

# Department of Administrative Services



Berri Leslie, DAS Director and State COO

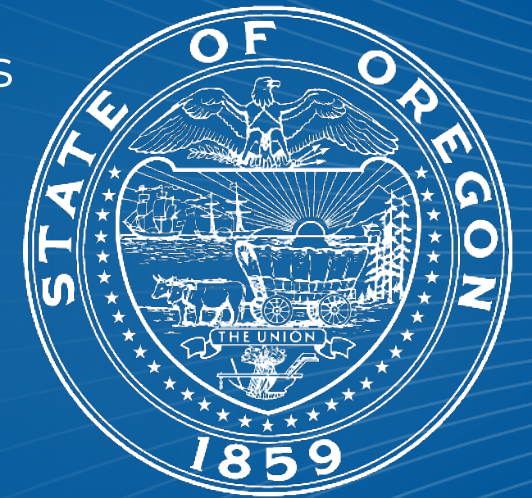
Shelly Hoffman, Risk Manager

Karl Anderson, Risk Finance Analyst

February 14, 2024

# Agenda

- 01** Insurance Fund Overview & Updates
- 02** Sizable Tort Claims
- 03** Agency Risk Mitigation



# Insurance Fund Updates



# The Insurance Fund



## The Insurance Fund est. by ORS 278

- Provides ongoing funding for risk management.
- Funded by agency assessments, which are determined by the Legislature and begin with a recommendation driven by qualified external actuaries.
- The fund pays commercial premiums, along with losses and settlements.

## Cost of Risk includes:



- Worker's Compensation
- Commercial Insurance Premiums
- Liability Claims
- Restoration Claims (damage to state owned property)
- Administrative Costs
- Costs grow with increased property values and FTEs

# Fund Health Continues to Deteriorate

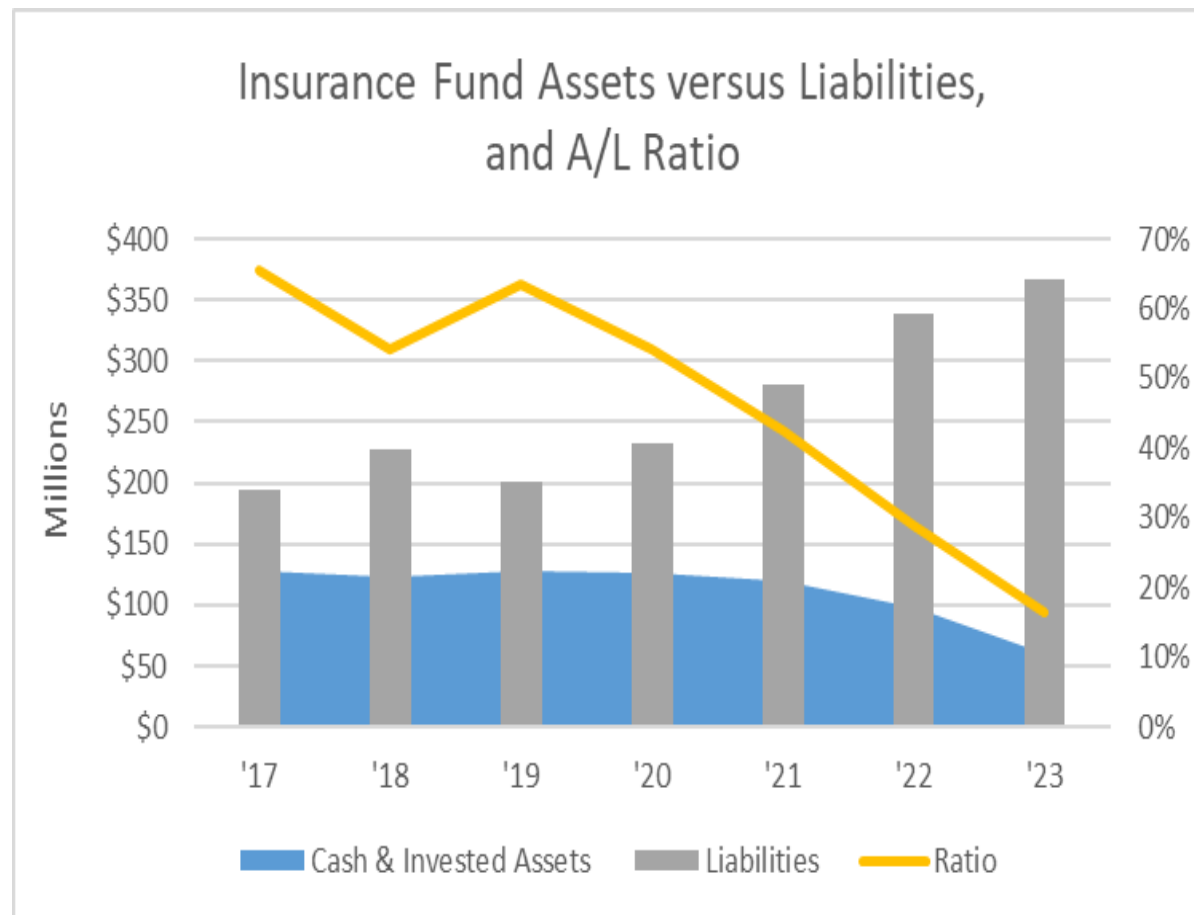


- DAS Risk Management has been keeping the Legislature regularly updated concerning the deterioration in the health of the Insurance Fund.
- Cash and Invested Assets (available to pay bills) as of 1/26/24 totaled \$96.8M.
- That might sound sufficient, but there is a \$40M settlement payment soon coming out of the fund and run rates out of the fund are about \$10M per month.
- Without significant additional funding, assets will be depleted this biennium.



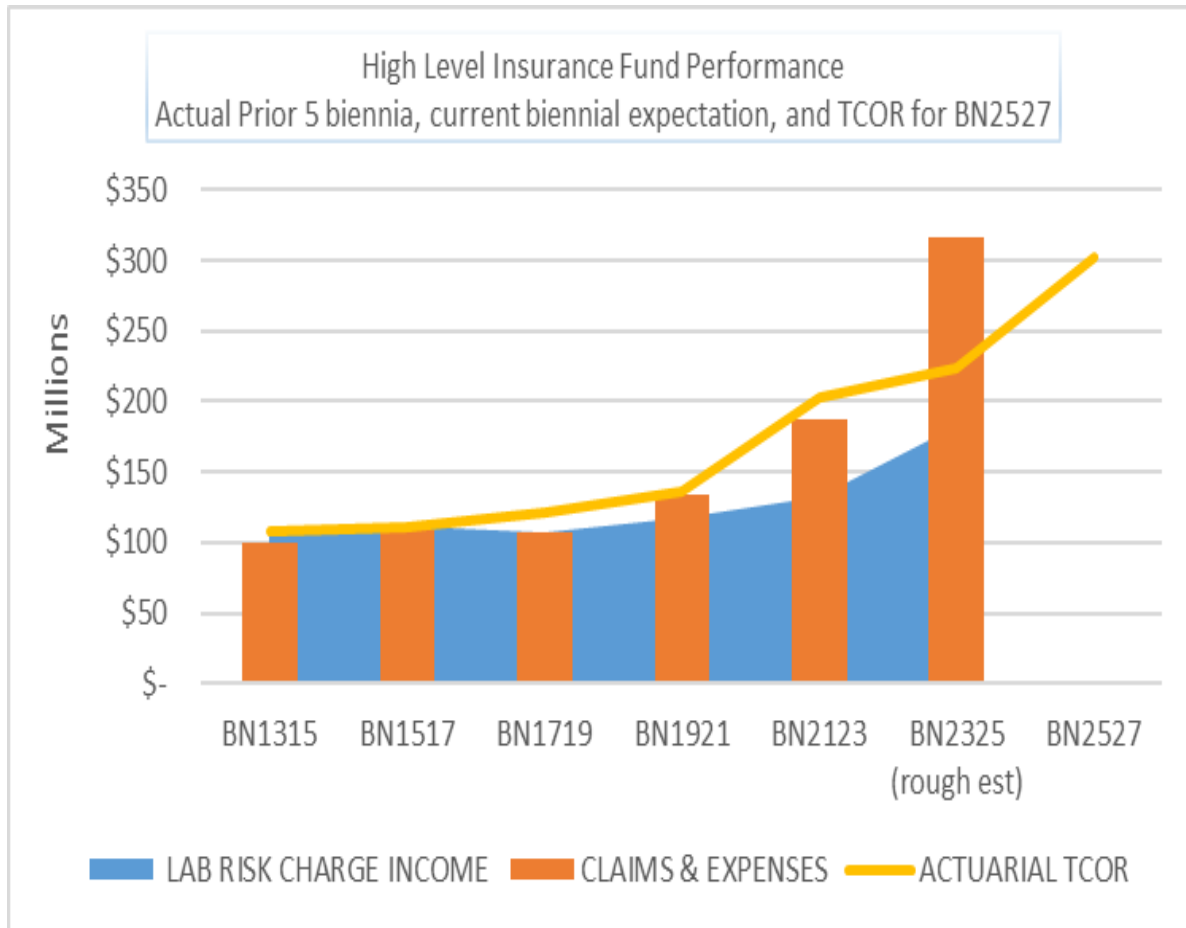
# Assets are Declining

## Assets relative to liabilities of Insurance Fund



- Liabilities are an estimate based on analyses from qualified external actuaries of the amount needed to pay claims that have occurred to date.
- The yellow line shows the degree that liabilities are funded by assets. Ideally, an acceptable ratio would be 70%.
- Our funded ratio is heading toward zero and will continue the trajectory without significant additional funding.

# Insufficient Income



- This illustrates how claims and expenses are draining the Insurance Fund. Risk charge income is not keeping up.
- Through the 15-17 biennium, income (blue area) generally matched claims and expenses (orange bars).
- Between FY18 and FY25 funding for risk charges lagged behind total cost of risk by a cumulative total of more than \$150M.
- The gap between claims and expenses and income continues to widen. For the current biennium, we estimate pay outs of **\$134M more than we will bring in** to the Insurance Fund.

# What Happened?



Five major drivers for current status of the insurance fund:

1. A cumulative underfunding of the Insurance Fund.
2. The COVID Pandemic.
3. Extraordinarily large civil rights claims currently in process are accelerating spend down of the Fund.
4. Rising Defense Costs for the most complex claims.
5. Oregon Tort Claims Act (OTCA) increases caps annually for state negligence claims.

**The combined has created a need for funding beyond what was approved for the 23-25 biennium.**



# Sizeable Tort Claims



# Closed Tort Claims 7/1/2019 to present



**74 Closed Claims with payments greater than \$480,000** in Bodily Injury/Personal Injury, defense costs, defense expenses and plaintiff attorney fees.

<b>Bodily Injury/Personal Injury damages paid</b>	<b>\$67,000,756</b>
<b>Legal defense cost paid</b>	<b>\$15,253,508</b>
<b>Legal Defense expenses paid</b>	<b>\$2,712,821</b>
<b>Plaintiff attorney fees paid</b>	<b>\$23,506,835</b>

# Open Tort Claims pending outcomes



**51 open active tort claims with reserves of more than \$500,000** in either Bodily Injury/Personal Injury damages, Plaintiff attorney fees or Legal Defense & Expense. Parts of some claims have been paid.

<b>Bodily Injury/Personal Injury damages</b> reserves total	\$86,569,929
<b>Legal Defense costs</b> reserves total	\$89,274,240
<b>Legal Defense expenses</b> total	\$21,924,401
<b>Plaintiff attorney fee exposure</b> reserves total	\$20,800,218

\*One claim is settled with payment pending of \$40M

\*Another claim with total reserves over \$50M

\*Several more with developing reserves between \$5M to \$10M

# Options for Risk Mitigation





# What Can Agencies Do?

- **Be willing to implement change and a show commitment to rewarding or holding staff accountable.**
- **Establish Agency Risk Coordinators or other staff assigned to assist in risk mitigation.**
- **Develop a process for the agency to implement risk mitigation & tracking that might include:**
  - ✓ Analyzing liability claims, internal incidents reports and develop root cause analysis processes.
  - ✓ Make sure statute, rule and agency policies and procedures are reviewed and updated.
  - ✓ Develop, implement and monitor leading and lagging indicators measuring agency adherence to risk mitigation efforts.
  - ✓ Require driver training for all employees.
  - ✓ Ensure contract and grant risk transfer processes are being implemented.
    1. Procurement staff and managers ensure indemnity language & insurance requirements are included by utilizing Risk Management's risk assessment toolkit

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