

Department of Insurance

Ross Miller, Senior Economist

OVERVIEW

Duties and Responsibilities

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 2007 raised over \$425 million (combined) for the General Revenue Fund (GRF).

Agency in Brief

Agency In Brief					
Number of Employees*	Total Appropriations-All Funds		GRF Appropriations		Appropriation Bill(s)
	2008	2009	2008	2009	
269	\$32.64 million	\$33.34 million	\$0	\$0	Am. Sub. H.B. 119

*Employee count obtained from the Department of Administrative Services (DAS) payroll reports as of June 2007.

The Department of Insurance is a cabinet-level agency. 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.⁷ In particular, the Department will still collect and publish data on medical malpractice claims closed in Ohio as required by

⁷ 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.

- The agency receives no GRF funding
- The budget provides \$1 million for the biennium for an initiative to decrease the number of Ohioans without health insurance
- The budget requires \$5 million transfers each year of the biennium from Fund 554 to the GRF

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 2005.⁸

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).

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.

Vetoed Provisions

The Governor vetoed a provision that would have required the Superintendent of Insurance to conduct an annual evaluation of the performance of the school employee health care board based on best practices, and to submit the results of the evaluation in writing to the Governor and the General Assembly. The veto message indicated that the required duty was outside of the scope of the Department’s work and mission, and that the Department would not have the resources necessary to conduct such analyses.

Summary of FYs 2008 - 2009 Budget Issues

The enacted budget provides total appropriations of \$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 budget includes 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 National Association of Insurance Commissioners (NAIC), and that funding to compensate such personnel is paid by the company that is examined.

The budget 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 1.24 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,

⁸ 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.

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.⁹ 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.

The act extends an existing requirement imposed on group health insurance policies to individual policies. Am. Sub. S.B. 116 of the 126th General Assembly required group health care policies and contracts to provide benefits for the diagnosis and treatment of biologically based mental illness according to the same terms and conditions that such benefits are provided for other physical diseases and disorders. The budget extends this requirement to individual health policies. This provision has no fiscal effect, since it is unlikely that the state or any political subdivision provides health benefits to workers using an individual policy rather than a group policy.

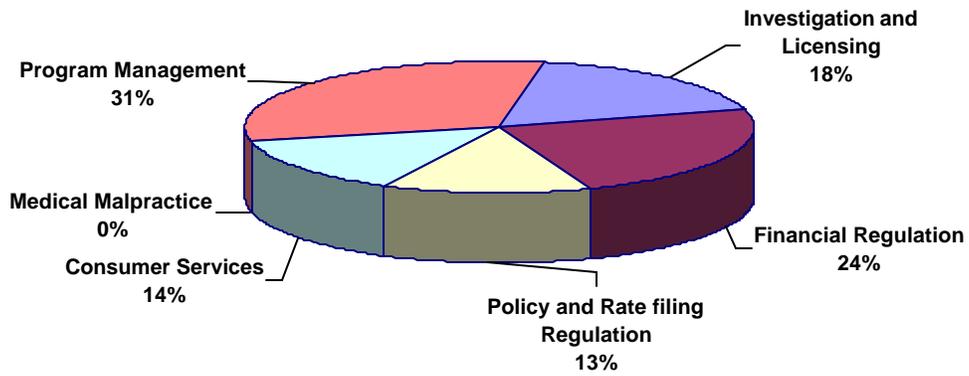
The budget clarifies an exemption to the foreign insurers' tax originally established by Am. Sub. H.B. 699 of the 126th General Assembly. The foreign insurers' tax is imposed at a rate of 5% of premiums paid for insurance that is issued by a company or association that is not authorized to do business in Ohio. H.B. 699 specified that professional and medical liability insurance purchased by businesses that manufacture, package, and sell pharmaceutical products that are subject to regulation by an agency of the United States would not be subject to the tax. The budget specifies that any insurance purchased by such a business is exempt from the tax, and includes language explaining that this was the intent of the 126th General Assembly. Because this provision simply clarifies legislative intent, it has no fiscal effect.

The Department of Insurance Operating Fund (Fund 554) is the source for over 73% of the proposed appropriations for the coming biennium. The budget requires the Director of Budget and Management to transfer \$5 million in both FY 2008 and FY 2009 from Fund 554 to the GRF to help fund other state programs. Receipts to Fund 554 during FY 2006 were approximately \$27.7 million, and the Department estimates receipts in each year of the biennium will be approximately \$28.6 million. Subtracting the transfers from expected receipts leaves receipts approximately \$304,000 less than the appropriations from the fund in FY 2008, and approximately \$772,000 less than the 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, and historically expenditures have been less than appropriations. However, it is possible that the balance in Fund 554 will be used to meet departmental expenses given the appropriation amounts and amount of the transfers. The balance in the fund is projected to be approximately \$24.3 million at the beginning of FY 2008, so Fund 554 appears to have sufficient resources to support the appropriations from the fund for the biennium.

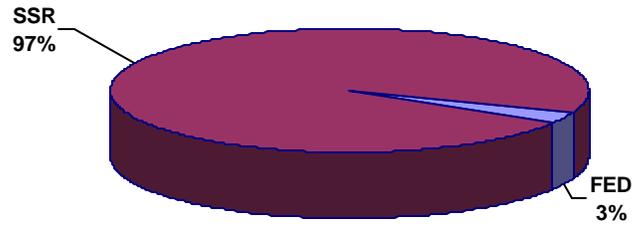
⁹ A figure of 22% was cited by John Sheils of the Lewin Group in testimony before the House Healthcare Access and Affordability Committee on March 8, 2007.

The following charts present breakdowns of the budget for the biennium by program series and fund group.

Total Budget by Program Series



Total Budget by Fund Group



ANALYSIS OF THE BUDGET

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 appropriations that fund that series.

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**

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

Implication of the Budget: The budget provides sufficient funding to continue the program at its current level of service.

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

Implication of the Budget: The budget provides sufficient funding to continue the program at its current level of service.

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

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

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 appropriations that fund that series.

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

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

Implication of the Budget: The budget provides sufficient funding to continue the program at its current level of service.

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 appropriations that fund that series.

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**

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

Implication of the Budget: The budget 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.

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

Implication of the Budget: The budget 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.

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 appropriations that fund that series.

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**

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

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

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

Implication of the Budget: The budget provides sufficient funding to continue the program at its current level of service.

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 appropriations that fund that series.

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**

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.¹⁰ 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 Assembly, because the Superintendent determined that malpractice insurance was generally available to

¹⁰ 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."

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 budget effectively would require the Department to go before the Controlling Board to establish an appropriation from the fund after FY 2007. 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

Implication of the Budget: The budget provides no funding for this program series, but moves its activities to Program Series 3.

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 appropriations that fund that series.

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 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 received funding in the budget 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 1.2 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

Implication of the Budget: The budget 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 budget 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.

FY 2008 - 2009 Final Appropriation Amounts

All Fund Group

Line Item Detail by Agency

FY 2005: FY 2007 Adj. FY 2008 % Change FY 2009 % Change
 FY 2006: Appropriations: Appropriations: 2007 to 2008: Appropriations: 2008 to 2009:

Report For: Main Operating Appropriations Bill

Version: Enacted

INS Insurance, Department of									
3AV	820-604	Federal Grant - Special Project	\$ 71,063	\$ 32,625	\$ 0	\$ 0	N/A	\$ 0	N/A
3U5	820-602	OSHIIP Operating Grant	\$ 554,822	\$ 1,253,256	\$ 1,080,000	\$ 1,100,000	1.85%	\$ 1,100,000	0.00%
Federal Special Revenue Fund Group Total			\$ 625,885	\$ 1,285,881	\$ 1,080,000	\$ 1,100,000	1.85%	\$ 1,100,000	0.00%
554	820-601	Operating Expenses-OSHIIP	\$ 448,198	\$ 498,362	\$ 571,772	\$ 553,750	-3.15%	\$ 569,269	2.80%
554	820-606	Operating Expenses	\$ 18,459,077	\$ 19,411,752	\$ 22,832,214	\$ 23,350,236	2.27%	\$ 23,802,797	1.94%
555	820-605	Examination	\$ 6,816,475	\$ 6,856,463	\$ 7,639,581	\$ 7,639,581	0.00%	\$ 7,868,768	3.00%
State Special Revenue Fund Group Total			\$ 25,723,750	\$ 26,766,576	\$ 31,043,567	\$ 31,543,567	1.61%	\$ 32,240,834	2.21%
Insurance, Department of Total			\$ 26,349,635	\$ 28,052,458	\$ 32,123,567	\$ 32,643,567	1.62%	\$ 33,340,834	2.14%