GENTNER DRUMMOND
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION
2026-14

The Honorable Chris Kannady
Oklahoma House of Representatives, District 91
2300 N. Lincoln Boulevard, Room 240
Oklahoma City, OK 73105
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September 9, 2026

Dear Representative Kannady:

This office has received your request for an Attorney General Opinion in which you ask, in effect, the following question:

> **What are the "annual obligations" of the Multiple Injury Trust Fund under title 85A, section 31(A)(1) of the Oklahoma Statutes?**

I.
SUMMARY

The Multiple Injury Trust Fund ("MITF" or "Fund") was created by the Legislature for a single purpose: "to insulate employers from having to pay permanent total disability benefits to a previously impaired worker who suffers an additional work-related injury which prevents the worker from returning to any gainful employment." *Multiple Inj. Tr. Fund v. Sugg*, 2015 OK 78, ¶ 7, 362 P.3d 222, 225. To fund the MITF, the Administrative Workers' Compensation Act ("Act") directs the Workers' Compensation Commission ("Commission") to establish an annual assessment rate—applicable to every insurer and self-insurer doing business in Oklahoma—in an amount "necessary to pay the annual obligations" of the Fund for that calendar year. 85A O.S.2021, § 31(A)(1). For purposes of setting this yearly assessment rate, the MITF Director is solely responsible for calculating and providing the Commission with a reasonable forecast of the Fund's "annual obligations." *Id*.

While the Act has no standalone definition for "annual obligations," it lists the Fund's various liabilities and spending responsibilities. Those liabilities and responsibilities comprise the annual obligations of the MITF: permanent total disability awards (plus accumulating interest) and any reasonably projected compromise settlements of those awards, along with the Fund's annual payment to the Oklahoma Department of Labor, authorized reinsurance agreements, outstanding loan installments, any unpaid obligations carried forward from previous years, and all administrative expenses incurred by the Fund.

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II.
Background

In 1943, the Legislature created the Fund "to encourage employment of previously impaired workers."[1] *Special Indem. Fund v. Figgins*, 1992 OK 59, ¶ 6, 831 P.2d 1379, 1381. Before then, "it was extremely difficult for physically impaired persons to obtain employment." *Id.* ¶ 5, 831 P.2d at 1381. The Fund provides a safety net to already-injured workers while simultaneously shielding employers if a new injury, combined with the preexisting disability, renders those workers permanently and totally disabled in the course of their employment. *See Multiple Inj. Tr. Fund v. Wade*, 2008 OK 15, ¶ 13, 180 P.3d 1205, 1209 ("The statutes protect employers from the responsibility to compensate a physically impaired person for disability resulting from the combination of the previous impairment and the subsequent impairment caused by an on-the-job injury."). Under this long-established system, the "employer is liable only for the amount of disability caused by the subsequent accident," while the Fund "is responsible for excess awards resulting from combined disabilities." *Ball v. Multiple Inj. Tr. Fund*, 2015 OK 64, ¶ 7, 360 P.3d 499, 502 (quoting *Figgins*, 1992 OK 59, ¶ 6, 831 P.2d at 1382).

The MITF is funded by a regular assessment computed according to a process set forth in the Act. *See* 85A O.S.2021, § 31(A)(1)–(5). First, the MITF Director must "determine[] on or before December 31 of each year" the "annual obligations" of the Fund. *Id.* § 31(A)(1). Based on that determination, the Commission "establish[es] an assessment rate . . . necessary to pay the annual obligations . . . for the next calendar year." *Id.* All "[i]nsurance carriers, self-insurers, and group self-insurance associations" in the state pay a proportional amount of the assessment in equal installments. *Id.* § 31(A)(2).[2] The assessment may not exceed seven percent (7%) of (1) an insurer's "gross direct written [policy] premiums," (2) "the total actual paid losses" of an employer carrying its own risk, or (3) "the normal premium" for a group self-insurance association. *Id.* § 31(A)(5)(a)–(c). Under current law, the "authorization for a maximum seven-percent assessment shall exist until fiscal year 2027, then revert back to six percent (6%) thereafter." *Id.*

III.
Discussion

You ask for the definition of the Fund's "annual obligations" as the term is used in this section of the Act. Simply put, these obligations represent the lawful and necessary expenditures that the MITF Director—acting within the scope of that office's valid statutory discretion—projects for the upcoming calendar year. Toward this end, various provisions of the Act authorize the Fund to expend money for enumerated purposes.

In particular, the applicable portions of the Act empower and instruct the MITF to make several types of payments:

[1] "The Fund was originally named the Special Indemnity Fund. In 1999, the Legislature changed the name to the Multiple Injury Trust Fund." *Ball v. Multiple Inj. Tr. Fund*, 2015 OK 64, ¶ 7 n.11, 360 P.3d 499, 502 n.11.

[2] In addition, "[a]ll parties required to pay an assessment . . . shall be entitled to receive a rebate equal to two-thirds (2/3) of the amount of the assessment actually paid, subject to application to and approval of the same by the Oklahoma Tax Commission." 68 O.S.2021, § 6101(A).

- adjudicated awards to claimants for permanent total disability, 85A O.S.2021, § 32(B)–(C);

- approved settlements in compromise of such claims, *id.* § 32(G)–(H);

- simple interest accumulating on the Fund's "accrued and unpaid" awards, *id.* § 31(T);

- an annual payment of $1,000,000 to the Oklahoma Department of Labor Revolving Fund, *id.* § 31(I);

- obligations related to reinsurance agreements, *id.* § 31(N);

- certain loan installments, *id.* § 31(F)(2);

- unpaid obligations carried forward from prior-year revenue shortfalls, *id.* § 31(A)(8); and

- "sufficient funds for administration expenses" approved by the MITF Director, *id.* § 31(S).

In short, the Legislature has furnished a complete roster of the Fund's fiscal liabilities and responsibilities. Accordingly, the total amount of projected spending in these enumerated categories will constitute the Fund's annual obligations in a given year. *See, e.g.*, *Humphries v. Lewis*, 2003 OK 12, ¶ 7, 67 P.3d 333, 335 ("Where the language of a statute is clear and unambiguous, the language will be given its plain meaning.").

The Fund's primary annual obligation, by far, arises from permanent total disability awards.[3] "Awards against the Fund may be entered only for an obligation defined and authorized by statute." *Reynolds v. Special Indem. Fund*, 1986 OK 64, ¶ 5, 725 P.2d 1265, 1267. Permanent total disability awards "shall be payable in periodic installments for a period of eight (8) years or until the employee reaches sixty-five (65) years of age, whichever period is longer." 85A O.S.2021, § 32(B). All such awards "shall accrue from the file date of the [Commission's] order . . . finding the claimant to be permanently and totally disabled." *Id.* § 32(C); *see also Wade*, 2008 OK 15, ¶ 16, 180 P.3d at 1209 ("The Fund's obligation . . . does not attach until the extent of the employer's primary liability for the subsequent work-related injury has been judicially determined.").

In seeking a comprehensive and precise definition of the Fund's "annual obligations," you also specifically ask whether compromise settlements of existing awards and claims are included as a statutory obligation of the MITF. The answer is yes. In the past, "the Fund has had a continuing problem with the timely payment of awards due to lack of funds[.]" *Dean v. Multiple Inj. Tr. Fund*, 2006 OK 78, ¶ 22, 145 P.3d 1097, 1104. In response, "the legislature has taken steps to protect it

[3] "'Permanent total disability' means, based on objective findings, incapacity, based upon accidental injury or occupational disease, to earn wages in any employment for which the employee may become physically suited and reasonably fitted by education, training, experience or vocational rehabilitation . . . ." 85A O.S.Supp.2026, § 2(35); *see also Sugg*, 2015 OK 78, ¶ 9, 362 P.3d at 226 ("This Court has said that permanent total disability constitutes a lack of ability to substantially perform gainful employment without injury to health or serious discomfort.").

so that all claimants under the Fund have an opportunity to receive payment for their awards." *Id.*; *see also* 2019 Okla. Sess. Laws ch. 476, § 58 (expressing legislative purpose "to secure the [Fund] as a general obligation of the State of Oklahoma").

With the aim of more efficiently resolving the Fund's liabilities arising from both adjudicated awards and pending claims, the Legislature provided that the MITF "shall have authority to compromise a claim ***for less than*** the indicated amount of permanent total disability." 85A O.S.2021, § 32(G) (emphasis added). Section 32(G) further directs that all "[o]rders shall be paid in periodic installments beginning on the date of the award, unless commuted to a lump-sum payment or payments, by agreement of the claimant and the [MITF]." *Id.*; *see also id.* § 32(H) (establishing additional procedures governing the Fund's payment of agreed settlements). A plain reading of sections 31 and 32 together makes it evident that the MITF Director may fully consider reasonable projections of anticipated settlements when computing the Fund's annual obligations.[4] *See Special Indem. Fund v. Treadwell*, 1984 OK 91, ¶ 11, 693 P.2d 608, 610 (noting that the "Fund is supplementary of the Workers' Compensation Act," the purposes of which are "remedial in character and should be liberally construed"). Stated another way, the obligations determined by the MITF Director "to be outstanding for the next calendar year" consist of all amounts reasonably expected to come due in a given year, including projected compromise settlements. 85A O.S.2021, § 31(A)(1); *see also id.* § 31(M) ("The MITF Director shall have authority to fulfill all payment obligations of the [Fund].").

In effect, sections 31 and 32 channel the MITF Director's discretion and maximize the effect of specific, enumerated categories in guiding the MITF Director's computation. As a fundamental matter, a "statute creating an express power in the nature of an express affirmative duty normally creates an implied power necessary to fulfill that express affirmative duty." *W. Heights Indep. Sch. Dist. No. I-41 v. State ex rel. Okla. State. Dep't of Educ.*, 2022 OK 79, ¶ 32, 518 P.3d 531, 543; *see also* ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 192–93 (2012) ("In the context of legislation, it has long been held that 'whenever a power is given by a statute, everything necessary to making it effectual . . . is implied.'" (citation omitted)). Here, the Act authorizes a funding mechanism—an assessment based on the MITF Director's determination of annual obligations—and identifies certain enumerated expenditures for the Fund.[5] *See Cont'l Oil Co. v. Okla. State Bd. of Equalization*, 1976 OK 23, ¶ 8, 570 P.2d 315, 317 ("The Legislature has established the standards and guidelines for [the] Board's actions and [the] Board must perform its duties pursuant to those standards and guidelines."); *see also Gundy v. United States*, 588 U.S. 128, 136 (2019) (explaining that courts will construe statutes to determine "what task [the statute] delegates and what instructions it provides").

In sum, the MITF Director's power to determine annual obligations is directly tied to the purposes for which the Fund's revenue may be spent. This office concludes that the MITF Director shall

[4] Your question goes on to suggest that any "amount necessary to achieve a specific reduction in liability is an 'annual obligation'" of the Fund within the meaning of the Act. This office does not adopt the broader proposition that the Fund's obligations include a discretionary paydown target for the coming year. The Act's enumerated spending categories contain the entirety of the Fund's payment responsibilities.

[5] Although your question discusses only permanent total disability awards and compromises of those awards—the Fund's primary annual obligations—the MITF Director has discretion to estimate the other expenditures listed in the Act as well.

determine the Fund's annual obligations based on a reasonably expected projection of all foreseeable annual spending within the designated categories established under title 85A, sections 31 and 32.

It is, therefore, the official Opinion of the Attorney General that:

> **The "annual obligations" of the Multiple Injury Trust Fund are the spending categories enumerated within title 85A, sections 31 and 32 of the Oklahoma Statutes: permanent total disability awards, compromise settlements of such awards, and all other authorized expenses and liabilities, as determined by the MITF Director's reasonable fiscal forecast for the upcoming calendar year.**

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