

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1069

By: Montgomery

AS INTRODUCED

An Act relating to investment of funds; amending 36 O.S. 2021, Section 1601, which relates to investments; expanding application of article to include certain funds and company; amending 85A O.S. 2021, Sections 28 and 31, which relate to the Multiple Injury Trust Fund and the Self-insurance Guaranty Fund; providing for investment of funds; and providing an effective date.

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

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

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

1 SECTION 2. AMENDATORY 85A O.S. 2021, Section 28, is

2 amended to read as follows:

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

5 1. The "Multiple Injury Trust Fund"; and

6 2. The "Self-insurance Guaranty Fund".

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

11 C. Except as provided in Section 96 of this title, all funds  
12 established under this section shall be administered, disbursed, and  
13 invested under the direction of the Commission and the State  
14 Treasurer. Funds shall be invested by the State Treasurer pursuant  
15 to Section 1601 et seq. of Title 36 of the Oklahoma Statutes.

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

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

3 G. 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. 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 3. AMENDATORY 85A O.S. 2021, Section 31, is  
14 amended to read as follows:

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

17 1. As soon as practicable after January 1 of each year, the  
18 commissioners of the Workers' Compensation Commission shall  
19 establish an assessment rate applicable to each mutual or  
20 interinsurance association, stock company, or other insurance  
21 carrier writing workers' compensation insurance in this state, each  
22 employer carrying its own risk, and each group self-insurance  
23 association, for amounts for purposes of computing the assessment  
24 authorized by this section necessary to pay the annual obligations

1 of the Multiple Injury Trust Fund determined on or before December  
2 31 of each year by the Multiple Injury Trust Fund (MITF) Director,  
3 provided for in subsection Q of this section, to be outstanding for  
4 the next calendar year. The rate shall be equal for all parties  
5 required to pay the assessment. The Board of Directors for  
6 CompSource Mutual Insurance Company shall have the power to  
7 disapprove the rate established by the MITF Director until the  
8 Multiple Injury Trust Fund repays in full the amount due on any loan  
9 from CompSource Mutual Insurance Company or its predecessor  
10 CompSource Oklahoma. If the MITF Director and CompSource Mutual  
11 Insurance Company have not agreed on the assessment rate within  
12 thirty (30) days, the Workers' Compensation Commission shall set an  
13 assessment rate sufficient to cover all foreseeable obligations of  
14 the Multiple Injury Trust Fund, including interest and principal  
15 owed by the fund on any loan;

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

1 contingent upon preservation of the rebate equal to two-thirds (2/3)  
2 of the amount of the assessment actually paid pursuant to Sections  
3 6101 and 6102 of Title 68 of the Oklahoma Statutes. Uninsured  
4 employers shall pay the assessment not later than the fifteenth day  
5 of the month following the close of each quarter of the calendar  
6 year of the assessment. For purposes of this section, "uninsured  
7 employer" means an employer required by law to carry workers'  
8 compensation insurance but who has failed or neglected to do so.

9 a. The assessment authorized in this section shall be  
10 determined using a rate equal to the proportion that  
11 the sum of the outstanding obligations of the Multiple  
12 Injury Trust Fund as determined pursuant to paragraph  
13 1 of this subsection bears to the combined gross  
14 direct written premiums of all such insurers; all  
15 actual paid losses of all individual self-insureds;  
16 and the normal premium of all group self-insurance  
17 associations, for the year period from January 1 to  
18 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 3. By April 15 of each year, the Insurance Commissioner, the  
4 MITF Director and each individual and group self-insured shall  
5 provide the Workers' Compensation Commission with such information  
6 as the Commission may determine is necessary to effectuate the  
7 purposes of this section;

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

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

3 b. No employer carrying its own risk may be assessed in  
4 any year an amount greater than seven percent (7%) of  
5 the total actual paid losses of that individual self-  
6 insured. 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 c. No group self-insurance association may be assessed in  
10 any year an amount greater than seven percent (7%) of  
11 the normal premium of that group self-insurance  
12 association. The authorization for a maximum seven-  
13 percent assessment shall exist until fiscal year 2027,  
14 then revert back to six percent (6%) thereafter;

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

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

6 a. if an award has been made by the Workers' Compensation  
7 Court of Existing Claims or the Workers' Compensation  
8 Commission for permanent partial disability or  
9 permanent total disability, or if a Compromise  
10 Settlement or Joint Petition has been approved, the  
11 employer or insurance carrier shall pay to such  
12 employee the amount of the award less the assessment.  
13 The assessment shall be paid to the Oklahoma Tax  
14 Commission no later than the fifteenth day of the  
15 month following the close of each quarter of the  
16 calendar year in which compensation is paid or became  
17 payable, and

18 b. in making and entering awards for compensation for  
19 permanent total disability or permanent partial  
20 disability, three percent (3%) of the total award or  
21 settlement shall be paid to the Tax Commission no  
22 later than the fifteenth day of the month following  
23 the close of each quarter of the calendar year in  
24 which compensation is paid or became payable. The



1 total amount of the deduction so determined and fixed  
2 shall have the same force and effect as an award for  
3 compensation, and all provisions relating to the  
4 collection of awards shall apply to such judgments;  
5 and

6 8. If the revenue in any one (1) year is insufficient to make  
7 all necessary payments for obligations of the Multiple Injury Trust  
8 Fund and for the allocations provided for in subsection J of this  
9 section, the unpaid portion shall be paid as soon thereafter as  
10 funds become available.

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

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

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

1 unpaid amount, whichever is greater, to be paid to the Insurance  
2 Commissioner.

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

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

20 2. Until such time as the Multiple Injury Trust Fund fully  
21 satisfies any loan obligation payable to CompSource Mutual Insurance  
22 Company or its predecessor CompSource Oklahoma, the State Treasurer  
23 shall:

- 1 a. advise the Chief Executive Officer of CompSource  
2 Mutual Insurance Company on or before the first day of  
3 April of the money held as of March 1 of that year by  
4 the State Treasurer to the credit of the Multiple  
5 Injury Trust Fund, and
- 6 b. advise the Chief Executive Officer of CompSource  
7 Mutual Insurance Company on or before the first day of  
8 November of the money held as of October 1 of that  
9 year by the State Treasurer to the credit of the  
10 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; or may be invested pursuant to  
19 Section 1601 et seq. of Title 36 of the Oklahoma Statutes. As used  
20 in this section, "insured" means insurance as provided by an agency  
21 of the federal government. All such securities or evidence of  
22 indebtedness shall be placed in the hands of the State Treasurer,  
23 who shall be the custodian thereof, who shall collect the principal  
24 and interest when due, and pay the same into the Multiple Injury

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

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

11 I. Beginning July 1, 2019, One Million Dollars (\$1,000,000.00)  
12 of the funds in the Multiple Injury Trust Fund shall be transferred  
13 annually on July 1 to the Oklahoma Department of Labor Revolving  
14 Fund exclusively for the operation and administration of the  
15 Oklahoma Occupational Health and Safety Standards Act and for other  
16 necessary expenses of the Department of Labor.

17 J. Except for the monies provided for in subsection I of this  
18 section, the Tax Commission shall pay, monthly, to the State  
19 Treasurer to the credit of the Multiple Injury Trust Fund all monies  
20 collected pursuant to the provisions of this section. The State  
21 Treasurer shall pay out of the Multiple Injury Trust Fund only upon  
22 the order and direction of the Workers' Compensation Commission  
23 acting under the provisions hereof.

1 K. The Commission shall promulgate rules as the Commission  
2 deems necessary to effectuate the provisions of this section.

3 L. The Insurance Commissioner shall promulgate rules relating  
4 to insurers as defined in Title 36 of the Oklahoma Statutes, as the  
5 Insurance Commissioner deems necessary to effectuate the provisions  
6 of this section.

7 M. The MITF Director shall have authority to fulfill all  
8 payment obligations of the Multiple Injury Trust Fund.

9 N. The Multiple Injury Trust Fund may enter into an agreement  
10 with any reinsurer licensed to sell reinsurance by the Insurance  
11 Commissioner pursuant to a competitive process administered by the  
12 Director of Central Purchasing in the Office of Management and  
13 Enterprise Services.

14 O. Any dividend, rebate, or other distribution, payable by  
15 CompSource Mutual Insurance Company or any other workers'  
16 compensation insurance carrier, to a state agency policyholder shall  
17 be paid to the State Treasurer, and shall be credited as follows:

18 1. In the event of failure of the Multiple Injury Trust Fund to  
19 meet all lawful obligations, the monies shall be credited to the  
20 Multiple Injury Trust Fund and shall be used by the Multiple Injury  
21 Trust Fund to meet all lawful obligations of the Multiple Injury  
22 Trust Fund; and

23 2. Otherwise, all future dividends made by any workers'  
24 compensation insurance carrier, on behalf of state agencies, shall

1 be deposited to the credit of the General Revenue Fund of the State  
2 Treasury.

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

5 Q. The person serving as the Administrator of the Multiple  
6 Injury Trust Fund on the date of passage and approval of this act  
7 shall serve as the initial MITF Director, provided such person is  
8 serving as the Administrator of the Multiple Injury Trust Fund on  
9 the effective date of this act. The MITF Director shall be  
10 appointed by and serve at the pleasure of the Governor.

11 R. Any party interested shall have a right to bring a  
12 proceeding in the Supreme Court to review an award of the Workers'  
13 Compensation Commission affecting such Multiple Injury Trust Fund,  
14 in the same manner as is provided by law with reference to other  
15 awards by the Commission.

16 S. The State Treasurer shall allocate to the Commission out of  
17 the Multiple Injury Trust Fund sufficient funds for administration  
18 expenses thereof in amounts to be fixed and approved by the Director  
19 for the Multiple Injury Trust Fund, unless rejected by the Workers'  
20 Compensation Commission.

21 T. On or after July 1, 2019, accrued and unpaid compensation  
22 from the Multiple Injury Trust Fund shall bear simple interest only  
23 at the percentage rate applicable under Section 727.1 of Title 12 of  
24 the Oklahoma Statutes from the day an award is made by the Workers'

1 Compensation Court of Existing Claims or the Workers' Compensation  
2 Commission.

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