Department of Insurance

Senate Finance and Financial Institutions Committee

Ross Miller, Senior Economist
Legislative Service Commission

May 23, 2007

Additional copies are available on our web site at www.lsc.state.oh.us
Click on 'Budget Documents' then 'Redbooks'

LSC Redbook

for the

Department of Insurance

Senate Finance and Financial Institutions Committee

Ross Miller, Senior Economist

Legislative Service Commission

TABLE OF CONTENTS

ATTACHMENTS:

Catalog of Budget Line Items
LSC Budget Spreadsheet By Line Item: Executive to House Passed
Comparison Document: Permanent and Temporary Law

May 23, 2007

Department of Insurance

- The agency receives no GRF funding
- Executive proposal provides $1 million for the biennium for an initiative to decrease the number of Ohioans without health insurance
- A portion of fee revenue to Fund 554 is redirected to the GRF

OVERVIEW

The Ohio Department of Insurance (ODI) regulates the business of insurance in Ohio. Its mission is to protect Ohio consumers through financial solvency regulation, market conduct regulation, policy form and rate review, and consumer education. To carry out this mission it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, investigates allegations of consumer and provider fraud, investigates consumer complaints, and monitors the financial solvency and market conduct of insurance companies. The Department reviews insurance policies and forms used by insurance companies and the premiums they charge customers in the life, accident, health, managed care, and property and casualty insurance lines. It also administers the domestic and foreign insurance taxes, which in FY 2006 raised over $419 million (combined) for the General Revenue Fund (GRF).

The Department of Insurance is a cabinet-level agency with more than 270 employees. Its activities are organized into six distinct program series, which are: Investigation and Licensing, Financial Regulation, Policy and Rate Filing Regulation Services, Consumer Services, Medical Malpractice, and Program Management. The smallest and newest of these program series, Medical Malpractice, is not funded for the current biennium, but its functions are continued under the Office of Property and Casualty Services.[1] In particular, the Department will still collect and publish data on medical malpractice claims closed in Ohio as required by H.B. 215 of the 125th General Assembly. The Department published its first report on medical malpractice claims in November 2006, for claims closed during 2005.[2]

The Department receives no budgetary resources from the GRF. Funding for the Department is derived primarily from the fees that accompany appointments of insurance agents by insurance companies. The Department receives up to $15 of this $20 fee with the remaining revenue deposited into the GRF. This primary revenue source is supplemented by company filing fees, various smaller fees, and a federal grant that funds the Ohio Senior Health Insurance Information Program (OSHIIP). It is currently estimated that the agency's FY 2007 expenditures will total $32.1 million.

[1] The new Superintendent of Insurance, who took office on January 8, 2007, is consolidating the six offices of the Department into three. In the process, the functions performed by this program series would be located within the new Office of Product Regulation, which incorporates both the old Office of Property and Casualty Services and the old Office of Life, Health, and Managed Care Services. OBM indicates that there will still be six program series in the Department, in anticipation of the possibility that the Medical Malpractice program series may be reactivated if market conditions change so as to warrant it.

[2] The report is available on the Department's web site, and contains the most complete data yet available on medical malpractice claims in Ohio. Due to the lack of comparable history, data on trends will emerge as additional reports are issued.

In 2006, the Department licensed and regulated approximately 1,740 insurance companies operating in the state, of which approximately 275 are "domestic" insurance companies, *i.e.*, companies based and licensed to do business in Ohio. The other nearly 1,500 insurance companies regulated by the Department, those based in another state but licensed to do business in Ohio, are referred to as "foreign" insurance companies. The Department also annually licenses and regulates over 200,000 insurance agents and approximately 15,000 agencies.

The Department is aided in monitoring the financial solvency and market conduct of foreign insurance companies by the departments of insurance for the states in which those companies are based. The 50 state departments of insurance receive support and coordination assistance through the National Association of Insurance Commissioners (NAIC). The NAIC conducted an accreditation review of the Ohio Department of Insurance in July 2001. Ohio received the second highest score ever given during that review and the highest score ever for a large insurance state.

Summary of FYs 2008-2009 Budget Issues

The executive's funding recommendations are $32,643,567 for FY 2008 and $33,340,834 for FY 2009. These amounts represent an increase of 1.6% in FY 2008 as compared to the FY 2007 estimated spending level and an increase of 2.1% in FY 2009.

The recommended amounts include funding for cost-of-living increases in the Financial Regulation Program Series and anticipated expenses related to employing special counsel services in connection with ongoing litigation jointly handled by department personnel and the Attorney General's office. It is worth noting in connection with the cost-of-living adjustments that section 3901.07 of the Revised Code requires that financial examiners employed under this program series be compensated at levels at least as highly as is provided in the Examiners' Handbook published by the NAIC, and that funding to compensate such personnel is paid by the company that is examined. The new Superintendent has announced plans to reorganize the Department, which may impact the number and organization of program series, but the initial budget submission and the executive's recommendations were based on funding five of the six program series on which the preceding budget was based.

The executive's recommendation includes a $500,000 increase in each year of the biennium compared to the original budget request to fund an effort to increase health insurance coverage in Ohio. The most recent estimate of the number of Ohioans without health insurance coverage from statehealthfacts.org (an affiliate of the Kaiser Family Foundation) is that approximately 1.34 million Ohioans lacked insurance during 2004 and 2005. The funding increase is intended to fund consumer education efforts regarding health insurance and managed care coverage, monitor market practices of the health insurance and managed care industry, and to launch the Ohio Healthcare Exchange. Consumer education efforts may be helpful, in that many analyses find that approximately one-fifth of the uninsured are eligible for Medicaid or SCHIP but are not enrolled.[3] The Ohio Healthcare Exchange has not been implemented, but department officials envision it to be a public/private partnership that would leverage federal funding where possible to provide subsidies to Ohioans to obtain health insurance. The $500,000 increase is intended to fund two new positions for this initiative and to fund related actuarial and expert consultants, and is located in the Program Management Program Series. Department officials report that use of the funding is somewhat fluid as they want to perform as many functions for the exchange in-house

[3] A figure of 22% was cited by John Sheils of the Lewin Group in testimony before the House Healthcare Access and Affordability Committee on March 8, 2007.

as they are able before resorting to new personnel or consulting services, and they are still identifying what functions can be performed in-house.

H.B. 282 of the 125th General Assembly created the Medical Liability Fund in the State Treasury for the purpose of "funding the medical liability underwriting association that is created in accordance with sections 3929.62 to 3929.70 of the Revised Code or for funding another medical malpractice initiative with the approval of the general assembly." Appropriations from the fund were made in FY 2004 and in FY 2005, but no money was spent and no appropriations have been made since. The money can be spent only under conditions specified in the bill, and which are discussed in the "Analysis of Executive Proposal" section (Program Series 5). Premiums for medical malpractice insurance have grown much more slowly since H.B. 282 was enacted, even falling slightly in 2006, making it less likely that the conditions for activating the fund will be met. The executive proposal effectively would require the Department to go before the Controlling Board to establish an appropriation from the fund if conditions outlined in H.B. 282 are met.

The Department of Insurance did not propose any fee increases in its budget request. The Department of Insurance Operating Fund (Fund 554) is the source for over 73% of the proposed appropriations for the coming biennium. The executive budget proposes to change the distribution of revenue resulting from a fee administered by the department in a way that increases revenue to the GRF but decreases the share going to Fund 554. Receipts to Fund 554 during FY 2006 were approximately $27.7 million, and the proposed change would redirect approximately $5 million of this from Fund 554 to the GRF. The resulting revenue to Fund 554 during the coming biennium, estimated by the Department to be approximately $23.6 million each year, is approximately $304,000 less than the recommended appropriations from the fund in FY 2008, and approximately $772,000 less than the proposed FY 2009 appropriations. The amount of annual receipts does fluctuate from year to year depending heavily on the number of applications for insurance agent licenses, however it is likely that the balance in Fund 554 will be used to meet departmental expenses given the recommended appropriations and changes in distribution of the fee revenue. The balance in the fund is projected to be approximately $24.3 million at the beginning of FY 2008, so the recommended change to fee distribution, while not sustainable indefinitely, can be accommodated for the biennium.

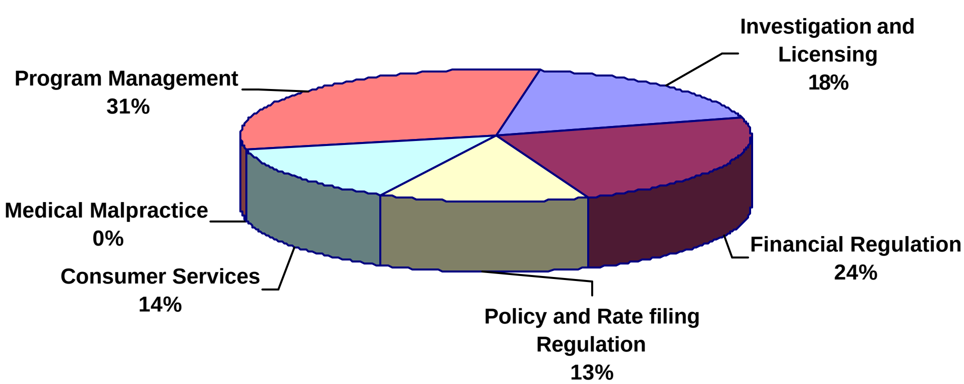
Staffing Levels

The following table presents staffing levels by program series since FY 2004. The numbers shown represent the number of full-time permanent employees as of July of the year shown.

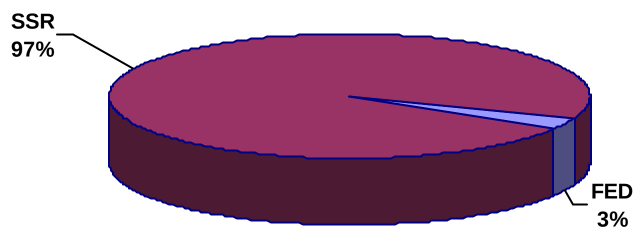
Department of Insurance Staffing Levels						
					Estimated	
Program Series/Division	2004	2005	2006	2007	2008	2009
Investigation & Licensing	54	54	51	59	61	61
Financial Regulation	59	61	58	59.5	59.5	59.5
Policy and Rate Filing Reg.	33	34	33	37	37	37
Consumer Services	45	45	47	48.5	48.5	48.5
Medical Malpractice	0	0	0	0	0	0
Program Management	71	70	67	71	71	71
Totals	**262**	**264**	**256**	**275**	**277**	**277**

The following charts present breakdowns of the budget proposed by the Governor for the biennium by program series, fund group, and object code.

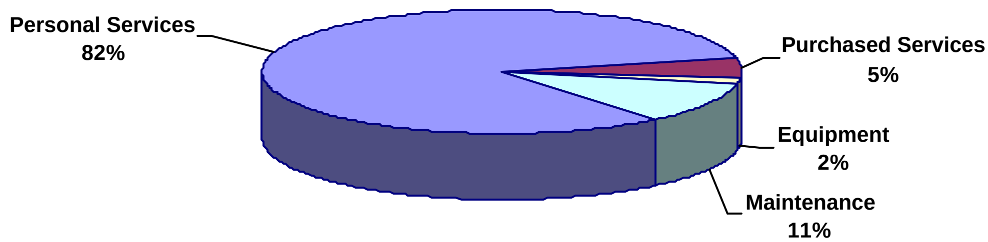
Total Budget by Program Series



Total Budget by Fund Group



Total Budget by Object Code



MASTER TABLE: EXECUTIVE'S RECOMMENDATIONS FOR FY 2008 AND FY 2009

The following table provides a comprehensive presentation of the executive's recommendations for each of the agency's line items and the programs each line item supports. Please note that some line items may provide funding for multiple program series and/or programs. See the Analysis of Executive Proposal section for more information on specific program funding.

Fund	ALI	Title	FY 2008	FY 2009
		Executive Recommendations for FY 2008 and FY 2009, By Line Item and Program		
		Federal Special Revenue Fund Group		
Fund 3U5	**820-602**	**OSHIIP Operating Grant**	**$1,100,000**	**$1,100,000**
		Program Series 4: Consumer Services	$1,100,000	$1,100,000
		Program 2: Ohio Senior Health Insurance Information Program	$1,100,000	$1,100,000
		Federal Special Revenue Fund Subtotal	**$1,100,000**	**$1,100,000**
		State Special Revenue Fund Group		
Fund 554	**820-601**	**Operating Expenses-OSHIIP**	**$553,750**	**$569,269**
		Program Series 4: Consumer Services	$553,750	$569,269
		Program 2: Ohio Senior Health Insurance Information Program	$553,750	$569,269
Fund 554	**820-606**	**Operating Expenses**	**$23,350,236**	**$23,802,797**
		Program Series 1: Investigative and Licensing Services	$5,751,108	$6,124,468
		Program 1: Market Conduct	$1,956,704	$2,070,994
		Program 2: Licensing	$1,524,662	$1,630,506
		Program 3: Fraud Investigation and Enforcement	$2,269,742	$2,422,968
		Program Series 3: Policy and Rate Filing Regulation	$4,244,470	$4,439,008
		Program 1: Property and Casualty	$2,137,178	$2,233,748
		Program 2: Life and Health	$2,107,292	$2,205,260
		Program Series 4: Consumer Services	$2,848,331	$3,027,629
		Program 1: Consumer Services	$2,848,331	$3,027,629
		Program Series 5: Medical Malpractice	$0	$0
		Program 1: Medical Malpractice	$0	$0
		Program Series 6: Program Management	$10,506,327	$10,211,692
		Program 1: Program Management	$10,506,327	$10,211,692
Fund 555	**820-605**	**Examination**	**$7,639,581**	**$7,868,768**
		Program Series 2: Financial Regulation	$0	$0
		Program 1: Financial Regulation Services	$7,639,581	$7,868,768
		State Special Revenue Fund Subtotal	**$31,543,567**	**$32,240,834**
Agency Total Funding			**$32,643,567**	**$33,340,834**

ANALYSIS OF EXECUTIVE PROPOSAL

Program Series — 1: Investigation and Licensing

Purpose: This program series investigates inappropriate market conduct by insurance companies and agents, licenses insurance agents, and investigates insurance-related fraud.

The following table shows the line item that is used to fund the Investigation and Licensing program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
554	820-606	Operating Expenses	$5,751,108	$6,124,468
		State Special Revenue Fund Subtotal	**$5,751,108**	**$6,124,468**
Total Funding: Investigation and Licensing			**$5,751,108**	**$6,124,468**

This analysis focuses on the following specific programs within the Investigation and Licensing program series:

- ***Program 1: Market Conduct***
- ***Program 2: Licensing***
- ***Program 3: Fraud and Enforcement***

Program 1: Market Conduct

Program Description: The Market Conduct Division identifies inappropriate market practices by insurance companies, imposes penalties, and takes corrective actions. The division analyzes market data, consumer complaints, and electronic data, and conducts on-site compliance examinations to identify such practices. The division also uses, and provides input into, the NAIC Examination Tracking System. This division also houses the department's provider complaint and prompt payment program for healthcare claims.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service.

Temporary and Permanent Law Provisions:

Market Conduct Examination (Section 307.10). Permits the Superintendent of Insurance to assess the costs of market conduct examinations on the insurer that was examined. All assessments collected are to be deposited into the Department of Insurance Operating Fund (Fund 554).

Program 2: Licensing

Program Description: The Licensing Division licenses individuals and organizations other than insurance companies to sell, distribute, and service insurance products. This division administers the professional education program required for obtaining a license from the Department. It also takes regulatory action against applicants and licensees that are not compliant with licensure requirements. In 2006 the division began to mandate that insurers process appointments and terminations electronically.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service.

Temporary and Permanent Law Provisions:

None

Program 3: Fraud and Enforcement

Program Description: This division investigates insurance-related fraud committed by consumers, medical providers, or others, and investigates allegations of misconduct by insurance agents and other licensees. During 2006 the division opened 149 insurance fraud cases, referring 77 of those for prosecution (of which 64 resulted in convictions).

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service, and permits hiring two additional staff people in the division.

Temporary and Permanent Law Provisions

None

Program Series 2: Financial Regulation

Purpose: This program series monitors the financial solvency of insurance companies operating in Ohio.

The following table shows the line item that is used to fund the Financial Regulation program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
555	820-605	Examination	**$7,639,581**	**$7,868,768**
		State Special Revenue Fund Subtotal	**$7,639,581**	**$7,868,768**
Total Funding: Financial Regulation			**$7,639,581**	**$7,868,768**

This analysis focuses on the following specific program within the Financial Regulation program series:

- ***Program 1: Financial Regulation Services***

Program 1: Financial Regulation Services

Program Description: The Financial Regulation program monitors the financial solvency of the approximately 265 insurance companies headquartered in Ohio to ensure they are able to pay claims when due. This program also monitors approximately 1,600 insurance companies headquartered in other states, in cooperation with other state insurance departments and the NAIC.

The program monitors domestic insurers by reviewing financial statements, supplemental filings, and the NAIC database. It conducts on-site examinations on a risk-focused examination schedule. And it reviews proposed mergers and acquisitions, redomestications, and reinsurance transactions. As noted in the Overview, section 3901.07 of the Revised Code requires that financial examiners employed under this program series be compensated at levels at least as high as those provided in the Examiners' Handbook published by the NAIC, and funding to compensate such personnel is paid by the company that is examined.

Funding Source: SSR: insurance company fees

Line Item: 820-605, Examination

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service.

Temporary and Permanent Law Provisions

Examinations of Domestic Fraternal Benefit Societies (Section 307.10). Permits the Director of Budget and Management, at the request of the Superintendent of Insurance, to transfer funds from the Department of Insurance Operating Fund (Fund 554) to the Superintendent's Examination Fund (Fund 555) for expenses incurred in examining domestic fraternal benefit societies.

Retaliatory Tax from Foreign Insurers (R.C. section 3901.86). Existing law requires that 20% of the retaliatory tax collected from foreign insurance companies that sell fire insurance to Ohio residents must be paid into the State Fire Marshal's Fund. The bill reduces this from 20% of the retaliatory tax to 10%. This would reduce tax revenue to Fund 546, the State Fire Marshal's Fund, and increase revenue to the GRF by a corresponding amount. The amount of the funding reduction is no more than $10.1 million, based on FY 2006 revenues, and may be significantly less.

Program Series **3: Policy and Rate Filing Regulation**

Purpose: The Policy and Rate Filing Regulation program series reviews all rates and policies issued by property and casualty insurers and by life and health insurers operating in Ohio. It also licenses and monitors the activities of all health insuring corporations operating in Ohio.

The following table shows the line item that is used to fund the Policy and Rate Filing Regulation program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
554	820-606	Operating Expenses	$4,244,470	$4,439,008
		State Special Revenue Fund Subtotal	**$4,244,470**	**$4,439,008**
Total Funding: Policy and Rate Filing Regulation			**$4,244,470**	**$4,439,008**

This analysis focuses on the following specific programs within the Policy and Rate Filing Regulation program series:

- ***Program 1: Property and Casualty***
- ***Program 2: Life and Health***

Program 1: Property and Casualty

Program Description: This program reviews documents related to the sale of property and casualty insurance products to Ohio consumers for compliance with Ohio laws. Such documents include policy forms, endorsements, manual rules, and rates. This program received 9,042 product filings for review in 2005. Through the first eight months of 2006, 68% of filings were submitted in electronic form, saving space and staff time. This program also collects and annually publishes data on medical malpractice claims. The first annual report on this new initiative, required by H.B. 215 of the 125th General Assembly, was published in November of 2006. More generally, the activities conducted by Program Series 5: Medical Malpractice, are being conducted in this program until such time as that program series may require reactivation.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service. Turnaround time for review of documents filed was 32 days as of the time the budget was submitted, and the budget submission reports that 15 days is viewed as optimal; the funded level would make it difficult to reduce turnaround time to that optimal level.

Temporary and Permanent Law Provisions

None

Program 2: Life and Health

Program Description: This program reviews documents related to the sale of life and health insurance products to Ohio consumers for compliance with Ohio laws. All life, health, and accident policy forms and contracts are now maintained on a digital imaging system, saving space and staff time. The actuarial staff analyzes over 800 accident and health premium adjustments each year. The managed care staff within this program licenses and monitors the activities of health insuring corporations that operate in Ohio, and monitors their financial solvency.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service and may permit the establishment of a more efficient method of collecting valuation fees. Such fees raised approximately $5 million in 2005 and are deposited into the GRF.

Temporary and Permanent Law Provisions

None

Program Series 4: Consumer Services

Purpose: The Office of Consumer Services responds to consumer inquiries, investigates consumer complaints, and conducts educational outreach activities. It also administers the Ohio Senior Health Insurance Information Program (OSHIIP), which assists seniors in making informed decisions about health insurance issues.

The following table shows the line items that are used to fund the Consumer Services program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
554	820-601	Operating Expenses--OSHIIP	$553,750	$569,269
554	820-606	Operating Expenses	$2,848,331	$3,027,629
		State Special Revenue Fund Subtotal	**$3,402,081**	**$3,596,898**
Federal Special Revenue Fund				
3U5	820-602	OSHIIP Operating Grant	$1,100,000	$1,100,000
		Federal Special Revenue Fund Subtotal	**$1,100,000**	**$1,100,000**
Total Funding: Consumer Services			**$4,502,081**	**$4,696,898**

This analysis focuses on the following specific programs within the Consumer Services program series:

- ***Program 1: Consumer Services***
- ***Program 2: Ohio Senior Health Insurance Information Program***

Program 1: Consumer Services

Program Description: This program responds to insurance-related inquiries from insurance customers, investigates consumer complaints related to insurance, and educates Ohio consumers about insurance issues. During FY 2006, the program responded to over 107,000 telephone calls and 6,841 written complaints from consumers. As a result of departmental efforts, Ohio consumers recovered approximately $7.5 million.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service, assuming no significant increase in consumer demands for assistance.

Temporary and Permanent Law Provisions

None

Program 2: OSHIIP

Program Description: This program educates Ohio Medicare beneficiaries and their families about health insurance-related issues for seniors. In addition to distributing free brochures and other written educational material, the program operates a toll-free hotline. Since its inception in 1992, this program has counseled more than 175,000 people, handled over 192,000 telephone calls on general Medicare and senior health insurance questions, and established over 200 local senior health insurance information sites, in cooperation with hospitals, medical professionals, area-wide aging agencies, and other organizations. In connection with the establishment of Medicare Part D, this program handled over 82,000 telephone calls and counseled over 74,000 consumers. In part as a result of this program's work, Ohio was the first state to enroll at least 70% of its eligible beneficiaries under Medicare Part D.

The federal grant that provides approximately two-thirds of the funding for this program was $1.1 million in FY 2007, down slightly from $1.4 million in FY 2006. Department officials expect the grant amount to remain approximately $1.1 million each year of the biennium.

Funding Source: SSR: fees and fines, federal grant

Line Items: 820-601, Operating Expenses-OSHIIP; 820-602, OSHIIP Operating Grant

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service.

Temporary and Permanent Law Provisions

None

Program Series **5: Medical Malpractice**

Purpose: This program series is the Department's response to provisions of Sub. H.B. 282 of the 125th General Assembly. The program series was not funded for the current biennium, but program activities are maintained and conducted by the Office of Property and Casualty Services (see Program Series 3). The program series number is being retained to allow for the possibility that the Medical Liability Underwriting Association (see below) might be established in response to a change in market conditions.

The following table shows the line item that is used to fund the Medical Malpractice program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
554	820-606	Operating Expenses	$0	$0
		State Special Revenue Fund Subtotal	**$0**	**$0**
Total Funding: Medical Malpractice			**$0**	**$0**

This analysis focuses on the following specific program within the Medical Malpractice program series:

- ***Program 1: Medical Malpractice***

Program 1: Medical Malpractice

Program Description: In response to growing concerns about the stability of the market for medical malpractice insurance in Ohio, the 125th General Assembly passed Sub. H.B. 282. H.B. 282 permitted the Superintendent of Insurance to create a Medical Liability Underwriting Association (MLUA) to support the market under conditions specified in the bill.[4] The MLUA would essentially be an insurance company created by action of the state for the specific purpose of ensuring access to medical malpractice insurance coverage for Ohio medical providers. The Superintendent has not determined that establishment of the MLUA is necessary as of March 2007.

If it were to be established, the MLUA would be required to produce a plan of operation within 45 days. This program will engage in activities preparatory to creation of the MLUA, including drafting a potential plan of operation. If the MLUA is established, it will be funded by the Medical Liability Fund that was also established by H.B. 282 for the purpose of "funding the medical liability underwriting association that is created in accordance with sections 3929.62 to 3929.70 of the Revised Code or for funding another medical malpractice initiative with the approval of the general assembly." The fund received one-time funding, which was the balance of custodial funds that funded the Joint Underwriting Association (JUA). Like the MLUA, the JUA was essentially an insurance company, created by the state in 1975, to ensure that medical providers would have access to medical malpractice insurance coverage. The JUA was dissolved in 1997 by the Superintendent of Insurance with the authorization of the General

[4] Before establishing the MLUA the Superintendent must determine both that a "substantial number" of medical providers have been unable to obtain medical malpractice coverage from an existing insurer, and that the lack of insurance coverage threatens the availability of health care for "any group of individuals in this state."

Assembly, because the Superintendent determined that malpractice insurance was generally available to providers in the market. The money in the Medical Liability Fund derives from premiums paid to the JUA when it was operating.

The money in the Medical Liability Fund can be spent only if (1) the Superintendent of Insurance establishes the MLUA by rule or (2) with the approval of the General Assembly. The executive proposal effectively would require the Department to go before the Controlling Board to establish an appropriation from the fund after FY 2005. The preparatory work conducted by this program is therefore funded by Fund 554 until such time as it may legally be possible to fund it from the Medical Liability Fund.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides no funding for this program series, but moves its activities to Program Series 3.

Temporary and Permanent Law Provisions

None

Program Series **6: Program Management**

Purpose: This program series supports the Department's mission by supporting the activities of all department divisions and employees.

The following table shows the line item that is used to fund the Program Management program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
State Special Revenue Fund				
554	820-606	Operating Expenses	$10,506,327	$10,211,692
		State Special Revenue Fund Subtotal	**$10,506,327**	**$10,211,692**
Total Funding: Program Management			**$10,506,327**	**$10,211,692**

This analysis focuses on the following specific program within the Program Management program series:

- ***Program 1: Program Management***

Program 1: Program Management

Program Description: This program supports the Department's mission by providing management and support services to the other programs. It includes the offices of General Services, Legal Services, Executive Services, and Information and Technology Services. The Office of General Services includes the divisions of Fiscal Operations and Human Resources.

This program would also receive funding under the executive proposal for a Turnaround Ohio initiative intended to increase health insurance coverage for Ohioans. According to current estimates, the number of Ohioans without health insurance coverage may be over 1.3 million. This program will conduct consumer education efforts regarding health insurance and managed care coverage, monitor market practices in health insurance and managed care, and launch the Ohio Healthcare Exchange. Some of the activities connected with this initiative will be conducted in-house, some by new staff members, and some by hiring consultant services. At this time, Department officials are still in the process of determining how much of the initiative can be performed in-house.

Funding Source: SSR: fees and fines

Line Item: 820-606, Operating Expenses

Implication of Executive Recommendation: The executive proposal provides sufficient funding to continue the program at its current level of service. In particular, it includes $468,081 in FY 2009 that was requested for special counsel in connection with an increase in the number of cases brought against the Department. The increase may have resulted from an Ohio Supreme Court decision that concluded that Ohio's state agencies could be held liable for "negligent regulation." As described in the budget submission, the typical negligent regulation case arises after an insurance company is placed into liquidation (i.e., bankruptcy, which in the case of insurers is administered by the Superintendent in her role as the state's Liquidator).

The executive proposal also provides $500,000 in each fiscal year for the initiative to increase health insurance coverage for Ohioans. As described above, Department officials are currently unsure how much of the work for the new initiative can be performed in-house. Of the $500,000 provided in each year, $200,000 is coded to pay for personal services and $300,000 is coded to pay for purchased services.

Temporary and Permanent Law Provisions

Department of Insurance Fees (R.C. sections 3901.021, 3905.10, and 3905.20). Changes the share's of insurance agent appointment fees that go to Fund 554 and to the GRF. Currently Fund 554 receives 75% of the fee revenue and the GRF receives the remaining 25%. The bill would reduce the share going to Fund 554 to 60% and increase the share going to the GRF to 40%. This would reduce revenue to Fund 554 by approximately $5 million per year, and increase revenue to the GRF by the same amount. This would reduce fee revenue to Fund 554 to a level below the amount appropriated from the fund each year of the biennium. The fund balance is more than sufficient to absorb the difference during this biennium, but the fact that expected receipts to Fund 554 are less than appropriation levels is not sustainable indefinitely.

REQUESTS NOT FUNDED

The Department of Insurance budget request was fully funded.

g:\budget\budget.127\redbooks\senateredbooks\ins.doc/rh

Federal Special Revenue Fund Group

3AV 820-604 Federal Grant - Special Project

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$0	$71,063	$32,625	$0	**$0**	**$0**
	N/A	-54.1%			

Source: FED: currently CFDA 93.781, a grant awarded from the Centers for Medicare and Medicaid Services, the fund was created to hold moneys provided by any future federal grants received for special projects

Legal Basis: Section 206.63 of Am. Sub. H.B. 66 of the 126th G.A. (originally established by the Controlling Board on November 15, 2004)

Purpose: To provide funding for a study of the feasibility of creating and operating a high-risk pool for providing health insurance coverage, or for future studies for which federal funding is received.

3U5 820-602 OSHIIP Operating Grant

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$537,813	$554,822	$1,253,256	$1,080,000	**$1,100,000**	**$1,100,000**
	3.2%	125.9%	-13.8%	**1.9%**	**0.0%**

Source: FED: CFDA 93.779, a grant awarded from the Centers for Medicare and Medicaid Services (CMS)

Legal Basis: Section 206.63 of Am. Sub. H.B. 66 of the 126th G.A. (originally established by Controlling Board on December 6, 1999)

Purpose: The Ohio Senior Health Insurance Information Program (OSHIIP) is jointly administered with the Ohio Department of Aging (ODA). The federal grant that funds the program was formerly made to ODA, with OSHIIP being reimbursed for its expenses via Intrastate Transfer Voucher (ISTV). Starting in FY 2000, OSHIIP was awarded the federal grant directly from the Health Care Finance Administration (now known as the Centers for Medicare and Medicaid Services). As a result, instead of commingling the grant funds with the Ohio Department of Insurance's Operating Fund 554, Fund 3U5 and line item 820-602 were created to receive and disburse the grant funds. ODA receives 10% of the grant funds via ISTV to finance the Benefits Eligibility Screening Service program, in accordance with an interagency agreement between ODI and ODA.

State Special Revenue Fund Group

554 820-601 Operating Expenses-OSHIIP

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$271,343	$448,198	$498,362	$571,772	**$553,750**	**$569,269**
	65.2%	11.2%	14.7%	**-3.2%**	**2.8%**

Source: SSR: Fund 554 (insurance agents' fees)

Legal Basis: Section 206.63 of Am. Sub. H.B. 66 of the 126th G.A. (originally established by Controlling Board on September 14, 1998; the OSHIIP program was originally created by Executive Order in 1992)

Purpose: The Ohio Senior Health Insurance Information Program (OSHIIP) educates and counsels senior citizens on Medicare and other health insurance concerns. This program serves an eligible population of 1.4 million elderly Ohioans. Program staff provide counseling and telephone assistance, conduct educational seminars, assemble and publish insurance information brochures, and recruit and train volunteers who serve as counselors at the county level. Prior to FY 2000, the program received funding through an interagency agreement with the Ohio Department of Aging and through the department's operating fund (Fund 554). Beginning in FY 2000, the grant funds were appropriated in Fund 3U5, line item 820-602, OSHIIP Operating Grant. The program continues to be funded in part by the department's main operating fund, Fund 554, through this line item (820-601).

554 820-606 Operating Expenses

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$18,650,358	$18,459,077	$19,411,752	$22,832,214	**$23,350,236**	**$23,802,797**
	-1.0%	5.2%	17.6%	**2.3%**	**1.9%**

Source: SSR: Various fees. The fund receives up to $15 of the $20 fee assessed for the licensing of insurance agents and agencies, plus charges for continuing education of insurance agents, and fees for a variety of services or transactions performed by the Department for the regulation of insurance companies. These fees were first authorized by Am. Sub. H.B. 152 of the 120th G.A., which enacted ORC 3901.043. The remaining $5 of the agent licensing fee is deposited into the GRF. In addition, Sub. S.B. 375 of the 120th G.A., effective January 1, 1994, established the Insurance Agent Continuing Education program for which fees are charged and used to administer the program.

Legal Basis: ORC 3901.021 (originally established by Am. Sub. H.B. 694 of the 114th G.A.)

Purpose: This line item provides funding for the Department's operations, other than those directly related to examining the books of insurance companies. This appropriation line item became effective November 15, 1981.

555   820-605   Examination

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$6,069,349	$6,816,475	$6,856,463	$7,639,581	**$7,639,581**	**$7,868,768**
	12.3%	0.6%	11.4%	**0.0%**	**3.0%**

Source: SSR: Insurance company fees

Legal Basis: ORC 3901.071 (originally established by Am. Sub. H.B. 1267 of the 111th G.A.)

Purpose: This line item receives payments from insurance companies for the services of state examiners. The receipts are used to pay the salaries, fringe benefits, and travel expenses of the examiners, and administrative costs associated with the Office of Financial Regulation. This line item became effective May 21, 1976.

LSC Budget Spreadsheet by Line Item, FY 2008 - FY 2009

Fund	ALI	ALI Title	Estimated 2007	As Introduced 2008	House Passed 2008	% Change Est. 2007 to House 2008	As Introduced 2009	House Passed 2009	% Change House 2008 to House 2009
INS		**Insurance, Department of**							
3AV	820-604	Federal Grant - Special Project	$0	$ 0	$ 0	N/A	$ 0	$ 0	N/A
3U5	820-602	OSHIIP Operating Grant	$1,080,000	$ 1,100,000	$ 1,100,000	1.9%	$ 1,100,000	$ 1,100,000	0.0%
		Federal Special Revenue Fund Group Total	**$ 1,080,000**	**$ 1,100,000**	**$ 1,100,000**	**1.9%**	**$ 1,100,000**	**$ 1,100,000**	**0.0%**
554	820-601	Operating Expenses-OSHIIP	$571,772	$ 553,750	$ 553,750	-3.2%	$ 569,269	$ 569,269	2.8%
554	820-606	Operating Expenses	$22,832,214	$ 23,350,236	$ 23,350,236	2.3%	$ 23,802,797	$ 23,802,797	1.9%
555	820-605	Examination	$7,639,581	$ 7,639,581	$ 7,639,581	0.0%	$ 7,868,768	$ 7,868,768	3.0%
		State Special Revenue Fund Group Total	**$ 31,043,567**	**$ 31,543,567**	**$ 31,543,567**	**1.6%**	**$ 32,240,834**	**$ 32,240,834**	**2.2%**
		Total All Budget Fund Groups	***$ 32,123,567***	***$ 32,643,567***	***$ 32,643,567***	***1.6%***	***$ 33,340,834***	***$ 33,340,834***	***2.1%***

As Introduced (Executive)	As Passed by the House
1 (CD-555-DAS) School Employees' Health Care Benefits System	
Sections: ***606.05, 207.10.10***	**R.C.** ***9.901, 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, 4117.08, and Section 207.10.10***
Continues to delay the implementation of the School Employees' Health Care Benefits System as enacted in Am. Sub. H.B. 66 of the 126th General Assembly, until the General Assembly confirms the implementation through subsequent legislation.	Replaces the Executive provision with a provision that repeals the delay language in H.B. 66.
Specifies in uncodified law that the board be comprised of twelve members, six appointed by the Governor, three of whom are currently non-administrative school employees, and three each appointed by the President of the Senate and Speaker of the House of Representatives. Requires that at least one of the three members appointed by the President and Speaker be of the minority. (Under current law the board is comprised of nine members.)	Same as the Executive, but expands the membership of the Board from nine to twelve members in codified law, rather than uncodified law.
No provision.	Provides for continuation of the terms of the current and new members of the Board until December 31, 2010; provides for compensation for the members; requires the Board to meet at least nine times annually; and specifies the public character of the Board's records and meetings.
Requires that the board, in consultation with the Governor, develop an implementation plan based on the January 31, 2007 report to the Governor and General Assembly.	Replaces the Executive provision with a provision that implements the School Employees Health Care Benefits System with the following changes:
	Eliminates the authority of the Board to develop, approve, or implement centralized health care plans that public schools districts or consortia would be required to use. Eliminates the requirement that districts pay premiums to the Board and the School Employee Health Care Fund for health care benefits coverage. Requires instead that the

As Introduced (Executive)	As Passed by the House
	Board adopt "best practices" to which school health plans must adhere and adds other Board duties related to monitoring adherence to these best practices and the oversight of health care plans adopted by local school districts.
	Requires the Department of Insurance to evaluate the performance of the best practices adopted by the Board.
	Authorizes the Board, in cases where a health plan sponsor is not adhering to best practices, to request the Attorney General to seek appropriate court orders to enforce compliance.
	Requires the Department of Education to withhold 1% of all financial aid to a school district found not to be in compliance.
Requires GRF appropriation item 100-403, Public School Employee Benefits to be used by DAS to hire an executive director and necessary staff to provide support to the School Employee Health Care Board and the Public School Employee Health Insurance Program.	Same as the Executive but, requires that moneys appropriated go directly to the Board for the hiring of staff and other uses.
Requires that the Director of OBM, at any time during the biennium, if the Director of DAS certifies that there is sufficient reserve available in Fund 815, School Employees Health Care, transfer an amount equal to the total expenditures and obligations made from GRF appropriation item 100-403, Public School Employee Benefits from Fund 815 to the GRF.	No provision.
Fiscal effect: An appropriation of $1,425,000 in each fiscal year in provided to cover the costs to DAS of the Board's activities.	**Fiscal effect: Potential increase in Board costs because the members are compensated for their services and the minimum number of meeting dates is increased. An appropriation of $1,425,000 in each fiscal year is provided to cover the costs of the Board's activities. Likely increase in Department of Insurance costs for new responsibilities.**

As Introduced (Executive)	As Passed by the House
	Requiring the Board to adopt a set of best practice standards instead of implementing centralized health care plans has uncertain fiscal effects. It is possible that allowing school districts to find insurance plans from outside providers based on these best practices could result in lower cost insurance plans. But it is also possible that the best practice requirements may limit the number of plans available. Districts not in compliance will lose state aid.

	As Introduced (Executive)	As Passed by the House
2	**(CD-594-COM) Tax on Fire Insurance from Foreign Insurers**	
	R.C. ***3901.86***	**Section:** ***245.10***
	Reduces, from 20% to 10%, the amount apportioned to SSR Fund 546, State Fire Marshal Fund, from the retaliatory tax collected from foreign insurers that sell fire insurance to residents of Ohio. Provides that the remainder of the revenue is deposited into the GRF.	No provision.
	No provision.	Authorizes the Director of Budget and Management to transfer up to $5.7 million in cash in FY 2008 and up to $5.8 million in cash in FY 2009 from SSR Fund 546, State Fire Marshal Fund, to the GRF.
	Fiscal effect: Reduces revenue to SSR Fund 546 by approximately $5.7 million in FY 2008 and $5.8 million in FY 2009, and increases revenue to the GRF by the same amounts.	**Fiscal effect: Same net effect as the Executive in the FYs 2008-2009 biennium. However, in subsequent fiscal years, the Executive Proposal and the changes made by the House would have different impacts. The House adjustments will result in SSR Fund 546 retaining the amounts that would have been apportioned to the GRF beyond the upcoming biennium.**

As Introduced (Executive)	As Passed by the House

3 (CD-946-INS) Foreign Insurers Tax

	R.C. *3905.36*
No provision.	Clarifies that the nonapplicability of the foreign insurers tax includes any other insurance, in addition to professional and medical liability insurance, procured by a hospital or by an entity in which the majority of its business involves pharmaceutical products, when the entity is regulated by an agency of the United States.
	Fiscal effect: Potential revenue loss.

4 (CD-350-INS) Market Conduct Examination

Section: *307.10*	**Section: *307.10***
Permits the Superintendent of Insurance to assess the cost of conducting a market conduct examination of an insurer against the insurer, permits the superintendent to enter into consent agreements to impose fines for violations of statutes or rules. Revenue from cost assessments and fines is to go to the Department of Insurance Operating Fund (Fund 554).	Same as the Executive.
Fiscal effect: Potential increase in revenue to Fund 554.	**Fiscal effect: Same as the Executive.**

5 (CD-351-INS) Examinations of Domestic Fraternal Benefit Societies

Section: *307.10*	**Section: *307.10***
Permits the Director of Budget and Management, at the request of the Superintendent of Insurance, to transfer funds from Fund 554 to the Superintendent's Examination Fund (Fund 555). The permitted transfer amount is limited to expenses incurred in examining domestic fraternal benefit societies.	Same as the Executive.

As Introduced (Executive)	As Passed by the House
Fiscal effect: This language has been included in past budget bills. The permitted transfers during fiscal years 2004 through 2006 varied in amounts from a low of approximately $286,000 (in FY 2005) to a high of approximately $437,000 (in FY 2004).	**Fiscal effect: Same as the Executive.**

6 (CD-352-INS) Department of Insurance Fees

R.C. ***3901.021***	**Section:** ***307.10***
Reduces the share of revenue from agent appointment fees that goes to Fund 554 from 75% to 60%, and correspondingly increases the share going to the GRF from 25% to 40%.	Replaces the Executive provision with a provision that requires the Director of Budget and Management to transfer $5 million each fiscal year from Fund 554 to the GRF.
Fiscal effect: Reduces revenue to Fund 554 by approximately $5 million per year, and increases revenue to the GRF by the same amount. As a result of this provision, revenue to Fund 554 during the biennium would be approximately $3.3 million less than the appropriations from Fund 554 for the biennium. The balance in the fund projected for the beginning of FY 2008 is sufficient to support the shortfall for the biennium, but the relative sizes of revenues to the fund and appropriations from it is not sustainable indefinitely.	**Fiscal effect: Same as the Executive for the biennium, but no fiscal effect in subsequent years.**

As Introduced (Executive)	As Passed by the House

Medicaid

7 (CD-936-JFS) Actuarially Sound Medicaid Managed Care Rates

	R.C. *5111.17*
No provision.	Requires ODJFS to use actuarially sound capitation rates, in accordance with federal law, for Medicaid managed care contracts with health insuring corporations (HICs).
No provision.	Requires, before ODJFS may submit proposed rates for federal approval, that the Superintendent of Insurance review the rates and determine they will not (1) negatively impact the financial solvency of the HIC, (2) cause a change in the HIC's risk based capital levels, or (3) require the HIC's parent company, if applicable, to guarantee that the HIC will maintain Ohio's minimum net worth. **Fiscal effect: As this provision appears to conform with current federal law and practices, there is no apparent fiscal effect.**