LEG REG REVIEW BUDGET ISSUE
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LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are $100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to xenobun@aol.com.

On February 4, Governor Josh Shapiro presented his State Budget Fiscal Year (FY) 2025-26 proposal to the General Assembly calling for $51.474 billion in public expenditures and sizable increases in Education, Human Services, and mass transit to name a few. To balance the State Budget, the Governor seeks money from the Rainy-Day Fund and $536.5 million in tax revenues from legalized adult use of cannabis. Republican reaction was critical. For example, Senate Appropriations Committee Majority Chair Scott Martin (R-Lancaster)'s September 7 constituent newsletter said: *On Tuesday, Gov. Josh Shapiro presented a $51.5 billion budget plan that would increase state spending by $3.6 billion, an increase of 7.5% compared to the current year's budget. During the next five years, using realistic spending and revenue estimates, Shapiro's spending plans would leave a $27.3 billion hole in the state's finances. Senate Republicans raised concerns that the governor's overly optimistic future revenue projections and wildly inaccurate future expenditure assumptions could eliminate the state's emergency savings (also known as the Rainy-Day Fund) and create the need for a multi-billion-dollar tax increase on Pennsylvania families within a year and a half.*

A few Big Picture State Budget numbers:

- **Income**
  - Personal Income Tax $19.64 billion (40.6%)
  - Consumption (Sales Tax etc.) $16.04 billion (33.2%)
  - Corporation Taxes $7.92 billion (16.5%)
  - Other Taxes and Nontax Revenue $4.74 billion (9.7%)
- **Outgo of $51.474 billion plus $1.6 billion from the Rainy-Day Fund**
  - Who gets what? Health & Human Service has 42.2%; Educations gets 39.4%; Protection 11.8%; Supportive Services 2.2%; Economic Development 1.0%; Other Programs 0.6%.
  - PA's Dept Servicing will take, or 2.8%, of the State Budget.

This Special Budget Issue of LEG REG Review describes the Insurance Industry's role in the proposed State Budget. It presents information on the financial contribution through taxes and fees as well as the numerous Special Funds that target specific insurance purposes.

PREMIUM TAX

Doing the heavy lifting is a two-percent tax on insurance premiums, five-percent tax on Pennsylvania's share of profits from marine insurance companies, and a three-percent tax on Surplus and Excess Lines premiums. **NOTE:** The Surplus Lines Tax is paid by SL brokers, not by non-admitted carriers.

Expected Premium Tax gross revenue for Fiscal Year 2025-26 is $1.03 billion less transfers to the Municipal Pension Fund and the Fire Insurance Fund. This is a $19.9 million increase from the current Fiscal Year which ends on June 30.

What are these two Special Funds? **Premium Tax** monies from foreign (non-PA) insurer premiums are directed to two Special Funds. First is the **Fire Insurance Tax Fund** with premiums coming from foreign fire insurance companies ($85.4 million in Fiscal Year 2025-26 which begins on July 1, 2025). Funds are distributed based on population and market value of real estate of each municipality. Money going for paid firefighter pensions is transferred into the Municipal Pension Aid Fund ($17.835 million).

The second Fund is the **Municipal Pension Aid Fund** based on the two-percent tax on foreign casualty insurance companies' business in the Commonwealth. These monies go for pensions of police, professional firefighters (mentioned above) and non-uniformed municipal pension plans. Disbursements from this Fund are estimated to be $411.75 million in FY 2025-26.

What Is Exempted from the Premium Tax?

Exemption	**Amount of Lost Revenue to the State FY 2025-26**
- Mutual Benefit Associations (Fraternals)	$22.3 million
- Non-Profit Hospitals & Medical Care Orgs.	$77.6 million
- Auto Ins. Companies' CAT Plan Contributions	$200,000
- Life & Health Ins. Guaranty Assn. Tax Credit	$7.8 million
- Property/Casualty Ins. Guar. Assn. Tax Credit	$1.3 million
- **Surplus Lines Tax Exemption for Charter Schools**	**amount not available**

- $100 million Premium Tax credits were bought by insurance companies in 2015.

NOTE: *These tax credits were used for venture capital investments through the Ben Franklin Technology Partners, Venture Investment Program and the Life Sciences Greenhouse. Credits may be sold to other qualified taxpayers and may be carried over for any taxable year that begins prior to January 1, 2026. Amount is 'negligible.'*

LICENSES AND FEES

Revenues from insurance producer licenses are estimated to be $74.4 million in FY 2025-26, an increase of $2.5 million over the current Fiscal Year.

Where does this money go? 50% of the licensing revenue goes into the **Insurance Regulation & Oversight Fund.** This was established by Act 46 of 2013 to provide a dependable budget for the PA Insurance Department to fulfill its' responsibilities for insurer solvency and insurance consumer protection. Besides licensing fees, the Insurance Regulation & Oversight Fund will see $5.0 million from the Federal Government to help finance Affordable Care Act insurance market reforms in PA, $1.11 million in interest, and $6.1 million in Examination Reimbursements.

Going to the PA Insurance Department in FY 2025-26 will be $43.553 million.

OTHER INSURANCE DEPARTMENT REVENUES

- $2.3 million Insurance Company Certification and filing fees
- $500,000 Miscellaneous Fees
- $10.0 million Valuation of Policy Fees
- $900,000 Miscellaneous Fines

These monies go into the General Fund.

- **$24.2 million Surcharge on Moving Vehicle Violations (CAT Fund)**

This surcharge went to the Catastrophic Loss Benefits Continuation Fund (CAT Fund) until passage of Act 13 of 2002, which directed that this money would go to MCARE (Medical Care Availability & Reduction of Error Fund). Act 26 of 2011 redirected those surcharges into the General Fund, into which they have gone since then. Medical vehicle accident claims are still being paid from the CAT Fund up to one million dollars after exceeding $100,000 for those people suffering catastrophic injuries between October 1, 1984 and December 31, 1989. FY 2025-26 claims are expected to be $6.0 million with Fund administration projected at $2.43 million. The most recent actuarial report estimates final claim disbursements to take place in 2094.

INSURANCE LIQUIDATION FUND

The Insurance Liquidation Fund is used to permit the PA Treasurer to invest insolvent carrier assets so as to pay claims and expenses incurred in the administration of domestic (PA) insurers. For FY 2025-26, it expects to receive $11.2 million and disburse $11.0 million for Insurance Department administration and paying claims.

WORKERS COMPENSATION SPECIAL FUNDS

Fund | **Administered By** | **Funding Source**

- **State Workers Insurance Fund (SWIF)** | **Dept. Labor & Industry (L&I)** | **premiums**

SWIF is the WC insurer of last resort. For FY 2025-26, premium and other income is anticipated at $151.5 million with claims expected to be $213.52 million. SWIF reserves are estimated at $1.1 billion. **NOTE**: Even though SWIF is a state entity, it still pays $1.5 million in Insurance Premium Taxes. SWIF is marketed by licensed insurance producers.

- **WC Compensation Security Fund** | **Insurance Dept.** | **WC insurer assess.**

The WC Compensation Security Fund pays valid WC claims from individuals who were insured by insolvent stock companies. Assessments are not required if this Fund is actuarily sound and has at least a $500 million balance. For FY 2025-26, claims and administration are projected at $38.1 million. This Fund should have a balance of $1.1 billion at the end of FY 2025-26.

- **WC Administration Fund** | **L&I** | **insurer & self-insured WC plans**

The WC Administration Fund finances the expenses of L&I in administrating the WC system in PA. Disbursements to L&I for FY 2025-26 are estimated to be $76.1 million plus $550,000 to fund the Office of Small Business Advocate in the Department of Community & Economic Development. The Advocate represents the needs of employers in WC rate filings before the Insurance Department.

- **WC Supersedeas Fund** | **L&I** | **insurer & self-insured WC plans**

The WC Supersedas Fund reimburses insurers for payments made by them to WC claimants who are later determined to be ineligible. FY 2025-26 assessments and interest are expected at $27.86 million, disbursements at $29.0 million, leaving a cash balance in the Fund at $11.5 million after funding the shortfall.

- **Self-Insurance Guaranty Fund** | **L&I** | **self-insurer assess.**

The Self Insurance Guaranty Fund pays claims arising from defaulting self-insurance employers and defaulting members of self-insurance pooling arrangements. In FY 2025-26, receipts would be $4.3 million with $1.986 million in disbursements.

- **Uninsured Employers Guaranty Fund** | **L&I** | **insurer & self-insured WC plans**

The Uninsured Employers Guaranty Fund is designed to pay WC claimants and dependents when the employer failed to provide WC or self-insure. Funding is from assessments on insurers and self-insured employees at .25-percent of total compensation paid by all insurers or self-employed employers. Assessment and other receipts income for FY 2025-26 is anticipated at $7.96 million while disbursements would equal $8.2 million. After making up the shortfall, the Fund balance will be $2.6 million.

UNDERGROUND STORAGE TANK INDEMNIFICATION FUND (USTIF)

Established by Act 32 of 1989, USTIF provides claim payments to owners and operators of underground storage tanks who incur liability for taking corrective action or for bodily injury or property damage caused by a release/leak/discharge from the tanks. Legislative updates:

- Act 13 of 1998 established a loan program to assist underground storage tank owners in upgrading to meet new EPA requirements or to remove the tanks.
- Act 100 of 2000 expanded the loan program and expanded coverage to firms engaged in removing tanks. It also established a new provision providing insurance coverage for homeowners with oil heat who suffer a rupture or leak (not covered by Homeowners Insurance). Claims under this new home owners' coverage are handled by the Department of Environmental Protection (DEP).

USTIF is funded by tank owners with amounts determined by tank capacity and gallons. FY 2025-26 revenue is estimated to be $54.6 million and USTIF claims and administration disbursements are seen to be $55.74 million. In addition, $5.2 million would go to DEP for the environmental protection for homeowners. The Fund's balance after meeting obligations would be $430.86 million.

INSURANCE FRAUD

The Insurance Fraud Prevention Authority (IFPA) is funded by insurance company assessments, fines, penalties and interest earnings. The programs develop materials to assist insurance companies combat fraud as well as providing grants for insurance fraud law enforcement, prosecutions, and prevention. In 2023, grants went to five county District Attorneys, two county or regional Insurance Fraud Task Forces, two municipal police departments, and a grant of $8.8 million to the Office of Attorney General for insurance fraud prosecution. More resources for consumers and the Insurance Industry:
https://helpstopfraud.org/wp-content/uploads/2024/03/IFPA-2023-Annual-Report.pdf.

The Automobile Theft Prevention Authority also receives funding from an assessment to 297 companies-plus that insure drivers. Its' purpose is to finance programs combatting auto theft and support prosecutions of the same. There should be $8.5 million in disbursements roughly matching the assessment. In 2023, grant recipients included the PA State Police, four police departments and six county District Attorneys. Link: https://watchyourcar.org/wp-content/uploads/2024/03/ATPA-2023_AnnualReport_Pages_SM.pdf.

COAL & CLAY SUBSIDENCE INSURANCE FUND

This Fund provides insurance to homeowners impacted by subsidence caused by abandoned mines which settle, causing surface disruption. It is administered by DEP and is expected to receive $9.77 million in insurance premiums and interest. In addition to direct placement from DEP, Act 155 of 2002 gave insurance producers the ability to sell this product. Disbursements for FY 2025-26 (including insurance producer compensation) are anticipated to be $7.9 million.

MEDICARE CARE & REDUCTION OF ERROR FUND (MCARE)

MCARE was established by Act 13 of 2002 to absorb assets and liabilities (including unfunded liabilities) of the former Medical Professional Liability Catastrophe Loss Fund. Health care providers and/their facilities/hospitals are responsible for purchasing their own Medical Malpractice Insurance with coverage up a certain level which may change depending on the level of unfunded liability. This is private sector liability insurance. The second level of required insurance is MCARE, again with possible variance as to the required coverage. MCARE acts as the insurer for this level. The third tier is the Excess & Surplus Lines market, again available in the private sector insurance market. This must be purchased using a surplus licensee (broker).

How does MCARE get its revenue? Each year, every health care provider/hospital, etc. must pay an annual assessment. NOTE: It is not called a premium. Assessment and interest income for FY 2025-26 is anticipated to be $289.6 million. The amount assessed is based on the premiums charged by the Medical Malpractice insurer of last resort, the Joint Underwriting Association (JUA). Claims paid and administrative costs should be $249.5 million.

MCARE has a satellite program. **The Patient Safety Trust Fund and Patient Safety Authority** were established to reduce medical errors by reviewing medical facilities. Act 52 of 2007 gave the Patient Safety Trust Authority the additional responsibility of reviewing reduction and prevention of medical infections found in acute care and nursing homes. Each year, the PA Department of Health gathers a surcharge on medical facility and nursing home licensing fees which goes into the General Fund and then is transferred to the Patient Safety Trust Fund. For FY 2025-26, surcharges and interest should total $8.374 million. Trust Fund money then covers costs of the Patient Safety Authority, estimated to be $9.4 million and leaving a balance in the Patient Safety Trust Fund of $12.06 million.

CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

CHIP was established through passage of House Bill 20 in 1992 to provide health insurance to children aged through their teens who were not eligible for Medicaid and whose families did not have the financial ability to have health insurance. In 1997, the Clinton Administration used CHIP as the model for a comparable Federal program.

Originally, the PA Insurance Department administered CHIP but responsibility was transferred to the Department of Human Services. An enrollment system called COMPASS was created to create a one-stop way to enroll in Medicaid or CHIP depending on family eligibility. This tied into a provision of the Affordable Care Act which expanded Medicaid and required a determination of Medicaid eligibility before one could have CHIP. During the Rendell Administration, children from any income level could enroll although they would receive no subsidy depending on family income. Enrollment in FY 2025-26 is expected to be 179,208, up from 171,308 in the current Fiscal Year. There are 19 insurance company sources for CHIP. Some may use insurance producers Others don't.

Where does CHIP get operating funds?

Source	Amount FY 2024-25	Amount FY 2025-26
CHIP Program (incl. premiums)	$106.88 million	$100.14 million
Federal Government	$352.6 million	$332.07 million
Mgd. Care. Org. Assessment	$16.1 million	$17.8 million
CHIP Program (restricted use)	$30.7 million	same
TOTAL	$506.28 million	$480.75 million

HEALTH INSURANCE EXCHANGE AUTHORITY

The PA Health Insurance Exchange Authority is the Commonwealth's alternative to the Affordable Care Act Marketplace (Federal Exchange). The PA Exchange is known as 'Pennie' and was approved by the Centers for Medicare & Medicaid Services under a waiver.

Pennie is a state-based exchange created by Act 42 of 2019. It has the core components of the Affordable Care Act Marketplace, some of which include:

- Individual and small group policies ('SHOP' plans)
- ACA's income-based thresholds in order to receive a full or partial subsidy
- Essential Benefits, no lifetime limits, coverage through age 26, no pre-existing condition exclusions, first-dollar coverage for preventive care, etc., etc.

Where Pennie differs is that it is a free-standing state entity. Funding comes from assessments to health insurers called 'exchange user fees' at three-percent of premiums. This goes into a restricted Fund, the PA Health Exchange Fund. There is a Reinsurance Fund as well. It utilizes user fee revenues minus Pennie's expenses to support a reinsurance function for participating insurers.

Funding and disbursements in FY 2025-26:

Pennie Revenue	Reinsurance Program Revenue
Insurers User Fees $93.04 million	Transfer from Pennie $44.4 million
Federal Transition to State program $19.5 million	Federal Pass-Through $121.13 million
Interest $4.0 million	Interest $90,000

Fund Disbursements	Fund Disbursements
To Pennie $71.8 million	Administration $400,000
Transfer to Reinsurance Fund 44.4 million	Payments to Insurers $165.13 million
Ending Fund Balance $134.15 million	Ending Fund Balance $3.06 million