

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2015)

HOUSE BILL NO. \_\_\_\_\_  
Introduction

By: xxx

and

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Member Staff Draft

An Act relating to public health and safety; creating the Oklahoma Veteran Recovery Plan Act of 2015; appointing the Insurance Commissioner as the coordinator and administrator of the plan; providing payment for effective treatment for certain injuries; creating certain revolving fund; creating certain partnerships and interagency coordinations; creating the Oklahoma TBI Treatment Act; requiring payment for certain treatments be made from certain revolving fund; requiring certain annual report; establishing certain funding levels; providing for codification; and declaring an emergency.

[Findings: (Omitted from the Senate Version of the Bill and provided as separate copy.)

Finding 1: Economic Burden: Oklahoma's Veteran Population is 324,000 men and women, and of those who have served in combat, between 43000 and 53,000 have traumatic brain injury or PTSD as a result of their service. Over 27,000 veterans are unemployed. In addition, the civilian labor force has 10,800 discouraged workers who have left the work force, many of whom are veterans. In the

1 civilian work force there are 29,500 persons who are marginally  
2 attached to the work force or working part time. These inadequately  
3 treated veterans has created an economic burden on the state's  
4 budget. According to the Oklahoma Department of Commerce, each  
5 person who returned to full time work is nearly \$4,000 in average  
6 annual state revenue. It is feasible, using currently available  
7 effective treatment protocols proven here in the State of Oklahoma,  
8 to return approximately 80% of these people to full time work,  
9 creating new revenue in the state budget of \$79 million per year.  
10 The single cost of these effective treatment protocols is far less  
11 than the multi-year revenue created for the state budget, and the  
12 state recovers its costs within a few years, even if the state were  
13 never reimbursed by the Federal government. The recovery of these  
14 persons will not only result in greater productivity, but it will  
15 also result in lowered social welfare costs, reduced substance  
16 abuse, incarceration, motor vehicle accident and other tragedies.  
17 Similar savings exist in the civilian population. Further, acute  
18 protocols exist that prevent long term disability for minimal cost,  
19 compared to leaving these persons untreated as the current medical  
20 system does. This is especially applicable to at-risk first-  
21 responders and victims of accident or natural disasters.

22 Finding 2: The Federal Veterans System is overwhelmed by the  
23 numbers of war casualties and is providing inadequate services to  
24 Oklahoma's veterans. Since the state has the sovereign duty to make

1 | sure its citizens are cared for under the police powers (health,  
2 | welfare and morals) provided under our constitutional system of  
3 | government, and since the Veterans Bureau Act of 1921 provides that  
4 | the Federal government must reimburse the states when the state  
5 | provides services to veterans in its care, the mechanisms exist to  
6 | recover these costs.

7 |       Finding 3: The complexity of injuries affects numerous state  
8 | agencies and makes coordination of already available resources even  
9 | more essential. Delay in effective treatment will lead to lives  
10 | that are more difficult to put back together than rescue before  
11 | disintegration of interpersonal relationships, incarceration or  
12 | other adverse events.

13 |       Therefore: The goal of the Oklahoma Veteran Recovery Plan is to  
14 | rescue as many at-risk and injured veterans as possible in order to  
15 | restore wholeness to their lives and improve productivity,  
16 | opportunity, and community. The plan outlined, and negotiations  
17 | with the principle providers of treatment services, indicate the  
18 | plan will provide full treatment for 5,000 veterans per year, to  
19 | clear the backlog of 27,000 injured National Guard members within 5  
20 | years, and provide partial treatment services to approximately  
21 | 20,000 per year to help them begin their recovery process. All  
22 | treatment is conducted under institutional review board approved  
23 | studies, which permits the aggregation of data for better health and  
24 | public policy purposes and provides protection to all patients, both

1 for their privacy, to prevent retaliation, and permit full tracking  
2 of positive and negative outcomes.

3 This legislation provides "glue-money" through contracts and  
4 coordination with the Oklahoma State Department of Insurance to  
5 coordinate services for veterans between all related state agencies.  
6 This legislation provides funding for verification and evaluation of  
7 effective treatment with the University of Oklahoma, and training  
8 and education in effective therapy through Oklahoma State  
9 University's School of Medicine along with coordination of effective  
10 work force development and reemployment through Oklahoma State  
11 University, including coordination between the State Department of  
12 Corrections, the State Department of Education, and the State  
13 Department of Labor. This money, provided through a user fee on  
14 federally set treatment fees, is independent of the state budgets of  
15 each of the agencies with which coordination will be conducted.

16 Finding 4: PTSD and traumatic brain injury and insults also  
17 effect the civilian population. Participation by private insurance  
18 carriers is voluntary in this legislation. It is expected that the  
19 private insurance carrier will achieve greater profit by  
20 participating in effective treatment for these injuries in the  
21 civilian world.

22 Therefore the legislation also includes provisions also provide  
23 for treatment for police officers, fire fighters, victims of crime,  
24 and civilians who would benefit from these programs. Effective

1 biological repair treatments and other therapies shall be made  
2 available for treatment of brain insults and post-traumatic stress  
3 disorder (PTSD), and other service-connected injuries. In addition  
4 the similar injuries that help drive entitlement programs,  
5 disability, substance abuse, and cause crime, will also be able to  
6 find relief, thus enhancing state revenues through greater  
7 employment and productivity, and reducing entitlement costs,  
8 incarceration, education costs, creating positive cultures with less  
9 crime, leading to more productive and stable environments for state  
10 residents.

11 Coordination of state resources and partnerships with non-profit  
12 and for-profit organizations with expertise shall be established,  
13 and voluntary participation by private insurance carriers will be  
14 encouraged. A large budget savings is anticipated with new state  
15 revenues and increase profits to insurance carriers that participate  
16 in the program. Reports are required to the legislature with valid  
17 concrete measurements of results.

18 Treatment shall begin and payment for treatment shall be  
19 organized under observational study regulations creating controlled  
20 deployment of treatment that is effective for a given individual,  
21 with shared responsibility between the state's two major  
22 universities. The medical schools will assist in coordinating  
23 medical treatment, providing education and training, and in  
24 conjunction with state patent holders, data collection certification

1 of treatment effectiveness. In addition, workforce education and  
2 training to increase the employability of persons covered under this  
3 act, will be coordinated across state agencies through university  
4 contracts with the state. Finally, capital resources will be made  
5 available for needed equipment which will be collected from  
6 treatment fees. Interagency coordination of resources throughout  
7 the state will assist the state in meeting emergency presented by  
8 tens of thousands of injured but inadequately treated veterans  
9 within the state. END OF FINDINGS]

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

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-291 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 Sections 1 through 5 of this act shall be known and may be cited  
16 as the "Oklahoma Veteran Recovery Plan Act of 2013".

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-291.1 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 The Insurance Commissioner is hereby appointed as the Oklahoma  
21 Veteran Recovery Plan Administrator who shall be charged with the  
22 duty of administration of the Oklahoma Veteran Recovery Plan Act of  
23 2014. The Plan Administrator shall be authorized to hire and train  
24 additional employees or negotiate agreements with third-party

1 organizations, as may be necessary, to properly discharge the duties  
2 imposed upon the Plan Administrator under the Oklahoma Veteran  
3 Recovery Plan Act of 2014. Funds appropriated to the Plan  
4 Administrator from the Oklahoma Veteran Recovery Plan Revolving  
5 Fund, created under Section 3 of this act, shall be used to pay  
6 necessary salaries, services and expenses on behalf of the Plan  
7 Administrator or any authorized representatives of the Plan  
8 Administrator. The Plan Administrator or authorized representatives  
9 shall begin recovery of the state's costs for delivering such  
10 treatments to veterans and shall begin discussions with third-party  
11 payers in the state for voluntary participation in the program.  
12 Under the rules of the Oklahoma TBI Treatment Act, created under  
13 Section 6 of this act, payments from the Oklahoma Veteran Recovery  
14 Plan Revolving Fund or any participating carrier are only paid to a  
15 treatment facility when verification is made that the treatment  
16 actually improves clinical outcomes as defined in Section 6 of this  
17 act.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-291.3 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. There is hereby created in the State Treasury a revolving  
22 fund for the Plan Administrator called the Oklahoma Veteran Recovery  
23 Plan Revolving Fund (OKVRPRF). The revolving fund shall be used to  
24 fund the administration of the Oklahoma Veteran Recovery Plan Act of

1 2014. The fund shall be a continuing fund not subject to fiscal  
2 year limitations and shall be subject to the administrative  
3 direction of the Plan Administrator. The fund shall consist of all  
4 monies received by the Plan Administrator to carry out the purpose  
5 of the Oklahoma Veteran Recovery Plan Act of 2014. All monies  
6 accruing to the credit of the OKVRPRF are hereby appropriated and  
7 may be budgeted and expended by the Plan Administrator for the  
8 purpose of providing services pursuant to the Oklahoma Veteran  
9 Recovery Plan Act of 2014. Expenditures from the OKVRPRF shall be  
10 made upon warrants issued by the State Treasurer against claims  
11 filed as prescribed by law with the Director of the Office of  
12 Management and Enterprise Services for approval and payment for al  
13 authorized expenditures.

14 B. All providers who are seeking payment for services to  
15 persons receiving services under the Oklahoma Veteran Recovery Plan  
16 Act of 2014 shall bill the Plan Administrator in accordance with  
17 published procedure. Providers shall be paid for those services at  
18 Medicare published rates for those services, less the appropriate  
19 administrative fees, program fees, capital improvement or education  
20 or training fees applicable to each site.

21 C. The Plan Administrator shall approve the sites for  
22 installation of needed equipment, based upon available funds in the  
23 revolving fund, by criteria set by the Plan Administrator and  
24 approve expenditures for training or education.



1 D. The Plan Administrator shall have full power and authority  
2 to administer the provisions of the Oklahoma Veteran Recovery Plan  
3 Act of 2014 and to adopt and promulgate rules and regulations to  
4 enforce its purposes and provisions.

5 E. The Center for Aerospace and Hyperbaric Medicine of the  
6 Oklahoma State University Center for Health Sciences (OSUCHS CAHM)  
7 shall have full statewide jurisdiction over all medical treatments  
8 provided to validate delivery, verify testing, and to conduct  
9 appropriate inspections, in partnership with the International  
10 Hyperbaric Medical Foundation's responsibilities under the  
11 nationally sponsored studies.

12 F. For purposes of the Oklahoma Veteran Recovery Plan Act of  
13 2014, and treatment conducted in a state-owned facility or any  
14 treatment conducted in a private facility by a state-employed or a  
15 university-employed physician or private physician shall be covered  
16 by The Oklahoma Governmental Tort Claims Act and subject to  
17 applicable limits of liability.

18 SECTION 4. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-291.4 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 The Oklahoma Veteran Recovery Plan Act of 2014 creates a  
22 partnership to be coordinated by the Oklahoma University Health  
23 Sciences Center College of Public Health (OUHSC CPH), OU-Norman's  
24 Cognitive Science Research Center (CSRC), and the OSU College of

1 Education, Department of Occupational Education or its successor.  
2 Each of these organizations within the state university system shall  
3 have independent jurisdiction within their areas of expertise, with  
4 OUHSC CPH in charge of the overall state contract, funded from  
5 treatment fee administrative costs, for biostatistical analysis and  
6 evaluation created by the Oklahoma Veterans Recovery Plan Act of  
7 2013. The OUHSC CPH shall independently validate all treatment  
8 results under rules specified in the Oklahoma TBI Treatment Act,  
9 created under Section 6 of this act, and certify the receipt of  
10 those results before payment is issued from the OKVRPRF, as well as  
11 tracking long-term outcome measures that impact state budget  
12 expenditures such as education, labor, substance abuse,  
13 homelessness, incarceration, healthcare outcomes, and entitlement  
14 program utilization. They shall automatically receive a per-  
15 treatment fee payment from the OKVRPRF, when the site receives  
16 payment for a given patient. The Plan Administrator shall rely upon  
17 the OUHSC CPH for biostatistical analysis and verification of  
18 treatment effectiveness as required by the Oklahoma TBI Treatment  
19 Act created in Section 6 of this act. The OKEBPC shall share their  
20 analysis with the International Hyperbaric Medical Foundation so  
21 that data can be appropriately reported to the FDA and others under  
22 their obligations for the national studies.

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1 SECTION 4. NEW LAW Provision of Therapies with the  
2 Department of Rehabilitation Service and State Regulation of  
3 Hyperbaric Oxygen Treatments for Payment under OKVRP.

4 A new section of law to be codified in the Oklahoma Statutes as  
5 Section 1-291.2 of Title 63, unless there is created a duplication  
6 in numbering, reads as follows:

7 A. Several different treatment modalities have been shown to  
8 have positive effect on positive patient outcomes. These  
9 include cognitive rehabilitation and hyperbaric oxygen  
10 therapy.

11 B. Cognitive Rehabilitation: [Information for the Legislator:  
12 Cognitive Rehabilitation has a history of effectiveness  
13 dating to the 1980s. Computerized cognitive rehabilitation  
14 is extremely cost effective and equally therapeutically  
15 effective with individuals not in a rehabilitation hospital  
16 setting. The State Department of Rehabilitation Services  
17 already has a contract of computerized cognitive  
18 rehabilitation therapy (Contract 1300122) that has been  
19 shown to be very effective under the model outlined in this  
20 legislation, and the contract has similar requirements for  
21 payment outlined in the TBI Treatment Act to pay for  
22 treatment only when treatment is deemed effective. This  
23 contract is with an Oklahoma Company that provides multi-  
24 state services. Traditionally Department of Rehabilitation

1 Services has excluded veterans from treatment. Ninety-  
2 percent of the program is federally funded.]

3 a. For the purposes of this act, existing contracts to  
4 assist veterans with rehabilitation under the rules and  
5 regulations in existence at the Oklahoma Department of  
6 Rehabilitation Services, shall also be extended to cover  
7 veterans and others eligible for treatment under this  
8 act.

9 b. The state share of those expenditures will be taken from  
10 the Oklahoma Veteran Recovery Plan Revolving Fund and be  
11 submitted by the State Insurance Commission for repayment  
12 under the rules of this act.

13 c. For the purposes of the Oklahoma Veteran Recovery Plan Act  
14 of 2014, hyperbaric oxygen treatment (HBOT) shall mean  
15 treatment in a hyperbaric chamber cleared by the United  
16 States Food and Drug Administration (FDA) with a valid  
17 prescription, or a device with an appropriate FDA-approved  
18 investigational device exemption, at a location in  
19 compliance with applicable state fire codes, supervised in  
20 accordance with requirements in the Oklahoma Veteran  
21 Recovery Plan Act of 2014, which shall be deemed to meet all  
22 third-party-payer requirements, and delivered by authorized,  
23 licensed or nationally certified health care providers and  
24 otherwise in accordance with state law. No other more

1 restrictive rules restricting payment shall be placed upon  
2 the practitioner or health care provider in the state. No  
3 payment shall be denied by a third-party payer when  
4 treatment is delivered under these rules, under valid  
5 prescription for any FDA-cleared HBOT indication or when  
6 delivered under the auspices of an Institutional-Review-  
7 Board-approved observational study with a National Clinical  
8 Trial (NCT) number. The requirement for physician  
9 supervision shall permit the use of telemedicine tools to  
10 provide such supervision. The physical presence of a  
11 physician is preferred but not necessary.

12 B. 1. Physician supervision shall be paid at the Centers for  
13 Medicare and Medicaid Services (CMS) published Part B facility rate.  
14 Of this fee, no less than fifty percent (50%) of the published rate  
15 shall be paid to the physician who actually provides the  
16 supervision, after contractual or institutional fees are subtracted  
17 from the gross payment.

18 2. Physician supervision provided by telemedicine shall be  
19 considered the equivalent of physician supervision provided by the  
20 physical presence of a physician under this requirement. Where  
21 possible or practicable, physical physician presence is preferable.

22 3. The purpose of physician supervision is to validate:

23 a. that the treatment protocol is being followed,  
24

- 1           b. that clearly indicated patient risks are being  
2           avoided,  
3           c. that symptoms of rare side effects are not being  
4           manifested, and  
5           d. that treatment was provided for in accordance with the  
6           required FDA-approved research protocols as  
7           applicable.

8           4. Patient interaction is intended to ensure patient progress  
9           and reassurance as their treatment progresses. The bench marks  
10          being evaluated under the research protocols involved may be missed  
11          by personnel of lesser training. Therefore, the physician shall:

- 12           a. converse with the patient or caregiver prior to  
13           treatment to ensure the patient is making adequate  
14           progress anticipated under the specified treatment  
15           protocol,  
16           b. perform, or cause to be performed by a qualified  
17           person, any appropriate pre-dive exam should questions  
18           during the pretreatment interview warrant such  
19           examination,  
20           c. record patient progress notes appropriately,  
21           d. validate that the treatment given was in accordance  
22           with the patient prescription or protocol,  
23           e. check with the provider during the treatment time to  
24           make sure treatment is proceeding smoothly,

- 1 f. be available posttreatment should any concerns have  
2 arisen during treatment, and
- 3 g. enter data into the patient's treatment record  
4 appropriately, validating the date of treatment, the  
5 protocol followed, the duration of treatment, and any  
6 expected or unexpected adverse events, in accordance  
7 with best practices guidelines.

8 5. Other physician responsibilities to other duties during the  
9 time of treatment are not to be restricted.

10 6. No other more restrictive requirements may be imposed in the  
11 State of Oklahoma outside of these guidelines by any payer.

12 7. HBOT is already an authorized treatment modality and brain  
13 injury and PTSD are already approved medical conditions requiring  
14 treatment.

15 8. Since 1998, the State of Oklahoma is not able to send  
16 Medicaid patients to the state-owned chamber in Tulsa, Oklahoma to  
17 prevent amputations, treat burn patients, treat radiation necrosis  
18 or any of the generally accepted indications, and be paid from the  
19 state's Medicaid or Federal Medicare funds. Therefore, where HBOT  
20 has been shown to reduce the costs of treatment of certain  
21 conditions and injuries, or increase the effectiveness of treatment,  
22 the Oklahoma Health Care Authority shall seek any waivers or  
23 approvals required from the CMS in order to implement the safe and  
24 effective use of HBOT throughout the state Medicaid system. If a

1 Medicare Administrative Contractor (MAC) or Fiscal Intermediary (FI)  
2 creates or enforces a Local Coverage Determination (LCD) that  
3 restricts access to treatment or the availability of treatment for  
4 any CMS National Coverage Determination to patients needing HBOT,  
5 the Authority shall seek to have the MAC or FI override the LCD.  
6 State health care providers shall not be restricted by any such LCD  
7 and state funds and resources shall be used to pay for all  
8 treatments at all providers, whether they are facility or  
9 nonfacility under CMS rules, at the standard published Part A CMS-  
10 facility rates or higher facility rate per one-half-hour increment,  
11 with the appropriate Part B facility rate for physician supervision,  
12 as applicable.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-291.5 of Title 63, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. This section shall be known and may be cited as the  
17 "Oklahoma TBI Treatment Act".

18 B. Payment for treatments (including diagnostic testing) for  
19 brain insults including traumatic brain injury or posttraumatic  
20 stress disorder received by residents of the state shall be paid  
21 from the OKVRPRF in accordance with procedures described and  
22 established by the Plan Administrator.

23 C. The approval of a treatment payment pursuant to subsection B  
24 of this section shall be subject to the following conditions:



1 1. Any drug or device used in the treatment must be approved or  
2 cleared by the Food and Drug Administration for any purpose. All  
3 adjunctive therapies under protocols designated below must be  
4 available without regard to other FDA oversight;

5 2. The protocol or treatment must have been approved by an  
6 institutional review board operating in accordance with regulations  
7 issued by the Secretary of Health and Human Services;

8 3. The treatment (including any patient disclosure  
9 requirements) must be used by the health care provider delivering  
10 the treatment;

11 4. The patient receiving the treatment must demonstrate an  
12 improvement as a result of the treatment on one or more of the  
13 following:

- 14 a. standardized independent pretreatment and
- 15 posttreatment neuropsychological testing,
- 16 b. accepted survey instruments,
- 17 c. neurological imaging, and
- 18 d. clinical examination; and

19 5. The patient receiving the treatment shall be receiving the  
20 treatment voluntarily.

21 D. Except as provided in subsection B of this section, no  
22 restriction or condition for reimbursement may be placed on any  
23 health care provider that is operating lawfully under the laws of  
24

1 the state in which the provider is located with respect to the  
2 receipt of payment under the Oklahoma TBI Treatment Act.

3 E. The state shall make a payment for a treatment pursuant to  
4 subsection A of this section not later than thirty (30) days after a  
5 member of the Armed Forces or veteran or qualified civilian (or  
6 health care provider on behalf of such member or veteran) submits to  
7 the state documentation regarding the treatment. The state shall  
8 ensure that the documentation required under this subsection may not  
9 be an undue burden on the patient or on the health care provider.

10 F. A payment under the Oklahoma TBI Treatment Act shall be made  
11 at the equivalent Centers for Medicare and Medicaid Services  
12 reimbursement rate in effect for appropriate treatment codes for the  
13 state or territory in which the treatment is received. If no such  
14 rate is in effect, payment shall be made at a fair market rate, as  
15 determined by the Secretary of Health.

16 G. The database containing data from each patient case  
17 involving the use of a treatment under the Oklahoma TBI Treatment  
18 Act shall be accessible to all relevant policy makers and policy-  
19 making bodies, as well as to payers. The state shall ensure that  
20 the database preserves confidentiality and be made available only:

- 21 1. For third-party payer examination;
- 22 2. To the appropriate governmental organizations, congressional  
23 committees and employees of the Department of Defense, the

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1 Department of Veterans Affairs, the Department of Health and Human  
2 Services, and appropriate state agencies; and

3 3. To the primary investigator of the institutional review  
4 board that approved the treatment, in the case of data relating to a  
5 patient case involving the use of such treatment.

6 H. In the case of a patient enrolled in a registered  
7 institutional review board study, results may be publically  
8 distributable in accordance with the regulations prescribed pursuant  
9 to the Health Insurance Portability and Accountability Act of 1996  
10 and other regulations and practices in effect as of the date of the  
11 enactment of the Oklahoma TBI Treatment Act.

12 I. The state shall include a list of all civilian institutional  
13 review board studies that have received a payment under the Oklahoma  
14 TBI Treatment Act.

15 J. 1. The state military department may assign a member of the  
16 state's Armed Forces under the jurisdiction of the department to  
17 temporary duty or allow the member a permissive temporary duty in  
18 order to permit the member to receive treatment for traumatic brain  
19 injury or posttraumatic stress disorder, for which payments shall be  
20 made, at a location beyond reasonable commuting distance of the  
21 member's permanent duty station.

22 2. A member who is away from the member's permanent station may  
23 be paid a per diem in lieu of subsistence in an amount not more than  
24

1 the amount to which the member would be entitled if the member were  
2 performing travel in connection with a temporary duty assignment.

3 3. Notwithstanding any rule of any department or agency with  
4 respect to ethics or the receipt of gifts, any assistance provided  
5 to a member of the Armed Forces with a service-connected injury or  
6 disability for travel, meals, or entertainment incidental to  
7 receiving treatment under the Oklahoma TBI Treatment Act, or for the  
8 provision of such treatment, shall not be subject to or covered by  
9 any such rule.

10 K. No retaliation may be made against any member of the Armed  
11 Forces or veteran or other state resident who receives treatment as  
12 part of registered institutional review board study carried out by a  
13 civilian health care practitioner.

14 L. For purposes of the Oklahoma TBI Treatment Act, a  
15 university-affiliated or nationally accredited institutional review  
16 board shall be treated in the same manner as a government  
17 institutional review board.

18 M. The state, the Secretary of Military and Veteran Affairs and  
19 the Adjutant General of the National Guard shall seek to  
20 expeditiously enter into memoranda of understandings with civilian  
21 institutional review boards described in subsection L of this  
22 section for the purpose of providing for members of the Armed  
23 Forces, National Guard and Reserves and veterans to receive  
24 treatment carried out by civilian health care practitioners under a

1 treatment approved by and under the oversight of civilian  
2 institutional review boards that would qualify for payment under the  
3 Oklahoma TBI Treatment Act.

4 N. The Secretary of Veterans and Military Affairs shall notify  
5 each veteran with a service-connected injury or disability of the  
6 opportunity to receive treatment pursuant to the Oklahoma TBI  
7 Treatment Act. The Secretary of Veterans and Military Affairs shall  
8 notify each member of the Armed Forces within the state with a  
9 service-connected injury or disability of the opportunity to receive  
10 treatment pursuant to the Oklahoma TBI Treatment Act.

11 O. Not later than thirty (30) days after the last day of each  
12 fiscal year during which the state is authorized to make payments  
13 under the Oklahoma TBI Treatment Act, the Secretary shall jointly  
14 submit to the Legislature and the Governor an annual report on the  
15 implementation of the Oklahoma TBI Treatment Act. Such report shall  
16 include each of the following for that fiscal year:

17 1. The number of individuals for whom the Secretary has  
18 provided payments under the Oklahoma TBI Treatment Act;

19 2. The condition for which each such individual receives  
20 treatment for which payment is provided under the Oklahoma TBI  
21 Treatment Act and the success rate of each such treatment;

22 3. Treatment methods that are used by entities receiving  
23 payment provided under the Oklahoma TBI Treatment Act and the  
24 respective rate of success of each such method; and

1 4. The recommendations of the Secretary with respect to the  
2 integration of treatment methods for which payment is provided under  
3 the Oklahoma TBI Treatment Act into facilities of the Department of  
4 Defense and Department of Veterans Affairs.

5 P. The authority to make a payment under the Oklahoma TBI  
6 Treatment Act shall terminate on the date that is five (5) years  
7 after its enactment.

8 Q. The Plan Administrator of the State of Oklahoma shall have  
9 the responsibility to collect payments from the payer responsible  
10 for a given patient's treatment as specified under the Oklahoma TBI  
11 Treatment Act. In the case of veterans, mechanisms exist to achieve  
12 payment for these services from the federal government. Civilian  
13 third-party payers may voluntarily participate in this program as  
14 specified in the section on civilian treatment. These funds, less  
15 the expenses of the Insurance Commissioner's office, shall be paid  
16 to the respective fund from which original payment was made. Any  
17 requirement of medical necessity or preapproval will be deemed as  
18 having already been met regardless of a payer's objection. Medical  
19 necessity shall have been determined by whether positive health  
20 outcomes were achieved under the treatment requirements of the  
21 Oklahoma TBI Treatment Act.

22 To prevent retaliation against those who received treatment  
23 under the Oklahoma TBI Treatment Act, patient confidentiality shall  
24 be maintained. Independent verification procedures, such as

1 independent auditing of patient records validating the payer's  
2 responsibility, shall be created.

3 R. The purchase of equipment and facility installation is  
4 authorized under the Oklahoma TBI Treatment Act in order to meet the  
5 emergency presented by the tens of thousands of injured individuals.  
6 The Plan Administrator shall be in charge of approving these sites  
7 based upon criteria the Insurance Department shall establish  
8 regarding availability of any equipment in an area, and availability  
9 of sufficient equipment to treat the injured veteran population.  
10 The Insurance Department shall collect a fee from each treatment  
11 paid to reimburse the OKVRPRF, at a rate of Fifty Dollars (\$50.00)  
12 per treatment, until the equipment or facility is completely paid  
13 for. At such time as the equipment or facility is paid for, the  
14 title of ownership for the equipment or facility will be given  
15 without further compensation to the hosting organization.

16 S. To meet the emergency need for personnel to provide  
17 qualified treatment to eligible patients under the Oklahoma TBI  
18 Treatment Act, funds to pay for training may be drawn by OSUCHS CAHM  
19 for courses to be conducted that meet recognized standards for the  
20 particular treatment that is administered. Persons undergoing such  
21 education or training will incur an obligation to the state for this  
22 revolving scholarship, which shall be satisfied by physicians who  
23 provide supervision for treatment at the rate of Twenty-five Dollars  
24 (\$25.00) per hour, and for health care practitioners at the rate of

1 Ten Dollars (\$10.00) per hour retained from the respective physician  
2 supervision or facility payment fee and paid back to the OKVRPF.  
3 National Guard medical personnel may be activated for both the  
4 purposes of receiving training and providing services. Continuing  
5 medical education credits, college credits, or vocational/technical  
6 school tuitions for these training courses are all eligible for  
7 payment under this scholarship. Normal other tuition or education  
8 assistance applies to training or education under these provisions.

9 T. 1. In order to meet the state's emergency presented by the  
10 presence of tens of thousands of National Guard and other injured  
11 veterans in the state, it is necessary to create the ability to  
12 rapidly and rationally deploy treatment. Market rates shall apply  
13 to this deployment. The waivers under this subsection shall expire  
14 in two (2) years. Therefore, compliance with provisions of The  
15 Oklahoma Central Purchasing Act shall not be required of the Plan  
16 Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF. However, each  
17 of these organizations shall observe internal purchasing procedures  
18 approved by the Purchasing Director of the Department of Central  
19 Services and keep records of acquisitions which shall be subject to  
20 audit by the Department of Central Services.

21 2. Compliance with provisions of the Public Competitive Bidding  
22 Act of 1974, the Public Building Construction and Planning Act, and  
23 Consulting Services through the Construction and Properties Division  
24 of the Department of Central Services shall not be required of the



1 Plan Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF. However,  
2 the Plan Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF shall  
3 observe internal procurement and bidding procedures and keep records  
4 of contracts and acquisitions which shall be subject to audit by the  
5 Department of Central Services.

6 3. Compliance with provisions of the Oklahoma Surplus Property  
7 Act shall not be required of the Plan Administrator, OSUCHS, OUHSC,  
8 OU-Norman or the IHMF; however, the Plan Administrator, OSUCHS,  
9 OUHSC, OU-Norman or the IHMF shall observe internal property  
10 disposition procedures and keep records of property dispositions  
11 which shall be subject to audit by the Department of Central  
12 Services.

13 4. The Plan Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF  
14 shall be exempted from the requirements of the Office of Management  
15 and Enterprise Services to file the annual budget work program,  
16 budget request, information systems plan and telecommunications  
17 plan. However, these organizations shall continue to file an annual  
18 audited financial statement in accordance with governmental  
19 accounting standards.

20 5. The Plan Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF  
21 shall be further exempted from conversion to CORE Phase II  
22 requirements of the Office of Management and Enterprise Services.

23 6. The Plan Administrator, OSUCHS, OUHSC, OU-Norman or the IHMF  
24 shall continue to be accountable to provide a report annually to the

1 President Pro Tempore of the Senate, Speaker of the House of  
2 Representatives and Governor describing the methods and innovations  
3 utilized in its research and treatment deployment processes and the  
4 improved services and the savings that have accrued as a result of  
5 these exceptions.

6 7. Due to the emergency nature of the deployment of hyperbaric  
7 treatment facilities to all areas of the state, and the permanent  
8 and temporary need for in-theater and local equipment, for a period  
9 of two (2) years the Oklahoma National Guard shall also be exempt  
10 from procurement provisions as specified in this subsection.

11 SECTION 6. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 238 of Title 44, unless there is  
13 created a duplication in numbering, reads as follows:

14 A. The OKVRPRF shall be designated as the state health account  
15 to begin paying for all effective treatments and related costs at  
16 published Medicare rates for the State of Oklahoma following the  
17 rules as set forth in Section 6 of this act for all active duty,  
18 National Guard, or veterans in the state who qualify for treatment.

19 B. This account is designated as a revolving fund to be  
20 operated in accordance with state investment practices.

21 C. Expenditures from the OKVRPRF are authorized as follows:

22 1. Medical treatment and adjunctive therapies for all current  
23 and former members of the Oklahoma National Guard, Reserves and all  
24

1 current and former active duty U.S. military personnel residing  
2 within the State of Oklahoma;

3 2. Expenditures related to receiving such treatment such as  
4 travel and housing when treatment is not locally available or  
5 specialized care is needed for a qualified person to receive  
6 treatment;

7 3. Purchase and installation of durable medical equipment  
8 needed to carry out treatment under paragraphs 1 and 2 of this  
9 subsection;

10 4. Education or training expenses necessary to provide  
11 treatments under paragraphs 1 and 3 of this subsection; and

12 5. A level of Two Million Dollars (\$2,000,000.00) is authorized  
13 as an initial level for the fund for active duty, National Guard,  
14 Reserves and Veterans, which may be increased by written agreement  
15 between the Governor and House and Senate leadership and relevant  
16 committee representatives of the committees with jurisdiction over  
17 the National Guard and veterans who reside within the State of  
18 Oklahoma.

19 D. Nonveteran civilians who qualify under the Oklahoma TBI  
20 Treatment Act may also receive payment from the OKVRPRF under  
21 provisions of the civilian TBI Recovery program. At-risk first  
22 responders such as police officers, fire-fighters, state employees  
23 and others shall be given priority in this pilot program.

24

1 E. Expenditures from the OKVRPRF for civilians are authorized  
2 as follows:

3 1. Medical treatment and adjunctive therapies for all state  
4 residents who are not current or former members of the Oklahoma  
5 National Guard, Reserves or current or former active duty U.S.  
6 military personnel residing within the State of Oklahoma;

7 2. Expenditures related to receiving such treatment such as  
8 travel and housing when treatment is not locally available or  
9 specialized care is needed for a qualified person to receive  
10 treatment;

11 3. Purchase and installation of durable medical equipment  
12 needed to carry out treatment under paragraphs 1 and 2 of this  
13 subsection;

14 4. Education or training expenses necessary to provide  
15 treatments under paragraphs 1, 2 and 3 of this subsection; and

16 5. A level of One Million Dollars (\$1,000,000.00) is authorized  
17 as an initial level for the fund for civilians, which may be  
18 increased by written agreement between the Governor and House and  
19 Senate leadership and relevant committee representatives of the  
20 committees with jurisdiction over civilians who reside within the  
21 State of Oklahoma.

22 F. Revenue sources for the revolving funds shall be:

23 1. Appropriations from the State of Oklahoma;

24 2. Bond issues;

1           3. Reprogrammed funds from other sources in the state budget as  
2 needed during the year to meet the needs of authorized residents  
3 needing treatment; and

4           4. Collections to the OKVRPRF shall be limited from government  
5 third-party payers, such as Tricare and Veterans Administration.  
6 There will be no statute of limitations in determining this  
7 liability. State, local government and civilian third-party payers  
8 will be invited by the Plan Administrator to participate in the  
9 research studies under this legislation. Effective treatment for  
10 brain injury or PTSD can be expected to reduce insurance carrier  
11 costs. Procedures shall be established similar to the Medicare  
12 "Coverage with Evidence" program. Those who chose to participate  
13 can have their clients treated following the same procedures that  
14 the state applies to veterans treated under this program. No  
15 carrier will be obligated to pay for treatment unless the patient  
16 improves as specified in the Oklahoma TBI Treatment Act.

17           Where the individual qualifies for state Medicaid, Workers  
18 Compensation, or other public health assistance, or private carrier,  
19 the OKVRPRF will be reimbursed accordingly at standard published  
20 facility reimbursement rates for the treatment for each carrier, or  
21 the Medicare reimbursement rate, whichever is higher.

22           G. It is recommended that the state appropriations committees  
23 apply ten percent (10%) of the documented projected or realized  
24

1 savings from other state programs into these respective programmatic  
2 accounts so that effective treatment can be expanded with the state.

3 SECTION 7. It being immediately necessary for the preservation  
4 of the public peace, health and safety, an emergency is hereby  
5 declared to exist, by reason whereof this act shall take effect and  
6 be in full force from and after its passage and approval.

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