

1 **SENATE FLOOR VERSION**

2 February 21, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 1069

5 By: Montgomery

6 [investment of funds - effective date]

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

8 SECTION 1. AMENDATORY 36 O.S. 2021, Section 1601, is
9 amended to read as follows:

10 Section 1601. Except as to Sections 1624 and 1625 and
11 ~~subdivision~~ subsection A of Section 1606 hereof, this article
12 applies to domestic insurers, CompSource Mutual Insurance Company,
13 the Multiple Injury Trust Fund, and the Self-insurance Guaranty Fund
14 ~~only~~. This article shall apply to domestic title insurers except as
15 provided in Article 50 (Title Insurers).

16 SECTION 2. AMENDATORY 85A O.S. 2021, Section 28, is
17 amended to read as follows:

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

- 20 1. The "Multiple Injury Trust Fund"; and
21 2. The "Self-insurance Guaranty Fund".

22 B. Except as provided in Section 97 of this title, no money
23 shall be appropriated from these funds for any purpose except for
24

1 the use and benefit, or at the direction, of the Oklahoma Workers'
2 Compensation Commission.

3 C. Except as provided in Section 96 of this title, all funds
4 established under this section shall be administered, disbursed, and
5 invested under the direction of the Commission and the State
6 Treasurer. Funds shall be invested by the State Treasurer pursuant
7 to Section 1601 et seq. of Title 36 of the Oklahoma Statutes.

8 D. All incomes derived through investment of the Multiple
9 Injury Trust Fund shall be credited as investment income to the fund
10 that participated in the investment.

11 E. No monies deposited to these funds shall be subject to any
12 deduction, tax, levy, or any other type of assessment.

13 F. If the balance in the Multiple Injury Trust Fund becomes
14 insufficient to fully compensate those employees to whom it is
15 obligated, payment shall be suspended until such time as the
16 Multiple Injury Trust Fund is capable of meeting its obligations,
17 paying all arrearages, and restoring normal benefit payments.

18 G. On the effective maturity dates of each investment, the
19 investment shall be transferred to the State Treasurer for deposit
20 into the Multiple Injury Trust Fund created in this section.

21 H. Unless provided otherwise in the Administrative Workers'
22 Compensation Act, all fines and penalties assessed under the
23 Administrative Workers' Compensation Act shall be deposited into the
24 Workers' Compensation Commission Revolving Fund. Any monies

1 remaining in the Workers' Compensation Fund on June 30, 2015, shall
2 be transferred to the Workers' Compensation Commission Revolving
3 Fund.

4 SECTION 3. AMENDATORY 85A O.S. 2021, Section 31, is
5 amended to read as follows:

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

8 1. As soon as practicable after January 1 of each year, the
9 commissioners of the Workers' Compensation Commission shall
10 establish an assessment rate applicable to each mutual or
11 interinsurance association, stock company, or other insurance
12 carrier writing workers' compensation insurance in this state, each
13 employer carrying its own risk, and each group self-insurance
14 association, for amounts for purposes of computing the assessment
15 authorized by this section necessary to pay the annual obligations
16 of the Multiple Injury Trust Fund determined on or before December
17 31 of each year by the Multiple Injury Trust Fund (MITF) Director,
18 provided for in subsection Q of this section, to be outstanding for
19 the next calendar year. The rate shall be equal for all parties
20 required to pay the assessment. The Board of Directors for
21 CompSource Mutual Insurance Company shall have the power to
22 disapprove the rate established by the MITF Director until the
23 Multiple Injury Trust Fund repays in full the amount due on any loan
24 from CompSource Mutual Insurance Company or its predecessor

1 CompSource Oklahoma. If the MITF Director and CompSource Mutual
2 Insurance Company have not agreed on the assessment rate within
3 thirty (30) days, the Workers' Compensation Commission shall set an
4 assessment rate sufficient to cover all foreseeable obligations of
5 the Multiple Injury Trust Fund, including interest and principal
6 owed by the fund on any loan;

7 2. The assessments shall be paid to the Oklahoma Tax
8 Commission. Insurance carriers, self-insurers, and group self-
9 insurance associations shall pay the assessment in four equal
10 installments not later than the fifteenth day of the month following
11 the close of each quarter of the calendar year of the assessment.
12 Assessments shall be determined based upon gross direct written
13 premiums, normal premiums, or actual paid losses of the paying
14 party, as applicable, during the calendar quarter for which the
15 assessment is due. Assessments are expressly conditioned and
16 contingent upon preservation of the rebate equal to two-thirds (2/3)
17 of the amount of the assessment actually paid pursuant to Sections
18 6101 and 6102 of Title 68 of the Oklahoma Statutes. Uninsured
19 employers shall pay the assessment not later than the fifteenth day
20 of the month following the close of each quarter of the calendar
21 year of the assessment. For purposes of this section, "uninsured
22 employer" means an employer required by law to carry workers'
23 compensation insurance but who has failed or neglected to do so.

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1 a. The assessment authorized in this section shall be
2 determined using a rate equal to the proportion that
3 the sum of the outstanding obligations of the Multiple
4 Injury Trust Fund as determined pursuant to paragraph
5 1 of this subsection bears to the combined gross
6 direct written premiums of all such insurers; all
7 actual paid losses of all individual self-insureds;
8 and the normal premium of all group self-insurance
9 associations, for the year period from January 1 to
10 December 31 preceding the assessment.

11 b. For purposes of this subsection:

12 (1) "actual paid losses" means all medical and
13 indemnity payments, including temporary
14 disability, permanent disability, and death
15 benefits, and excluding loss adjustment expenses
16 and reserves, and

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

19 3. By April 15 of each year, the Insurance Commissioner, the
20 MITF Director and each individual and group self-insured shall
21 provide the Workers' Compensation Commission with such information
22 as the Commission may determine is necessary to effectuate the
23 purposes of this section;

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1 4. Each mutual or interinsurance association, stock company, or
2 other insurance carrier writing workers' compensation insurance in
3 this state, and each employer carrying its own risk, including each
4 group self-insurance association, shall be notified by the Workers'
5 Compensation Commission in writing of the rate for the assessment on
6 or before May 1 of each year in which a rate is determined. The
7 rate determined by the Commission shall be in effect for four
8 calendar quarters beginning July 1 following determination by the
9 Commission. The Commission may amend its previously determined rate
10 on or after July 1, 2019. Parties affected by the amended rate
11 shall be notified by the Commission in writing as is reasonable;

12 5. a. No mutual or interinsurance association, stock
13 company, or other insurance carrier writing workers'
14 compensation insurance in this state may be assessed
15 in any year an amount greater than seven percent (7%)
16 of the gross direct written premiums of that insurer.
17 The authorization for a maximum seven-percent
18 assessment shall exist until fiscal year 2027, then
19 revert back to six percent (6%) thereafter.

20 b. No employer carrying its own risk may be assessed in
21 any year an amount greater than seven percent (7%) of
22 the total actual paid losses of that individual self-
23 insured. The authorization for a maximum seven-

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1 percent assessment shall exist until fiscal year 2027,
2 then revert back to six percent (6%) thereafter.

3 c. No group self-insurance association may be assessed in
4 any year an amount greater than seven percent (7%) of
5 the normal premium of that group self-insurance
6 association. The authorization for a maximum seven-
7 percent assessment shall exist until fiscal year 2027,
8 then revert back to six percent (6%) thereafter;

9 6. The Oklahoma Tax Commission shall assess and collect from
10 any uninsured employer a temporary assessment at the rate of five
11 percent (5%) of the total compensation for permanent total
12 disability awards, permanent partial disability awards and death
13 benefits paid out during each quarter of the calendar year by
14 employers. The assessment shall be paid in four equal installments
15 not later than the fifteenth day of the month following the close of
16 the calendar year of the assessments. For the purpose of this
17 paragraph, "uninsured employer" means an employer required by law to
18 secure its workers' compensation obligations but who has failed or
19 neglected to do so;

20 7. For injuries occurring on or after July 1, 2019, the
21 Oklahoma Tax Commission shall assess and collect from claimants a
22 temporary assessment as follows:

23 a. if an award has been made by the Workers' Compensation
24 Court of Existing Claims or the Workers' Compensation

1 Commission for permanent partial disability or
2 permanent total disability, or if a Compromise
3 Settlement or Joint Petition has been approved, the
4 employer or insurance carrier shall pay to such
5 employee the amount of the award less the assessment.
6 The assessment shall be paid to the Oklahoma Tax
7 Commission no later than the fifteenth day of the
8 month following the close of each quarter of the
9 calendar year in which compensation is paid or became
10 payable, and

11 b. in making and entering awards for compensation for
12 permanent total disability or permanent partial
13 disability, three percent (3%) of the total award or
14 settlement shall be paid to the Tax Commission no
15 later than the fifteenth day of the month following
16 the close of each quarter of the calendar year in
17 which compensation is paid or became payable. The
18 total amount of the deduction so determined and fixed
19 shall have the same force and effect as an award for
20 compensation, and all provisions relating to the
21 collection of awards shall apply to such judgments;
22 and

23 8. If the revenue in any one (1) year is insufficient to make
24 all necessary payments for obligations of the Multiple Injury Trust

1 Fund and for the allocations provided for in subsection J of this
2 section, the unpaid portion shall be paid as soon thereafter as
3 funds become available.

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

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

10 D. Any mutual or interinsurance association, stock company, or
11 other insurance company, which is subject to regulation by the
12 Insurance Commissioner, failing to make payments required in this
13 act promptly and correctly, and failing to report payment of the
14 same to the Insurance Commissioner within ten (10) days of payment
15 shall be subject to administrative penalties as allowed by law,
16 including but not limited to a fine in the amount of Five Hundred
17 Dollars (\$500.00) or an amount equal to one percent (1%) of the
18 unpaid amount, whichever is greater, to be paid to the Insurance
19 Commissioner.

20 E. Any employer carrying its own risk, or group self-insurance
21 association failing to make payments required in this act promptly
22 and correctly, and failing to report payment of the same to the
23 Commission within ten (10) days of payment shall be subject to
24 administrative penalties as allowed by law, including but not

1 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or
2 an amount equal to one percent (1%) of the unpaid amount, whichever
3 is greater, to be paid to the Commission.

4 F. 1. On or before the first day of April of each year, the
5 State Treasurer shall advise the Commission, the MITF Director and
6 the Tax Commission of the amount of money held as of March 1 of that
7 year by the State Treasurer to the credit of the Multiple Injury
8 Trust Fund. On or before the first day of November of each year,
9 the State Treasurer shall advise the Commission, the MITF Director
10 and the Tax Commission of the amount of money held as of October 1
11 of that year by the State Treasurer to the credit of the Multiple
12 Injury Trust Fund.

13 2. Until such time as the Multiple Injury Trust Fund fully
14 satisfies any loan obligation payable to CompSource Mutual Insurance
15 Company or its predecessor CompSource Oklahoma, the State Treasurer
16 shall:

17 a. advise the Chief Executive Officer of CompSource
18 Mutual Insurance Company on or before the first day of
19 April of the money held as of March 1 of that year by
20 the State Treasurer to the credit of the Multiple
21 Injury Trust Fund, and

22 b. advise the Chief Executive Officer of CompSource
23 Mutual Insurance Company on or before the first day of
24 November of the money held as of October 1 of that

1 year by the State Treasurer to the credit of the
2 Multiple Injury Trust Fund.

3 G. Eighty percent (80%) of all sums held by the State Treasurer
4 to the credit of the Multiple Injury Trust Fund may by order of the
5 MITF Director be invested in or loaned on the pledge of any of the
6 securities in which a state bank may invest the monies deposited
7 therein by the State Treasurer; or may be deposited in state or
8 national banks or trust companies upon insured time deposit bearing
9 interest at a rate no less than currently being paid upon insured
10 savings accounts in the institutions; or may be invested pursuant to
11 Section 1601 et seq. of Title 36 of the Oklahoma Statutes. As used
12 in this section, "insured" means insurance as provided by an agency
13 of the federal government. All such securities or evidence of
14 indebtedness shall be placed in the hands of the State Treasurer,
15 who shall be the custodian thereof, who shall collect the principal
16 and interest when due, and pay the same into the Multiple Injury
17 Trust Fund. The State Treasurer shall pay by vouchers drawn on the
18 Multiple Injury Trust Fund for the making of such investments, when
19 signed by the MITF Director, upon delivery of such securities or
20 evidence of indebtedness to the State Treasurer. The MITF Director
21 may sell any of such securities, the proceeds thereof to be paid
22 over to the State Treasurer for the Multiple Injury Trust Fund.

23 H. The refund provisions of Sections 227 through 229 of Title
24 68 of the Oklahoma Statutes shall be applicable to any payments made

1 to the Multiple Injury Trust Fund. Refunds shall be paid from and
2 out of the Multiple Injury Trust Fund.

3 I. Beginning July 1, 2019, One Million Dollars (\$1,000,000.00)
4 of the funds in the Multiple Injury Trust Fund shall be transferred
5 annually on July 1 to the Oklahoma Department of Labor Revolving
6 Fund exclusively for the operation and administration of the
7 Oklahoma Occupational Health and Safety Standards Act and for other
8 necessary expenses of the Department of Labor.

9 J. Except for the monies provided for in subsection I of this
10 section, 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 K. The Commission shall promulgate rules as the Commission
17 deems necessary to effectuate the provisions of this section.

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

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1 N. 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 O. Any dividend, rebate, or other distribution, payable by
7 CompSource Mutual Insurance Company or any other workers'
8 compensation insurance carrier, to a state agency policyholder shall
9 be paid to the State 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 any workers'
16 compensation insurance carrier, on behalf of state agencies, shall
17 be deposited to the credit of the General Revenue Fund of the State
18 Treasury.

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

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

8 S. The State Treasurer shall allocate to the Commission out of
9 the Multiple Injury Trust Fund sufficient funds for administration
10 expenses thereof in amounts to be fixed and approved by the Director
11 for the Multiple Injury Trust Fund, unless rejected by the Workers'
12 Compensation Commission.

13 T. On or after July 1, 2019, accrued and unpaid compensation
14 from the Multiple Injury Trust Fund shall bear simple interest only
15 at the percentage rate applicable under Section 727.1 of Title 12 of
16 the Oklahoma Statutes from the day an award is made by the Workers'
17 Compensation Court of Existing Claims or the Workers' Compensation
18 Commission.

19 SECTION 4. This act shall become effective November 1, 2023.

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
21 February 21, 2023 - DO PASS AS AMENDED

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