment, decision or award of  
3 the Commission attached to the petition by the complaint which shall  
4 specify why the judgment, decision or award is erroneous or illegal.  
5 The proceedings shall be heard in a summary manner and shall have  
6 precedence over all other civil cases in the Supreme Court, except  
7 preferred Corporation Commission appeals. The Supreme Court shall  
8 require the appealing party to file within forty-five (45) days from  
9 the date of the filing of an appeal or a judgment appealed from, a  
10 transcript of the record of the proceedings before the Commission,  
11 or such later time as may be granted by the Supreme Court on  
12 application and for good cause shown. The action shall be subject  
13 to the law and practice applicable to other civil actions cognizable  
14 in the Supreme Court.

15 D. A fee of One Hundred Dollars (\$100.00) per appeal to the  
16 Supreme Court shall be paid to the Commission and deposited in the  
17 Workers' Compensation Fund as costs for preparing, assembling,  
18 indexing and transmitting the record for appellate review. This fee  
19 shall be paid by the party taking the appeal. If more than one  
20 party to the action files an appeal from the same judgment, decision  
21 or award, the fee shall be paid by the party whose petition in error  
22 commences the principal appeal.

1 SECTION 19. AMENDATORY Section 80, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2018, Section 80), is amended to read as  
3 follows:

4 Section 80. A. Except where a joint petition settlement has  
5 been approved, the Workers' Compensation Commission may reopen for  
6 review any compensation judgment, award, or decision. Such review  
7 based on a change of physical condition may be done at any time  
8 within six (6) months ~~of termination of the compensation period~~  
9 ~~fixed in the original compensation judgment or award~~ from the date  
10 of the last order in which monetary benefits or active medical  
11 treatment was provided, on the Commission's own motion or on the  
12 application of any party in interest, ~~on the ground of a change in~~  
13 ~~physical condition or on proof of erroneous wage rate~~ and unless  
14 filed within such period of time shall be forever barred. On  
15 review, the Commission may make a judgment or award terminating,  
16 continuing, decreasing, or increasing for the future the  
17 compensation previously awarded, subject to the maximum limits  
18 provided for in this ~~act~~ title. An order denying an application to  
19 reopen a claim shall not extend the period of time set out in this  
20 section for reopening the case. A failure to comply with a medical  
21 treatment plan ordered by the Commission shall bar the reopening of  
22 a claim.

23 B. The review and subsequent judgment or award shall be made in  
24 accordance with the procedure prescribed in Sections 69 through 78

1 of this ~~act~~ title. No review shall affect any compensation paid  
2 under a prior order, judgment or award.

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

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

11 SECTION 20. AMENDATORY Section 82, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 82), is amended to read as  
13 follows:

14 Section 82. A. 1. a. Fees for legal services rendered in a  
15 claim shall not be valid unless approved by the Workers'  
16 Compensation Commission.

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

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

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

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

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

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

21 c. A "controverted claim" means that there has been a  
22 contested hearing before the Commission over whether  
23 there has been a compensable injury or whether the  
24 employee is entitled to temporary total disability,



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

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

19 3. In any case where attorney fees are allowed by the  
20 Commission, the limitations expressed in subparagraph b of paragraph  
21 1 of this subsection shall apply.

22 4. Medical providers may voluntarily contract with the attorney  
23 for the employee to recover disputed charges, and the provider may  
24 charge a reasonable fee for the cost of collection.

1 B. An attorney representing an employee under this act may not  
2 recover fees for services except as expressly provided in this  
3 section.

4 SECTION 21. AMENDATORY Section 90, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 90), is amended to read as  
6 follows:

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

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

1 municipalities and other political subdivisions of this state are  
2 exempt from making such written undertakings.

3 SECTION 22. AMENDATORY Section 101, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 101), is amended to read as  
5 follows:

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

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

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

9 SECTION 23. AMENDATORY Section 152, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 109), is amended to read as  
11 follows:

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

19 B. Workers' compensation counselors or ombudsmen shall provide  
20 information to injured workers; investigate complaints; communicate  
21 with employers, insurance carriers, self-insurers, and health care  
22 providers; provide informational seminars and workshops on workers'  
23 compensation for medical providers, insurance adjustors, and  
24

1 employee and employer groups; and develop informational materials  
2 for employees, employers and medical providers.

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

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

17 SECTION 24. AMENDATORY Section 158, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2018, Section 115), is amended to read as  
19 follows:

20 Section 115. A. If the employee and employer shall reach an  
21 agreement for the full, final and complete settlement of any issue  
22 of a claim pursuant to this act, a form designated as "Joint  
23 Petition" shall be signed by both the employer and employee, or  
24 representatives thereof, and shall be approved by the Workers'

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

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

17 C. In the absence of fraud, a Joint Petition shall be deemed  
18 binding upon the parties thereto and a final adjudication of all  
19 rights pursuant to this act or the workers' compensation law in  
20 effect at the time of the injury or final order of the Workers'  
21 Compensation ~~Court~~ Commission. An official record shall be made by  
22 an official Commission reporter of the testimony taken to effect the  
23 Joint Petition.

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

11 SECTION 25. AMENDATORY Section 161, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 118), is amended to read as  
13 follows:

14 Section 118. A. At the time of commencement of a claim, a  
15 fee of One Hundred Forty Dollars (\$140.00) per case, including any  
16 Joint Petition, medical fee dispute, claim for discrimination or  
17 retaliation, or claim for benefits under the Multiple Injury Trust  
18 Fund authorized by this act title, shall be collected from the party  
19 filing the claim by the Workers' Compensation Commission ~~and~~. In  
20 the event any award becomes final against an employer, such amount  
21 shall be assessed as costs to be paid by the party against whom any  
22 award becomes final, to and paid to the injured employee. The  
23 filing fee shall be deposited as follows:  
24

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

3           2. Ten Dollars (\$10.00) to the credit of the Attorney General's  
4 Workers' Compensation Fraud Unit Revolving Fund created by Section  
5 19.2 of Title 74 of the Oklahoma Statutes; and

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

13           B. A fee of One Hundred Thirty Dollars (\$130.00) per action to  
14 reopen any case pursuant to Section 32 of this ~~act~~ title shall be  
15 collected by the Commission and assessed as costs to be paid by the  
16 party that reopens the case. The fee collected pursuant to this  
17 subsection shall be deposited to the credit of the Workers'  
18 Compensation Commission Revolving Fund for purposes of implementing  
19 the provisions of this act, including strengthening and providing  
20 additional funding for the Attorney General's Workers' Compensation  
21 Fraud Unit, providing counseling services pursuant to the workers'  
22 compensation counselor or ombudsman program and safety in the  
23 workplace.



1 SECTION 26. 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,  
25

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 27. 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  
25

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 28. 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.

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 Commission shall so notify the Tax Commission, giving the effective

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

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

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

20 1. To be fulfilled first, Five Million Dollars (\$5,000,000.00)  
21 shall be payable in equal monthly installments to the credit of the  
22 Workers' Compensation Commission Revolving Fund established in  
23 Section ~~2~~ 28.1 of this ~~act~~ title for the fiscal year ending June 30,  
24 ~~2016~~ 2020, and ~~Three Million Dollars (\$3,000,000.00) for the fiscal~~



1 ~~year ending June 30, 2017,~~ and for all subsequent years to be used  
2 to implement the provisions of this title; and

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

16 E. The refund provisions of Sections 227 through 229 of Title  
17 68 of the Oklahoma Statutes shall be applicable to any payments made  
18 pursuant to this section.

19 SECTION 29. AMENDATORY Section 166, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 123), is amended to read as  
21 follows:

22 Section 123. A. Any form, claim, answer or report to be filed  
23 by any person with the Workers' Compensation Commission pursuant to  
24 this act shall contain or be verified by a written declaration that,  
25

1 to the best of the knowledge of the filing party, such form, claim,  
2 answer or report is true and made under the penalty of perjury.

3 B. Notwithstanding subsection A of this section, submission of  
4 any report by Electronic Data Interchange pursuant to the  
5 requirements of Section 101 of this title is sufficient ipso facto  
6 to establish that the trading partner making the filing declares to  
7 the best of his or her knowledge that any information contained in  
8 the report is true and made under the penalty of perjury.

9 SECTION 30. AMENDATORY Section 167, Chapter 208, O.S.L.  
10 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.  
11 Supp. 2018, Section 124), is amended to read as follows:

12 Section 124. A. 1. All unexpended funds, assets, property,  
13 ~~and records, personnel and any outstanding financial obligations and~~  
14 ~~encumbrances of the Workers' Compensation Court before February 1,~~  
15 ~~2014, are hereby~~ shall be deemed transferred to the Workers'  
16 Compensation Commission at such time as the Legislature no longer  
17 appropriates funding to the Court independent of funding for the  
18 Commission for the purpose of maintaining such assets or records.  
19 ~~The personnel transferred shall retain leave, sick and annual time~~  
20 ~~earned and any retirement and longevity benefits which have accrued~~  
21 ~~during their employment with the state. The salaries of employees~~  
22 ~~who are transferred shall not be reduced as a direct and immediate~~  
23 ~~result of the transfer. There shall be no reduction in force as a~~  
24 ~~result of the transfer.~~

1           2. Any unexpended funds, including interest thereon, held by  
2 the State Treasurer in an interest-bearing division special account  
3 maintained by the Workers' Compensation Court before February 1,  
4 2014, from which a self-insured employer's workers' compensation  
5 obligations are paid following nonpayment by the self-insured  
6 employer for any reason, including insolvency, shall be transferred  
7 to the Workers' Compensation Commission. Such funds shall be  
8 expended by the Commission only for the purpose of paying workers'  
9 compensation obligations of the self-insured employer, and costs  
10 related to the administration of such obligations, to the extent of  
11 the availability of such funds.

12           B. 1. All unexpended funds, assets, property, and records and  
13 any outstanding financial obligations and encumbrances of the  
14 Workers' Compensation Self-insurance Guaranty Fund Board before  
15 February 1, 2014, are hereby transferred to the Self-insurance  
16 Guaranty Fund Board created in the Administrative Workers'  
17 Compensation Act.

18           2. Any unexpended funds, including interest thereon, held by  
19 the State Treasurer in the Workers' Compensation Self-insurance  
20 Guaranty Fund before February 1, 2014, shall be transferred to the  
21 Self-insurance Guaranty Fund Board created by the Administrative  
22 Workers' Compensation Act. Such funds shall be expended by the  
23 Board only as authorized in the Administrative Workers' Compensation  
24 Act.

1           3. Any claim existing or action or proceeding pending by,  
2 against or before the Workers' Compensation Self-insurance Guaranty  
3 Fund Board when the Board ceased existence may be continued as if  
4 the Self-insurance Guaranty Fund Board was not created, or the Self-  
5 insurance Guaranty Fund Board may be substituted in the matter. The  
6 Self-insurance Guaranty Fund Board shall be responsible and liable  
7 for all liabilities and obligations of the Workers' Compensation  
8 Self-insurance Guaranty Fund Board.

9           C. All property and records of the Physician Advisory Committee  
10 before February 1, 2014, are hereby transferred to the Physician  
11 Advisory Committee created in the Administrative Workers'  
12 Compensation Act.

13           D. All property and records of the Advisory Council on Workers'  
14 Compensation before February 1, 2014, are hereby transferred to the  
15 Advisory Council on Workers' Compensation created in the  
16 Administrative Workers' Compensation Act.

17           E. All unexpended funds, assets, property, records, personnel  
18 and any outstanding financial obligations and encumbrances of the  
19 Multiple Injury Trust Fund before February 1, 2014, are hereby  
20 transferred to the Multiple Injury Trust Fund created in the  
21 Administrative Workers' Compensation Act. The personnel transferred  
22 shall retain leave, sick and annual time earned and any retirement  
23 and longevity benefits which have accrued during their employment  
24 with the state. The salaries of employees who are transferred shall

1 not be reduced as a direct and immediate result of the transfer.  
2 There shall be no reduction-in-force as a result of the transfer.

3 F. The Director of the Office of Management and Enterprise  
4 Services is hereby directed to coordinate the transfer of funds,  
5 allotments, purchase orders, outstanding financial obligations or  
6 encumbrances provided for in subsections A and E of this section,  
7 and the transfer of funds, outstanding financial obligations or  
8 encumbrances provided for in subsection B of this section.

9 SECTION 31. AMENDATORY Section 121, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2018, Section 300), is amended to read as  
11 follows:

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

15 SECTION 32. AMENDATORY Section 125, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2018, Section 304), is amended to read as  
17 follows:

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

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

1 1. Waive or agree to vary the effect of the requirements of  
2 subsection A of Section ~~126~~ 305, subsection A of Section ~~127~~ 306,  
3 Section ~~128~~ 307, subsection A or B of Section ~~138~~ 317, Section ~~147~~  
4 326 or Section ~~149~~ 328 of this ~~act~~ title;

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

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

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

13 5. Agree to conduct arbitration proceedings outside of this  
14 state.

15 C. A party to an agreement to arbitrate or to an arbitration  
16 proceeding may not waive, or the parties may not vary the effect of,  
17 the requirements of this section or subsection A or C of Section ~~124~~  
18 304, Sections ~~128, 135 and 139~~ 307, 314 and 318, subsection D or E  
19 of Section ~~141~~ 320, Sections ~~143, 144 and 145~~ 322, 323 and 324, or  
20 subsection A or B of Section ~~146~~ 325 of this ~~act~~ title.

21 SECTION 33. AMENDATORY Section 126, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 305), is amended to read as  
23 follows:  
24

1 Section 305. A. Except as otherwise provided in Section ~~150~~  
2 107 of this ~~act~~ title, an application for judicial relief under this  
3 act shall be made by application and motion to the Workers'  
4 Compensation Commission and heard in the manner provided by law or  
5 rule of the Commission for making and hearing motions.

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

13 SECTION 34. AMENDATORY Section 133, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2018, Section 312), is amended to read as  
15 follows:

16 Section 312. A. Before accepting appointment, an individual  
17 who is requested to serve as an arbitrator, after making a  
18 reasonable inquiry, shall disclose to the parties to the arbitration  
19 agreement, the parties to the arbitration proceeding, and any other  
20 arbitrators any known facts that a reasonable person would consider  
21 likely to affect the impartiality of the arbitrator in the  
22 arbitration proceeding, including but not limited to:

23 1. A financial or personal interest in the outcome of the  
24 arbitration proceeding; and  
25

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

4           B. An arbitrator has a continuing obligation to disclose to the  
5 parties to the arbitration agreement, the arbitration proceeding,  
6 and to any other arbitrators any facts that the arbitrator learns  
7 after accepting appointment which a reasonable person would consider  
8 likely to affect the impartiality of the arbitrator.

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

16           SECTION 35.           AMENDATORY           Section 134, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 313), is amended to read as  
18 follows:

19           Section 313. If there is more than one arbitrator, the powers  
20 of an arbitrator shall be exercised by a majority of the  
21 arbitrators, but all of them shall conduct the hearing under Section  
22 ~~136~~ 315 of this ~~act~~ title.



1 SECTION 36. AMENDATORY Section 135, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2018, Section 314), is amended to read as  
3 follows:

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

8 B. The immunity afforded by this section supplements any  
9 immunity under other law.

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

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

20 1. The extent necessary to determine the claim of an  
21 arbitrator, arbitration organization, or representative of the  
22 arbitration organization against a party to the arbitration  
23 proceeding; or  
24

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

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

17           SECTION 37.           AMENDATORY           Section 137, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2018, Section 316), is amended to read as  
19 follows:

20           Section 316. A. A party to an arbitration proceeding may be  
21 represented by a lawyer.

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

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

3 SECTION 38. AMENDATORY Section 139, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2018, Section 318), is amended to read as  
5 follows:

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

16 SECTION 39. AMENDATORY Section 141, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2018, Section 320), is amended to read as  
18 follows:

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

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

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

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

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

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

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

20 3. To clarify the award.

21 E. An award modified or corrected under this section is subject  
22 to Sections ~~143, 144 and 145~~ 322, 323 and 324 of this ~~act~~ title.  
23  
24  
25

1 SECTION 40. AMENDATORY Section 142, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2018, Section 321), is amended to read as  
3 follows:

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

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

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

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

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

22 SECTION 41. AMENDATORY Section 143, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 322), is amended to read as  
24 follows:

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

8 SECTION 42. AMENDATORY Section 144, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2018, Section 323), is amended to read as  
10 follows:

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

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

17 2. There was:

18 a. evident partiality by an arbitrator appointed as a  
19 neutral arbitrator,

20 b. corruption by an arbitrator, or

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

23 3. An arbitrator refused to postpone the hearing upon showing  
24 of sufficient cause for postponement, refused to consider evidence

1 material to the controversy, or otherwise conducted the hearing  
2 contrary to Section ~~136~~ 315 of this ~~act~~ title, so as to prejudice  
3 substantially the rights of a party to the arbitration proceeding;

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

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

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

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

19 C. If the Commission vacates an award it may order a rehearing.  
20 If the award is vacated on a ground stated in paragraph 1, 2 or 6 of  
21 subsection A of this section, the rehearing shall be before a new  
22 arbitrator. If the award is vacated on a ground stated in paragraph  
23 3, 4 or 5 of subsection A of this section, the rehearing may be  
24 before the arbitrator who made the award or the arbitrator's

1 successor. The arbitrator shall render the decision in the  
2 rehearing within the same time as that provided in subsection B of  
3 Section ~~140~~ 319 of this ~~act~~ title for an award.

4 D. If the Commission denies a motion to vacate an award, it  
5 shall confirm the award unless a motion to modify or correct the  
6 award is pending.

7 SECTION 43. AMENDATORY Section 148, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2018, Section 327), is amended to read as  
9 follows:

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

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

19 SECTION 44. AMENDATORY Section 169, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2018, Section 400), is amended to read as  
21 follows:

22 Section 400. A. The Workers' Compensation Court shall be  
23 renamed the Workers' Compensation Court of Existing Claims for the  
24 purpose of hearing disputes relating to claims that arise before  
25



1 February 1, 2014. The Court shall consist of the existing judges  
2 for the remainder of his or her term. Each judge of the Court shall  
3 continue to serve as the appointment to a designated numbered  
4 position on the Court. The positions shall be numbered one through  
5 ten. The terms of the judges by position number shall expire on the  
6 following dates:

7 Position 1 shall expire 7-1-14.

8 Position 2 shall expire 7-1-14.

9 Position 3 shall expire 7-1-14.

10 Position 4 shall expire 7-1-20.

11 Position 5 shall expire 7-1-20.

12 Position 6 shall expire 7-1-16.

13 Position 7 shall expire 7-1-16.

14 Position 8 shall expire 7-1-20.

15 Position 9 shall expire 7-1-20.

16 Position 10 shall expire 7-1-14.

17 Provided, judges who are serving unexpired terms on the Workers'  
18 Compensation Court on the effective date of this section shall serve  
19 on the Court created by this section until their respective terms  
20 expire as provided in this act. Thereafter, each position shall be  
21 dissolved. After a judge serves this term, such judge shall be  
22 eligible to reapply for an administrative law judge with the  
23 Workers' Compensation Commission.

1       ~~When a vacancy on the Court occurs or is certain to occur, the~~  
2 ~~Workers' Compensation Commission shall assign administrative law~~  
3 ~~judges from the Commission to assist in the duties of the Workers'~~  
4 ~~Compensation Court of Existing Claims.~~

5       B. A judge may be removed for cause by the Court on the  
6 Judiciary prior to the expiration of his or her term.

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

11       D. The Court shall operate by the rules adopted by the Workers'  
12 Compensation Court prior to the effective date of this act.

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

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

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

4 H. Judges of the Workers' Compensation Court of Existing Claims  
5 may punish for direct contempt pursuant to Sections 565, 565.1 and  
6 566 of Title 21 of the Oklahoma Statutes.

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

23 J. ~~Any appeal of an order by the Workers' Compensation Court of~~  
24 ~~Existing Claims shall be heard by the Commission en banc. The~~

1 ~~Commission shall review the decision using an abuse of discretion~~  
2 ~~standard of review. Orders by the Commission may be appealed in~~  
3 ~~accordance with Section 78 of this act.~~

4 ~~K.~~ To protect the integrity of the transition from the Workers'  
5 Compensation Court to the administrative system created by this act,  
6 and to protect all rights and privileges of parties to claims  
7 adjudicated by the Workers' Compensation Court, the Commission shall  
8 retain all remedies and responsibilities of the Workers'  
9 Compensation Court for as long as cases involving claims for  
10 compensation accruing before the effective date of this act but  
11 filed thereafter or which were pending before or adjudicated by the  
12 Workers' Compensation Court shall remain open.

13 ~~L. K.~~ For an injury occurring before ~~the effective date of this~~  
14 ~~act~~ February 1, 2014, all benefits and procedures to obtain benefits  
15 shall be determined by the workers' compensation law of this state  
16 in effect on the date of the injury. Administrative law judges of  
17 the Commission shall enforce all final orders of the Workers'  
18 Compensation Court in a manner to secure for all parties the due  
19 process and equal protection guarantees of the Constitution of the  
20 State of Oklahoma.

21 ~~M. L.~~ All accrued rights and penalties incurred pursuant to a  
22 final order of the Workers' Compensation Court shall be preserved.  
23 Administrative law judges of the Commission shall be authorized to  
24 issue orders and conduct legal proceedings to enforce all such

1 accrued rights and penalties incurred. No accrued right, penalty  
2 incurred, or proceeding begun by virtue of a statute repealed by  
3 this act shall be abrogated by the terms of this act.

4 SECTION 45. REPEALER Sections 15, 25 and 57, Chapter  
5 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 15, 25 and 57), are  
6 hereby repealed.

7 SECTION 46. REPEALER Sections 107, 108, 109, 110, as  
8 amended by Section 4, Chapter 390, O.S.L. 2015, 111, 112, as amended  
9 by Section 5, Chapter 390, O.S.L. 2015, 113, 114, 115, 116, 117,  
10 118, as amended by Section 6, Chapter 390, O.S.L. 2015, 119 and 120,  
11 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 200, 201,  
12 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212 and 213), are  
13 hereby repealed.

14 SECTION 47. This act shall become effective July 1, 2019.

15 SECTION 48. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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