

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2410

By: Kannady

4  
5  
6 AS INTRODUCED

7 An Act relating to workers' compensation; creating  
8 the Multiple Injury Trust Fund Recovery Act; stating  
9 purpose; amending Section 30, Chapter 208, O.S.L.  
10 2013, Section 31, Chapter 208, O.S.L. 2013, as  
11 amended by Section 3, Chapter 344, O.S.L. 2015,  
12 Sections 32, 33, 34 and 82, Chapter 208, O.S.L. 2013,  
13 and Section 165, Chapter 208, O.S.L. 2013, as amended  
14 by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.  
15 Supp. 2018, Sections 30, 31, 32, 33, 34, 82 and 122),  
16 which relate to the Administrative Workers'  
17 Compensation Act; modifying definition of physically  
18 impaired person; modifying application to certain  
19 adjudications; modifying assessment procedure for the  
20 Multiple Injury Trust Fund; providing definitions;  
21 modifying maximum amount of certain assessments;  
22 requiring the Oklahoma Tax Commission to assess and  
23 collect certain assessments; modifying fine;  
24 establishing interest rate for accrued and unpaid  
compensation from the Multiple Injury Trust Fund;  
modifying appointment authority for MITF Director;  
providing for permanent total disability awards from  
the Multiple Injury Trust Fund for physically  
impaired persons; providing certain requirements;  
requiring offers to be conveyed within a certain  
time; prohibiting subsequent claims in certain  
circumstances; clarifying when attorney awards vest;  
modifying statute of limitations; modifying authority  
of the MITF Director; modifying administration of the  
Multiple Injury Trust Fund; modifying definition of  
controverted claim; modifying procedure required for  
payment of legal fees; modifying apportionments from  
the Multiple Injury Trust Fund; providing for  
noncodification; providing an effective date; and  
declaring an emergency.

1  
2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

3 SECTION 1. NEW LAW A new section of law not to be  
4 codified in the Oklahoma Statutes reads as follows:

5 This act shall be known and may be cited as the "Multiple Injury  
6 Trust Fund Recovery Act". The purpose of this act is to change  
7 eligibility criteria for claims against the Multiple Injury Trust  
8 Fund, and to provide additional funding for said Fund from  
9 nongovernment sources to minimize legislative appropriation to  
10 secure the Fund as a general obligation of the State of Oklahoma.

11 SECTION 2. AMENDATORY Section 30, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2018, Section 30), is amended to read as  
13 follows:

14 Section 30. A. For the purposes of Sections 31 through 35 of  
15 this ~~act~~ title, the term "physically impaired person" means a person  
16 who, as a result of accident, disease, birth, military action, or  
17 any other cause, has suffered:

18 1. The loss of the sight of one eye;  
19 2. The loss by amputation of the whole or a part of a member of  
20 the body; or

21 ~~3. The loss of use or partial loss of use of a member such as~~  
22 ~~is obvious and apparent from observation or examination by a person~~  
23 ~~who is not skilled in the medical profession; or~~

24

1       4. Any previous adjudications of compensable permanent partial  
2 disability adjudged and determined by the Workers' Compensation  
3 Court, the Workers' Compensation Court of Existing Claims or the  
4 Workers' Compensation Commission ~~or any disability resulting from~~  
5 ~~separately adjudicated injuries and adjudicated occupational~~  
6 ~~diseases even though arising at the same time. Provided, that any~~  
7 ~~adjudication of preexisting disability to a part of the body shall~~  
8 ~~not be combinable for purposes of the Multiple Injury Trust Fund~~  
9 ~~unless that part of the body was deemed to have been injured in the~~  
10 ~~claim being adjudicated.~~

11       B. This section shall apply to all adjudications of Multiple  
12 Injury Trust Fund claims ~~heard by the Commission on or after the~~  
13 ~~effective date of this act~~ in which the last injury occurred on or  
14 after the effective date of this act.

15       SECTION 3.       AMENDATORY       Section 31, Chapter 208, O.S.L.  
16 2013, as amended by Section 3, Chapter 344, O.S.L. 2015 (85A O.S.  
17 Supp. 2018, Section 31), is amended to read as follows:

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

20       1. As soon as practicable after January 1 of each year, the  
21 commissioners of the Workers' Compensation Commission shall  
22 establish an assessment rate applicable to each mutual or  
23 interinsurance association, stock company, ~~CompSource Oklahoma,~~ or  
24 other insurance carrier writing workers' compensation insurance in

1 this state, each employer carrying its own risk, and each group  
2 self-insurance association, including the Consolidated Workers'  
3 Compensation Program authorized by Section 85.58A of Title 74 of the  
4 Oklahoma Statutes, and operated by the Office of Management and  
5 Enterprise Services, for amounts for purposes of computing the  
6 assessment authorized by this section necessary to pay the annual  
7 obligations of the Multiple Injury Trust Fund determined on or  
8 before December 31 of each year by the MITF Director, provided for  
9 in subsection P of this section, to be outstanding for the next  
10 calendar year, ~~and to pay the allocations provided for in subsection~~  
11 ~~I of this section.~~ The rate shall be equal for all parties required  
12 to pay the assessment. ~~If CompSource begins operating as a mutual~~  
13 ~~insurance company, the~~ The Board of Directors for CompSource Mutual  
14 Insurance Company shall have the power to disapprove the rate  
15 established by the MITF Director until the Multiple Injury Trust  
16 Fund repays in full the amount due on any loan from CompSource  
17 Mutual Insurance Company or its predecessor CompSource Oklahoma. If  
18 the MITF Director and CompSource Mutual Insurance Company have not  
19 agreed on the assessment rate within thirty (30) days, the Workers'  
20 Compensation Commission shall set an assessment rate sufficient to  
21 cover all foreseeable obligations of the Multiple Injury Trust Fund,  
22 including interest and principal owed by the Fund on any loan. ~~The~~  
23 ~~rate in effect on the effective date of this act shall remain~~  
24 ~~effective through June 30, 2014;~~

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

7       3. The assessments shall be paid to the Oklahoma Tax  
8 Commission. Insurance carriers, self-insurers, and group self-  
9 insurance associations ~~and CompSource Oklahoma~~ shall pay the  
10 assessment in four equal installments not later than the fifteenth  
11 day of the month following the close of each quarter of the calendar  
12 year of the assessment. Assessments shall be determined based upon  
13 gross direct written premiums before deductible credits are applied,  
14 normal premiums or actual paid losses of the paying party, as  
15 applicable, during the calendar quarter for which the assessment is  
16 due. Uninsured employers shall pay the assessment not later than  
17 the fifteenth day of the month following the close of each quarter  
18 of the calendar year of the assessment. For purposes of this  
19 section, "uninsured employer" means an employer required by law to  
20 carry workers' compensation insurance but who has failed or  
21 neglected to do so.

22       a. The assessment authorized in this section shall be  
23           determined using a rate equal to the proportion that  
24           the sum of the outstanding obligations of the Multiple

1 Injury Trust Fund as determined pursuant to paragraph  
2 1 of this subsection ~~and the allocations provided for~~  
3 ~~in subsection I of this section~~ bear to the combined  
4 gross direct written premiums of all such insurers;  
5 all actual paid losses of all individual self-  
6 insureds; and the normal premium of all group self-  
7 insurance associations, for the year period from  
8 January 1 to December 31 preceding the assessment.

9 b. For purposes of this subsection:

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

15 (2) "direct gross written premium" for insurance  
16 companies means all consideration, whether  
17 designated as premium or otherwise, for workers'  
18 compensation insurance paid to an insurance  
19 company or its representative, including, on  
20 insurance policies with provisions for  
21 deductibles, the calculated cost for coverage,  
22 including experience modification and premium  
23 surcharges or discounts prior to any reduction for  
24 deductibles, and

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

3           ~~4.~~ 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 including annual deductible recoveries received, as the Commission  
7 may determine is necessary to effectuate the purposes of this  
8 section;

9           ~~5.~~ 4. Each mutual or interinsurance association, stock company,  
10 ~~CompSource Oklahoma,~~ or other insurance carrier writing workers'  
11 compensation insurance in this state, and each employer carrying its  
12 own risk, including each group self-insurance association, shall be  
13 notified by the Workers' Compensation Commission in writing of the  
14 rate for the assessment on or before May 1 of each year in which a  
15 rate is determined. The rate determined by the Commission shall be  
16 in effect for four calendar quarters beginning July 1 following  
17 determination by the Commission. The Commission may amend its  
18 previously determined rate on or after July 1, 2019. Parties  
19 affected by the amended rate shall be notified by the Commission in  
20 writing as is reasonable. The amended rate shall be in effect  
21 beginning September 1, 2019, for the remainder of fiscal year 2020;  
22 and

23           ~~6.~~ 5. a. No mutual or interinsurance association, stock  
24                   company, ~~CompSource Oklahoma,~~ or other insurance

1 carrier writing workers' compensation insurance in  
2 this state may be assessed in any year an amount  
3 greater than ~~six percent (6%)~~ seven percent (7%) of  
4 the gross direct written premiums of that insurer.

5 b. No employer carrying its own risk may be assessed in  
6 any year an amount greater than ~~six percent (6%)~~ seven  
7 percent (7%) of the total actual paid losses of that  
8 individual self-insured.

9 c. No group self-insurance association may be assessed in  
10 any year an amount greater than ~~six percent (6%)~~ seven  
11 percent (7%) of the normal premium of that group self-  
12 insurance association;

13 6. The Oklahoma Tax Commission shall assess and collect from  
14 any uninsured employer a temporary assessment at the rate of five  
15 percent (5%) of the total compensation for permanent total  
16 disability awards, permanent partial disability awards and death  
17 benefits paid out during each quarter of the calendar year by  
18 employers. For the purpose of this paragraph, "uninsured employer"  
19 means an employer required by law to secure its workers'  
20 compensation obligations but who has failed or neglected to do so;

21 7. The Oklahoma Tax Commission shall assess and collect from  
22 claimants a 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,

11 b. the payments provided for in this subsection shall be  
12 payable at the time the award becomes final,  
13 regardless of whether or not the award made to the  
14 claimant is paid, and

15 c. in making and entering awards for compensation for  
16 permanent total disability or permanent partial  
17 disability, the Workers' Compensation Commission and  
18 the Workers' Compensation Court of Existing Claims  
19 shall determine and fix the amounts that shall be paid  
20 to the Tax Commission under paragraph 8 of this  
21 subsection. The total amount of the deduction so  
22 determined and fixed shall have the same force and  
23 effect as an award for compensation and all provisions  
24

1 relating to the collection of awards shall apply to  
2 such judgments; and

3 ~~d.~~

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

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

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

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

1 one percent (1%) of the unpaid amount, whichever is greater, to be  
2 paid to the Insurance 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)  
9 for each day following the due date for which payment is not paid or  
10 an amount equal to one percent (1%) of the unpaid amount, whichever  
11 is greater, to be paid to the Commission.

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

21 2. Until such time as the Multiple Injury Trust Fund fully  
22 satisfies any loan obligation payable to CompSource Mutual Insurance  
23 Company or its predecessor CompSource Oklahoma, the State Treasurer  
24 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. 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~~ 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 ~~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~~ Workers'  
3 Compensation Commission.

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

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

14 S. On or after the effective date of this act, accrued and  
15 unpaid compensation from the Multiple Injury Trust Fund shall bear  
16 simple interest only at the percentage rate applicable under Section  
17 727.1 of Title 12 of the Oklahoma Statutes from the day an award is  
18 made by the Workers' Compensation Court of Existing Claims or the  
19 Workers' Compensation Commission.

20 SECTION 4. AMENDATORY Section 32, Chapter 208, O.S.L.  
21 2013 (85A O.S. Supp. 2018, Section 32), is amended to read as  
22 follows:

23 Section 32. A. ~~For actions in which the subsequent injury~~  
24 ~~occurred on or after November 1, 2005, if~~ If an employee who is a

1 "physically impaired person" and who receives an accidental personal  
2 injury compensable under the Workers' Compensation Act, the Workers'  
3 Compensation Code or the Administrative Workers' Compensation Act  
4 which results in additional permanent disability so that the degree  
5 of disability caused by the combination of both disabilities results  
6 in disability materially greater than that which would have resulted  
7 from the subsequent injury alone, the employee may proceed against  
8 the Multiple Injury Trust Fund for permanent total disability. Only  
9 disability due to an injury to the body as a whole at a subsequent  
10 employer shall be combinable with a prior body disability, except  
11 that disability to a member may be combined with disability to the  
12 body as a whole. If such combined disabilities constitute permanent  
13 total disability, as defined in Section 2 of this ~~act~~ title, the  
14 employee shall receive full compensation as provided by law for the  
15 disability resulting directly and specifically from the subsequent  
16 injury. In addition, the employee shall receive compensation for  
17 permanent total disability if the combination of injuries renders  
18 the employee permanently and totally disabled. The employer shall  
19 be liable only for the degree of percent of disability which would  
20 have resulted from the subsequent injury if there had been no  
21 preexisting impairment. The compensation rate for permanent total  
22 disability awards from the Multiple Injury Trust Fund shall be the  
23 compensation rate for permanent partial disability paid by the  
24 employer in the last combinable compensable injury.

1 B. Permanent total disability awards from the Multiple Injury  
2 Trust Fund shall be payable in periodic installments for a period of  
3 fifteen (15) years or until the employee reaches sixty-five (65)  
4 years of age, whichever period is longer.

5 C. Permanent total disability awards from the Multiple Injury  
6 Trust Fund shall accrue from the file date of the order of the  
7 Workers' Compensation Commission finding the claimant to be  
8 permanently and totally disabled.

9 D. Before a physically impaired person can proceed against the  
10 Multiple Injury Trust Fund, the previously adjudicated compensable  
11 permanent partial disability adjudged and determined by the Workers'  
12 Compensation Court, the Workers' Compensation Court of Existing  
13 Claims or Workers' Compensation Commission and the permanent partial  
14 disability from the last injury must exceed fifty percent (50%) to  
15 the body as a whole. However, amputations and loss of use of a  
16 scheduled member qualifying as previous impairment under paragraph 2  
17 of subsection A of Section 30 of this title shall be considered in  
18 lieu of previously adjudicated compensable permanent partial  
19 disability.

20 E. Awards under this section shall abate upon the death, from  
21 any cause, of the employee.

22 ~~E.~~ F. Reopening any prior claim other than the last injury  
23 claim against the employer shall not give a claimant the right to  
24 additional Multiple Injury Trust Fund benefits.

1        ~~F.~~ G. The Multiple Injury Trust Fund shall have authority to  
2 compromise a claim for less than the indicated amount of permanent  
3 total disability. ~~An order entered after the effective date of this~~  
4 ~~act may~~ Orders shall be paid in periodic installments beginning on  
5 the date of the award, ~~or may be~~ unless commuted to a lump-sum  
6 payment or payments, by agreement of the claimant and the Multiple  
7 Injury Trust Fund. All offers made by the Multiple Injury Trust  
8 Fund pursuant to this section shall be conveyed by the claimant's  
9 attorney to the claimant within five (5) days of receipt of the  
10 offer.

11        ~~G.~~ H. If an order is entered finding an employee to be  
12 permanently totally disabled as a result of combined disability, and  
13 such order is compromised, the employee is thereafter prohibited  
14 from making an additional claim against the MITF. An attorney for a  
15 claimant against the Multiple Injury Trust Fund shall be entitled to  
16 a fee equal to twenty percent (20%) of permanent disability benefits  
17 awarded. ~~For awards entered after the effective date of this act,~~  
18 ~~the~~ The attorney fee shall be paid in periodic installments by the  
19 attorney receiving every fifth check. All benefits awarded to the  
20 attorney shall be vested at the time the award becomes final.

21        ~~H.~~ ~~In the event a claimant receiving benefits for permanent and~~  
22 ~~total disability from the Multiple Injury Trust Fund dies as a~~  
23 ~~result of his or her injury before the award has been fully paid,~~  
24 ~~payments shall continue to the surviving spouse for five (5) years~~

1 ~~or upon remarriage, whichever occurs first. In no event shall~~  
2 ~~payments to the surviving spouse extend beyond the period of~~  
3 ~~benefits awarded to the claimant.~~

4 SECTION 5. AMENDATORY Section 33, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2018, Section 33), is amended to read as  
6 follows:

7 Section 33. A. The right to claim compensation for benefits  
8 from the Multiple Injury Trust Fund shall be forever barred unless a  
9 Notice of Claim, on a form prescribed by the Workers' Compensation  
10 Commission, shall be filed with the Commission within two (2) years  
11 of the date of the last order for permanent partial disability  
12 arising from the latest claim against the last employer.

13 B. When a claim for benefits from the Multiple Injury Trust  
14 Fund is filed, unless claimant shall in good faith request a hearing  
15 and final determination thereon within ~~three (3)~~ two (2) years of  
16 the filing thereof, the same shall be barred.

17 C. An attorney who represents a respondent or insurance carrier  
18 in a claim against the last employer shall not represent the  
19 employee in a subsequent claim against the Multiple Injury Trust  
20 Fund.

21 SECTION 6. AMENDATORY Section 34, Chapter 208, O.S.L.  
22 2013 (85A O.S. Supp. 2018, Section 34), is amended to read as  
23 follows:

24

1 Section 34. A. The MITF Director shall be charged with the  
2 administration and protection of the Multiple Injury Trust Fund and  
3 shall be notified by the Workers' Compensation Commission of all  
4 proceedings which may affect such fund.

5 B. The MITF Director shall have authority to conduct all  
6 business affairs relating to administration of the Multiple Injury  
7 Trust Fund, including, but not limited to, appointment of  
8 assistants, accountants, attorneys and other employees as may be  
9 necessary.

10 C. The MITF Director shall have standing and the authority to  
11 appear in any case before the Commission in which the Commission is  
12 considering an award from the Multiple Injury Trust Fund.

13 ~~C. D.~~ D. Any party interested shall have a right to bring a  
14 proceeding in the Supreme Court to review an award of the Commission  
15 affecting such Multiple Injury Trust Fund, in the same manner as is  
16 now provided by law with reference to other awards by the  
17 Commission.

18 ~~D. The State Treasurer shall allocate to the MITF Director~~  
19 ~~sufficient funds for administration expenses thereof in amounts to~~  
20 ~~be fixed and approved by the Administrator for the Multiple Injury~~  
21 ~~Trust Fund, unless rejected by the Governor and Attorney General.~~

22 SECTION 7. AMENDATORY Section 82, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2018, Section 82), is amended to read as  
24 follows:

1 Section 82.

2 A. 1. a. Fees for legal services rendered in a claim shall not  
3 be valid unless approved by the Commission.

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

18 (1) Attorney fees may not be collected for recovery  
19 on noncontroverted claims.

20 (2) Attorney fees shall not be awarded on medical  
21 benefits or services.

22 (3) The fee for legal services rendered by an  
23 attorney representing an employee in connection  
24 with a change of physician requested by the

1 injured employee, controverted by the employer,  
2 and awarded by the Commission, shall be Two  
3 Hundred Dollars (\$200.00).

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

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

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

8       ~~3.~~ In any case where attorney fees are allowed by the  
9 Commission, the limitations expressed in subparagraph b of paragraph  
10 1 of this subsection shall apply.

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

14       B. An attorney representing an employee under this act may not  
15 recover fees for services except as expressly provided in this  
16 section.

17       SECTION 8.       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. Five Million Dollars (\$5,000,000.00) shall be payable in  
21 equal monthly installments to the credit of the Workers'  
22 Compensation Commission Revolving Fund established in Section ~~2~~ 28.1  
23 of this act ~~for the fiscal year ending June 30, 2016, and Three~~  
24 ~~Million Dollars (\$3,000,000.00)~~ title for the fiscal year ending

1 June 30, ~~2017~~ 2020, and for all subsequent years to be used to  
2 implement the provisions of this title; and

3 2. ~~Four Million Dollars (\$4,000,000.00)~~ The following amounts  
4 shall be payable in equal monthly installments to the credit of the  
5 Workers' Compensation Administrative Fund established in Section ~~5~~  
6 401.1 of this act ~~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~~ title:

12 a. Two Million Five Hundred Thousand Dollars  
13 (\$2,500,000.00) for the fiscal year ending June 30,  
14 2020, and

15 b. Three Million Dollars (\$3,000,000.00) for all  
16 subsequent years as long as the Workers' Compensation  
17 Court of Existing Claims is authorized by the  
18 Legislature.

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

22 E. The refund provisions of Sections 227 through 229 of Title  
23 68 of the Oklahoma Statutes shall be applicable to any payments made  
24 pursuant to this section.

1 SECTION 9. This act shall become effective July 1, 2019.

2 SECTION 10. It being immediately necessary for the preservation  
3 of the public peace, health or safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

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