

Greenbook

LBO Analysis of Enacted Budget

Ohio Department of Insurance

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Attachment:

Appropriation Spreadsheet

LBO Greenbook

Ohio Department of Insurance

Quick look...

- The Department of Insurance regulates and licenses more than 1,650 insurance companies operating in Ohio, conducts 58 financial examinations and 8,000 desk audits, and annually licenses and regulates over 220,000 agents and 17,900 agencies.
 - The Department also administers the domestic and foreign insurance taxes.
- The Department employs 245 full-time permanent employees.
- The Department receives no GRF funding. Funding for the Department’s operations is derived primarily from fees that accompany appointments of insurance agents by insurance companies.
- The total amount appropriated for FY 2020 is \$6.3 million higher than FY 2019 actual expenditures and the total amount appropriated for FY 2021 is \$1.3 million higher than the amount appropriated for FY 2020.

Fund Group	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
Dedicated Purpose	\$33,790,210	\$33,004,010	\$39,348,790	\$40,671,010
Federal	\$2,323,517	\$2,832,797	\$2,793,150	\$2,793,150
Total	\$36,113,728	\$35,836,807	\$42,141,940	\$43,464,160
% change	--	-0.8%	17.6%	3.1%

Overview

Agency overview

The Ohio Department of Insurance (INS) regulates the business of insurance in Ohio. Its mission is to serve and protect Ohio consumers through fair and efficient regulations, provide assistance and education to consumers, and promote a competitive marketplace for insurers. To carry out this mission, it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, examines claims 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. INS also administers the domestic and foreign insurance taxes, which in FY 2019 raised about \$572 million (combined) for the General Revenue Fund.

The Department of Insurance is a cabinet-level agency with 245 full-time permanent employees. Its activities are organized into the following key areas: consumer services, Ohio Senior Health Insurance Information Program (OSHIIP), fraud and enforcement, risk assessment, Office of Captive Insurance, market conduct, product regulation and actuarial

services, agent licensing, and program management (executive, legal services, information technology, human resources, and fiscal services).

The Department of Insurance receives no GRF funding. Funding for Department operations 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 federal grants.

In FY 2018, the Department licensed and regulated more than 1,650 insurance companies operating in the state, of which approximately 270 are “domestic” insurance companies, i.e., companies based and licensed to do business in Ohio. The other 1,380 are based in another state but licensed to do business in Ohio, and are referred to as “foreign” insurance companies.

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).

Appropriation summary

The enacted budget appropriates a total of \$42.1 million in FY 2020, or \$6.3 million more than FY 2019 actual expenditures, a 17.6% increase. FY 2021 appropriations total \$43.5 million. This amount is \$1.3 million higher than FY 2020 total appropriations, a 3.1% increase. Increases in the enacted budget in FY 2020 and FY 2021 are due to funding increases associated with the cost of pay raises of employees under the union contract, additional costs associated with retaining an actuarial consultant, and adding new personnel to product regulation and risk assessment areas.

The Department views funding for the actuarial consultant as necessary to provide an initial review of complex actuarial and statistical models that are used by companies to compute rates for insurance products and to train agency personnel in product regulation areas on using such models. The Department requested additional personnel in those areas due to increasing company reporting requirements, and an increase in the number of domestic insurers licensed to do business in Ohio. The increase also would ensure that the Department has sufficient and qualified staff to meet the ratio of staff to number of insurance companies needed to pass the accreditation process conducted by NAIC every five years. NAIC recommends a ratio of 1:20, i.e., an analyst should be responsible for reviewing fewer than 20 companies, to ensure that he or she would do an adequate job of assessing financial conditions of those insurance companies in a timely and in-depth manner. Over the past five years, the Department’s ratio has increased from 1:19.6 to 1:23.3.

Most of the funding increase for FY 2020, \$4.5 million of the \$6.3 million total (about 72%), is in appropriation line item (ALI) 820606, Operating Expenses (Fund 5540). The second largest increase, \$1.5 million (23%) is in ALI 820605, Examination (Fund 5550). Funding in ALI 820606 is used for general departmental operations, while line item 820605 is used for departmental oversight of licensed insurance companies. Also receiving funding increases in FY 2020, totaling about \$359,000, were ALI 820601, Operating Expenses – OSHIIP and

ALI 820613, Captive Insurance Regulation and Supervision. Uses of these line items are described in the “**Analysis of FY 2020-FY 2021 budget**” section.

Revenue to the Department of Insurance Operating Fund (Fund 5540), combined with the actual FY 2019 year-end cash balance of the fund, is expected to be sufficient to support the appropriations for the upcoming biennium. Revenue to Fund 5540 was \$29.5 million in FY 2019, having grown by 2.9% from FY 2018. However, revenue to Fund 5540 declined in FY 2018, and FY 2019 revenue remained below the FY 2017 level. Generally speaking, fees from insurance agent appointments, which constitute the main source of revenue for Fund 5540, yield varying amounts of revenue from year to year.¹

The enacted budget also provides the Department with federal funding of \$2.8 million for FY 2020. This amount is \$39,647 lower than actual total federal funds in FY 2019, a decrease of 1.4%. Total federal funding for FY 2021 is the same as the total federal funding for FY 2020.

Enacted budget provisions

H.B. 166 included several changes to insurance laws. Several of these provisions have minimal, if any, impact on the Department’s budget. This section describes the law changes and indicates those that are expected to have more than a minimal fiscal impact.

Pharmacy benefit managers, pharmacists, and cost-sharing for drug purchases

H.B. 166 prohibits health plan issuers, pharmacy benefit managers (PBMs), or any other administrators from requiring a covered individual purchasing a prescription drug to pay any cost-sharing amount greater than the lesser of either of the following: (1) the amount an individual would pay for the drug if the drug were to be purchased without coverage under a health benefit plan or (2) the net reimbursement paid to the pharmacy for the prescription drug by the health plan issuer, PBM, or other administrator. This provision also prohibits health plan issuers, etc. from (1) adjusting a pharmacy claim for reimbursement of a prescription drug retroactively unless the adjustment is the result of either a pharmacy audit, or a technical billing error and (2) charging a fee related to a claim unless the amount of the fee can be determined at the time of claim adjudication. H.B. 166 allows the Superintendent of Insurance to suspend for up to two years, revoke, or not renew any license issued to a PBM, or other administrator, if the PBM or administrator violates the price disclosure requirements. H.B. 166 also requires the Department of Insurance to create a web form that consumers can use to submit complaints associated with violations of the requirements.

These provisions may increase administrative costs for the Department of Insurance. Any such costs for the Department may be offset in part by penalties collected by the Department, and would be paid from Fund 5540. Any penalties collected by the Department will also be deposited into Fund 5540.

¹ Revenue to Fund 5550 is based on assessments that reflect costs, so the revenue-raising mechanism will support the amounts appropriated in line item 820605.

Telemedicine services

H.B. 166 requires all health benefit plans to provide coverage for telemedicine services on the same basis and to the same extent as in-person services, and prohibits such plans from excluding telemedicine services from coverage solely because they are telemedicine services. The budget act defines “telemedicine services” as a mode of providing health care services through synchronous or asynchronous information and communication technology by a health care professional (within the professional’s scope of practice) who is located at a site other than the site at which the recipient is located. H.B. 166 specifically prohibits such plans from (1) imposing a lifetime benefit maximum in relation to telemedicine services other than a maximum imposed on all plan benefits and (2) requiring cost-sharing for telemedicine services in an amount greater than that for comparable in-person services. The enacted budget specifies that the requirement and prohibitions apply to all health benefit plans issued, offered, or renewed on or after January 1, 2021. In addition, the enacted budget clarifies that a health plan issuer is not required to reimburse for telemedicine services at the same rate as in-person services.

This provision would have minimal, if any, fiscal impact on the Department, but the prohibition against excluding coverage for telemedicine services has the potential to increase costs for the state and local governments to provide health benefits to employees and their dependents, beginning after January 1, 2021.²

Minimum prices for health services

The enacted budget voids any provision in a contract between a third-party payer and a medical provider that (1) establishes minimum charges for health services or (2) prohibits the medical provider from advertising the provider’s rates for a service. The enacted budget defines third-party payers to include an insurer, a health insuring corporation, a labor organization, an employer, certain intermediary organizations, a third-party administrator (such as a pharmacy benefit manager), a health delivery network, and any person that is obligated pursuant to a benefits contract to reimburse for covered health care services. This provision has no direct fiscal effect.

Assigned risk insurance plan policies

The enacted budget allows the Ohio Assigned Risk Insurance Plan (OARP) to directly issue automobile insurance policies to persons unable to meet the financial responsibility requirements through ordinary methods. Under prior law, the Superintendent of Insurance would contract with private insurers to approve reasonable plans for applicants. The enacted budget also specifies the following requirement: (1) OARP must file its policies and related items with the Superintendent of Insurance as if it were any other insurer, (2) policies issued by OARP must be treated like any policy issued by any other insurer, and (3) OARP must share information regarding issued auto policies and financials with the Superintendent. The provision may potentially increase the administrative burden on the Department.

² Currently, telemedicine service is not included in the state’s health benefit plan, thus, it may minimally increase costs to the state to provide health benefits to employees and their dependents.

Direct primary care agreements

H.B. 166 provides that direct primary care agreements that meet certain criteria are not considered insurance. In addition, the agreements are not subject to Ohio insurance laws or Ohio's laws regarding multiple employer welfare arrangements, health insuring corporations, physician-health plan partnerships, or risk-based capital requirements.

Vetoed provisions

Reimbursement for out-of-network emergency care

The Governor vetoed a provision that required an insurer to reimburse (1) an out-of-network provider for covered services at an in-network facility when the covered person could not request an in-network provider or the services were emergency services and (2) an out-of-network provider and out-of-network emergency facility for emergency services provided at such a facility. The vetoed requirement would have applied to providers who are individuals and facilities. The Governor vetoed a related provision that required the Superintendent of Insurance to establish alternate dispute resolution procedures to address disputes between a provider and an insurer. The vetoed provisions would have applied to insurance plans beginning April 1, 2020.

Health care price transparency

The Governor vetoed a provision of H.B. 166 that would have modified current health care price transparency requirements. The vetoed provision would have required that health plan issuers, and certain health care providers, provide to patients or their representatives a cost estimate for nonemergency health care products, services, or procedures before each is provided. The vetoed provision required the cost estimates to be provided within certain time limits and in accordance with all applicable laws pertaining to the privacy of patient-identifying information. The vetoed provision also granted qualified immunity from civil liability to a health plan issuer that provides cost estimates in accordance with these provisions. The vetoed provision required the Department of Insurance to create or procure a connector portal that health care providers could use to transmit information to health plan issuers for their use in generating cost estimates. The vetoed provision would have allowed the Superintendent of Insurance, the Department of Health, Department of Medicaid, or the relevant regulatory board to impose administrative remedies on a health plan issuer or health care provider who failed to comply with these health care price transparency provisions.³

³ In addition, the vetoed provision would have authorized any member of the General Assembly to intervene in litigation that challenged these health care price transparency provisions or prior law pertaining to price transparency. The vetoed provision specified that it is the General Assembly's intent in enacting the bill's health care price transparency provisions to provide patients with the information they need to make informed choices regarding their health care, to maximize health care cost savings for all residents of Ohio, and to reduce the burden of health care expenditures on government entities, including Medicaid.

Analysis of FY 2020-FY 2021 budget

Operating Expenses (ALI 820606)

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
5540 ALI 820606, Operating Expenses					
\$25,231,717	\$26,093,944	\$25,589,462	\$25,062,013	\$29,580,629	\$30,661,244
% change	3.4%	-1.9%	-2.1%	18.0%	3.7%

This appropriation item provides funding for the general operating expenses for the Department of Insurance, excluding OSHIIP and the agency's Financial Examination programs. The appropriation draws on Fund 5540.

The enacted budget includes a provision that requires health insurers to provide coverage for telemedicine services if the service in question would be covered by the health insurer when provided in person by a health provider. "Telemedicine services" are defined as a mode of providing health care services through synchronous or asynchronous information and communication technology by a health care professional who is located at a site other than that at which the patient is located.

The Department of Insurance's regulatory and licensing responsibilities can be broken down into the following key areas: (1) consumer services, (2) market conduct, (3) agent licensing, (4) risk assessment, (5) fraud and enforcement, (6) product regulation and actuarial services, and (7) administrative support.

Department personnel that serve in the consumer services area respond to inquiries, investigate and resolve complaints from Ohio consumers, and provide information and publications related to insurance. Staff in this area provide extra support to elderly consumers under OSHIIP, which is described separately. Consumer services staff coordinate community outreach activities, guide victims at disaster assistance sites, and participate in insurance fairs throughout the state. In FY 2018, the consumer services staff recovered about \$5.6 million in restitution for Ohio consumers. They also received over 26,000 inquiries and complaints.

Personnel in the market conduct area examine records of insurance companies doing business in Ohio on a routine basis or as needed to ensure that these companies comply with the state's insurance laws and regulations. They are also responsible for gathering industry information from a variety of sources, including consumer complaints, company filings, NAIC databases, and research tools. The Department is also required to conduct additional market conduct examinations to ensure compliance with certain uniform contract provisions between health care providers and contracting entities (i.e., health insurers), and insurers pay for the cost of examinations.

The Department issues licenses to insurance agents and agencies and is responsible for ensuring that only qualified and competent individuals or entities are licensed to provide insurance service in Ohio. The Department also maintains agents' continuing education requirements and processes insurance company appointments of authorized agents.

Personnel in the risk assessment area monitor the financial solvency of every domestic and foreign insurance company that is licensed to do business in Ohio to ensure that they are capable of meeting their contractual agreements to policyholders and claimants. They also oversee complex transactions such as mergers, acquisitions, redemptions, reinsurance agreements, and inter-company agreements to ensure that insurance companies have enough money to pay claims filed by consumers.

The Department's fraud and enforcement area investigates insurance fraud and agent misconduct, and assists in the prosecution of consumer and provider insurance fraud. The Department promotes the detection and prevention of insurance fraud through public awareness campaigns, educational programs, and cooperation among insurers, governmental agencies, and insurance industry groups. The Department receives thousands of allegations of insurance fraud and agent misconduct annually. Department staff review policy forms, endorsements, and manual rules and rates for products marketed to Ohio consumers by Ohio-licensed property and casualty companies. Personnel in the Life, Health, and Managed Care Division are responsible for reviewing the contractual provisions of all Ohio-licensed life and health and accident policies to ensure they are in compliance with Ohio and federal laws. The Department licenses multiple employer trusts, alliances, and health insuring corporations and accredits independent review organizations. The Life, Health, and Managed Care Division also monitors the activities of all health insuring corporations operating in Ohio.

Personnel involved in administrative support include legal services staff who provide legal advice on regulatory transactions including changes of control, mergers, redemptions, demutualizations and the investment activities of domestic insurance companies, and enforcement issues. They also administer public hearings involving insurance agent and company licenses, provide legal assistance on a variety of issues to other offices in the Department of Insurance, and supervise litigation. Other personnel in this area include information technology staff who are responsible for the overall technology infrastructure and administer the Department's telecommunications system and website. Other personnel who manage and support the overall operations of the Department include staff in the executive, fiscal operations, and human resources offices.

In addition, the Department of Insurance is required under Ohio law to oversee and administer the liquidation process of an Ohio domiciled insurance company that becomes insolvent and requires liquidation. Personnel costs for the Ohio Liquidation Office, which is responsible for the administration of the liquidation, are reimbursed to the Department from the insolvent insurance companies being liquidated.

The appropriation for FY 2020 is about \$4.5 million, or 18.0%, higher than the actual expenditures for FY 2019. The appropriation for FY 2021 is about \$1.1 million, or 3.7%, higher than the appropriation in FY 2020.

Operating Expenses – OSHIIP (ALI 820601) and OSHIIP Operating Grant (ALI 820602)

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
Fund 5540 ALI 820601, Operating Expenses – OSHIIP					
\$175,711	\$0	\$205,724	\$130,894	\$180,000	\$180,000
% change	-100%	N/A	-36.4%	37.5%	0.0%
Fund 3U50 ALI 820602, OSHIIP Operating Grant					
\$2,188,102	\$2,319,026	\$2,323,517	\$2,832,797	\$2,793,150	\$2,793,150
% change	6.0%	0.2%	21.9%	-1.4%	0.0%
Total					
\$2,363,813	\$2,319,026	\$2,529,241	\$2,963,691	\$2,973,150	\$2,973,150
% change	-1.9%	9.1%	17.2%	0.3%	0.0%

The appropriation line items, Operating Expenses – OSHIIP (820601) and OSHIIP Operating Grant (820602), provide funding for the administration of the Consumer Services Program. This program assists and educates Ohioans on insurance issues, including health insurance for seniors. About 94% of the funding for the program comes from a federal grant, with the remainder coming from the Department of Insurance Operating Fund (Fund 5540). Fund 5540 receives funding primarily from fees paid by insurance agents and by insurance companies.

The state appropriation for FY 2020 is \$180,000, which is \$49,106 or 37.5% higher than actual expenditures for FY 2019. The state appropriation for FY 2021 is \$180,000, the same as the FY 2020 appropriation. The total amount appropriated to the state appropriation line item for the FY 2020-FY 2021 biennium is \$360,000. State funding for FY 2018 and FY 2019 was \$336,618. The state appropriation for FY 2020 and FY 2021 is \$23,382, or 6.9%, higher than the actual state expenditures for FY 2018 and FY 2019.

The federal grant that provides most of the funding for this program was about \$2.3 million in FY 2018. In FY 2019, the actual amount of the federal grant was about \$2.8 million. Department officials expect the grant amount to be about \$2.8 million for each year of the upcoming biennium.

The total amount appropriated for the program for FY 2020 is about \$9,459, 0.3% more than the actual total expenditures for FY 2019. The total amount appropriated for FY 2021 is the same as the total amount appropriated in FY 2020.

Examination (ALI 820605)

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
Fund 5550 ALI 820605, Examination					
\$7,099,597	\$7,325,926	\$7,666,829	\$7,471,246	\$8,938,161	\$9,179,766
% change	3.2%	4.7%	-2.6%	19.6%	2.7%

This appropriation line item funds departmental oversight of licensed insurance companies. Ohio law requires a financial examination be conducted at least once every five years. The Department monitors the financial solvency of insurance companies by reviewing financial statements and other records, and by conducting regular onsite examinations. In FY 2018, the Department's risk assessment staff conducted 58 financial examinations of Ohio domestic insurers and about 8,000 desk audits. Funding for this oversight comes from the Superintendent's Examination Fund (Fund 5550). The Department's expenses from conducting an examination of a company are paid by the company to the Superintendent and deposited into Fund 5550. The enacted budget includes a provision allowing the Director of Budget and Management, at the request of the Superintendent of Insurance, to transfer funds from Fund 5540 to Fund 5550 for expenses incurred in examining domestic fraternal benefit societies.

The enacted budget appropriates \$8.9 million in FY 2020, about \$1.5 million (19.6%) more than the actual expenditures for FY 2019. In FY 2021, the enacted budget appropriates \$9.2 million, about \$242,000, or 2.7%, higher than the FY 2020 appropriation.

Captive Insurance Regulation and Supervision (ALI 820613)

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Appropriation	FY 2021 Appropriation
Fund 5PT0 ALI 820613, Captive Insurance Regulation and Supervision					
\$153,290	\$242,364	\$328,195	\$339,857	\$650,000	\$650,000
% change	58.1%	35.4%	3.6%	91.3%	0.0%

This line item provides funding for administrative expenses related to the oversight of captive insurers. H.B. 117 of the 130th General Assembly allowed captive insurance companies to operate in Ohio. Enacted in June 2014, the act's effective date was in September 2014. Among other provisions, H.B. 117 provided for a \$500 fee to apply to form a captive insurer, and established other fees and revenue sources for the Captive Insurance Regulation and Supervision Fund (Fund 5PT0). In FY 2018, the Department licensed a total of 15 captive insurance companies to do business in Ohio.

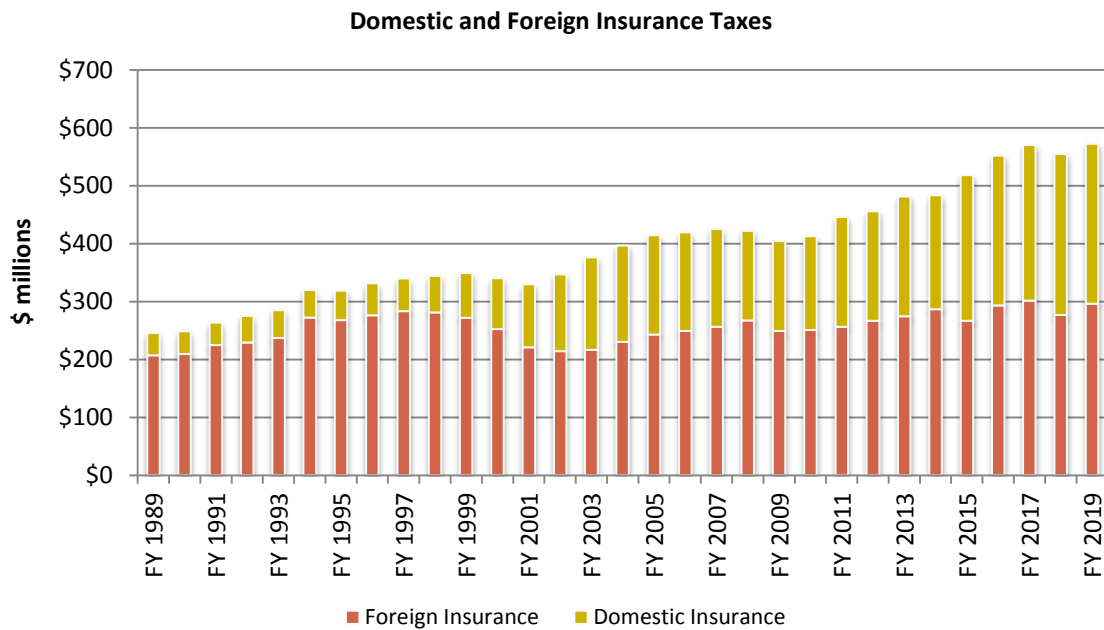
During FY 2016 and FY 2017, the Director of Budget and Management transferred \$1.0 million from Fund 5540 to Fund 5PT0 to pay for necessary operating needs associated with regulating captive insurance companies in Ohio that occurred before receipts related to such regulation were deposited into Fund 5PT0. The money was to be repaid to Fund 5540 once

revenue to Fund 5PT0 was sufficient to provide for repayment, but as of the end of FY 2019, the required repayment had not yet been made. The enacted budget requires the Director, in consultation with the Superintendent, to establish a schedule for repaying Fund 5540 for the amounts previously transferred once the accumulated balance of Fund 5PT0 is sufficient to do so.

The enacted budget appropriates \$0.65 million each in FY 2020 and FY 2021 for this line item. This amount is \$310,143, or 91.3%, higher than the actual expenditures for FY 2019.

Domestic and foreign insurance taxes

The Department of Insurance administers the domestic and foreign insurance taxes. The chart below presents the amount of revenues credited to the GRF for FY 1989 through FY 2019 from the taxes.⁴



INS/lb

⁴ The revenue decrease from the foreign insurance tax between FY 1999 and FY 2003 was due to changes in the tax rates which were made by Am. Sub. H.B. 215 of the 122nd General Assembly; in the case of the domestic insurance tax, the revenue increase was due to changes in tax rates and the tax base made by the same act.

FY 2020 - FY 2021 Final Appropriations

All Fund Groups

Line Item Detail by Agency			Appropriations			FY 2019 to FY 2020	Appropriations	FY 2020 to FY 2021
			FY 2018	FY 2019	FY 2020	% Change	FY 2021	% Change
Report For: Main Operating Appropriations Bill			Version: As Enacted					
INS	Department of Insurance							
5540	820601	Operating Expenses-OSHIIP	\$ 205,724	\$ 130,894	\$ 180,000	37.52%	\$ 180,000	0.00%
5540	820606	Operating Expenses	\$ 25,589,462	\$ 25,062,013	\$ 29,580,629	18.03%	\$ 30,661,244	3.65%
5550	820605	Examination	\$ 7,666,829	\$ 7,471,246	\$ 8,938,161	19.63%	\$ 9,179,766	2.70%
5PT0	820613	Captive Insurance Regulation and Supervision	\$ 328,195	\$ 339,857	\$ 650,000	91.26%	\$ 650,000	0.00%
Dedicated Purpose Fund Group Total			\$ 33,790,210	\$ 33,004,010	\$ 39,348,790	19.22%	\$ 40,671,010	3.36%
3U50	820602	OSHIIP Operating Grant	\$ 2,323,517	\$ 2,832,797	\$ 2,793,150	-1.40%	\$ 2,793,150	0.00%
Federal Fund Group Total			\$ 2,323,517	\$ 2,832,797	\$ 2,793,150	-1.40%	\$ 2,793,150	0.00%
Department of Insurance Total			\$ 36,113,728	\$ 35,836,807	\$ 42,141,940	17.59%	\$ 43,464,160	3.14%