

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR**

**FINANCIAL AUDIT REPORT
FOR THE FISCAL YEAR ENDED
JUNE 30, 2010**

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR**

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This report can be accessed in its entirety on-line at www.gencourt.state.nh.us/lba/audit.html

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR**

Reporting Entity And Scope

The reporting entity of this audit and audit report is the New Hampshire Department of Labor. The scope of this audit and audit report includes the financial activity of the Department of Labor for the fiscal year ended June 30, 2010. Unless otherwise indicated, reference to the Department or auditee refers to the Department of Labor.

Organization

The Department of Labor is under the executive direction of a Commissioner who is appointed by the Governor, with the advice and consent of the Council, to a three year term. Assisting, and appointed by the Commissioner, is a Deputy Commissioner who is an unclassified State employee. The Commissioner, Deputy Commissioner, Director of Workers' Compensation, and Wage and Hour Administrator oversee the three divisions of the Department: Workers' Compensation, Inspection, and Administration and Support. Chapter 198, Laws of 1911, is the source of the Department's current enabling legislation, Chapter 273 of the Revised Statutes Annotated.

The Department is associated with six boards and councils. The largest board, consisting of 33 members, is the Compensation Appeals Board. Pursuant to RSA 281-A:42-a, the Compensation Appeals Board conducts fair and impartial appeal hearings, separate from the decisions issued by hearing officers at the Department level.

At June 30, 2010, the Department was staffed with 116 employees, consisting of 79 full-time and 37 part-time employees. The Department of Labor is located at 95 Pleasant Street, Concord, New Hampshire.

Responsibilities

The Department of Labor monitors employers and insurance carriers to ensure they are in compliance with New Hampshire labor laws. These laws encompass minimum wage, overtime, safety issues, and workers' compensation.

The Department's Workers' Compensation Division is responsible for the administration of the State's workers' compensation law, RSA 281-A. This includes processing workers' compensation claims, hearing and deciding disputed cases, and monitoring employers' insurance coverage. Other responsibilities include workplace safety, which encompasses safety and health inspections, training, and prevention.

The Inspection Division administers and enforces the protective legislation, citizens' job protection, youth employment, minimum wage, boiler and pressure vessel, and elevator and accessibility lift laws, as well as the whistleblowers' protection act. The Division accomplishes

its duties through safety inspectors who routinely perform compliance inspections in both the private and public sectors, and issue boiler and elevator inspector licenses and certificates.

The Department administers three fiduciary funds:

The *Special Fund for Active Cases*, established by RSA 281-A:30, and the *Special Fund for Second Injuries*, established by RSA 281-A:55, are private-purpose trust funds held by the State Treasury. There was only limited activity in the *Special Fund for Active Cases* during fiscal year 2010. Revenues for the *Special Fund for Second Injuries* come from assessments paid by insurance companies and self-insurers based on an appropriated amount. The amount assessed to an insurance carrier or self-insurer is their pro-rata share of 115% of the total obligations of the fund during the preceding twelve months, less the balance in the fund as of March 31, of the current year. Expenditures from the fund reimburse insurance companies and self-insurers for eligible payments made to claimants.

The *Wage Claim Settlements Account* is an agency fund established by the Department during fiscal year 2010 to account for the receipt and disbursement of wages related to the mediation and settlement of wage claims between employers and their employees. Employers remit employee wages to the Department which acts as an agent in disbursing amounts collected directly to the affected employees. Wage claim settlements remitted to the Department are held by the State Treasury until such time as disbursements are made to the affected parties.

Funding

The financial activity of the Department of Labor is accounted for in the governmental and fiduciary funds of the State of New Hampshire. The cost of administering the workers' compensation statute is recovered by an administrative assessment levied on each insurance carrier and self-insurer who paid workers' compensation benefits in the State. The amount assessed to an insurance carrier or self-insurer is their pro-rata share of one fiscal year's cost of administering the workers' compensation statute based on workers' compensation claims paid in the preceding calendar year.

A summary of the Department's revenues and expenditures recorded in the governmental fund for the fiscal year ended June 30, 2010 is shown in the following schedule.

Summary Of Revenues And Expenditures - General Fund For The Fiscal Year Ended June 30, 2010

Total Revenues	\$ 13,430,397
Total Expenditures	<u>9,454,058</u>
Excess (Deficiency) Of Revenues Over (Under) Expenditures	<u>\$ 3,976,339</u>

Prior Audit

The most recent prior financial audit of the Department of Labor was for the nine months ended March 31, 2000. The appendix to this report on page 45 contains a summary of the current status of the observations contained in that prior report. The prior audit report can be accessed at the Office of Legislative Budget Assistant website: www.gencourt.state.nh.us/lba/audit.html.

Audit Objectives And Scope

The primary objective of our audit was to express an opinion on the fairness of the presentation of the financial statements of the Department of Labor as of and for the fiscal year ended June 30, 2010. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we considered the effectiveness of the internal controls in place at the Department and tested its compliance with certain provisions of applicable State and federal laws, rules, regulations, and contracts. Major accounts or areas subject to our examination included, but were not limited to, revenues and expenditures.

Our report on internal control over financial reporting and on compliance and other matters, the related observations and recommendations, our independent auditor's report, the financial statements, and supplementary information are contained in the report that follows.

Auditor's Report On Internal Control Over Financial Reporting And On Compliance And Other Matters

To The Fiscal Committee Of The General Court:

We have audited the accompanying financial statements of the New Hampshire Department of Labor (Department) as of and for the fiscal year ended June 30, 2010 as listed in the table of contents and have issued our report thereon dated February 10, 2011 which was qualified as the financial statements do not constitute a complete financial presentation of the Department in the General Fund. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Department's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Department's financial statements will not be

prevented, or detected and corrected on a timely basis. We consider the deficiencies described in Observations No. 1 and No. 2 to be material weaknesses.

A *significant deficiency* is a deficiency or combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in Observations No. 3 through No. 11 to be significant deficiencies.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Department's financial statements are free of material misstatement, we performed tests of the Department's compliance with certain provisions of laws, rules, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted immaterial instances of noncompliance which are described in Observations No. 12 through No. 14.

The Department's response is included with each observation in this report. We did not audit the Department's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of the management of the Department of Labor, others within the Department, and the Fiscal Committee of the General Court and is not intended to be and should not be used by anyone other than these specified parties.

Office Of Legislative Budget Assistant

February 10, 2011

Internal Control Comments
Material Weaknesses

Observation No. 1: Financial Accounting And Reporting Processes Should Be Strengthened

Observation:

Difficulties experienced by the Department in processing transactions in the State's new accounting system (NHFirst) during fiscal year 2010 indicate a need for the Department to strengthen its financial accounting and reporting functions, including a need for additional training in NHFirst and the development and utilization of appropriate supporting policies and procedures and related documentation.

We noted the following financial accounting and reporting weaknesses during the audit.

1. The Department did not properly record \$12.9 million of Special Fund for Second Injuries and \$153,000 of Wage Claim Settlements Account disbursements in NHFirst during fiscal year 2010.

The Department initially recorded disbursements out of these accounts as negative revenue rather than expenditure transactions. The Department did not recognize the errors until the auditors inquired about the activity recorded in the accounts. In its subsequent attempt to correct the recording of the transactions, the Department made additional errors when it did not properly identify transactions needing correction. These errors overstated both revenues and expenditures recorded in NHFirst by \$58,188 and \$227,888 in the Special Fund for Second Injuries and the Wage Claim Settlements Account, respectively.

2. Lack of communication between the Department, the State Treasury, and the Department of Administrative Services (DAS) has allowed the financial activity of certain Department accounts to be misreported in the State's Comprehensive Annual Financial Report (CAFR).
 - Because neither the Department nor the State Treasury completed and submitted the necessary documentation to DAS, the Special Fund for Second Injuries has historically been reported in both the General Fund and the State's private-purpose trust fund statements in the State CAFR. The Department did adjust its financial statements and communicate the need for an eliminating entry for this activity in the State's accounting system and CAFR for fiscal year 2010.
 - The Department's Wage Claim Settlements Account (Account) is reported in the General Fund even though the activity in the account should cause the Account to be reported as an agency fund in the State's CAFR. The Account has been in place for many years but has never been reported as such. The Department did report the Account as an agency fund in its financial statements for fiscal year 2010.

3. In December 2009, the Department erroneously recorded a \$142,972 cash receipt in the State's accounting system (NHFirst) twice. The Department did not detect the double posting but did recognize a \$20,000 error in the allocation of the posting. It took the Department four attempts to correct the misallocation. In June 2010, subsequent to auditor inquiry, the Department recognized and corrected the initial double posting error.
4. In reconciling revenue recorded in NHFirst to revenue recorded in the Department's internal accounting information system, AS/400, we identified variances in the Elevator Certificate Fees and Protective Legislation Civil Fines accounts, both unrestricted revenues. A significant part of the variances identified was attributable to a \$9,000 cash receipt posted to the Elevator Certificate Fees account in September 2009 that should have been posted to the Protective Legislation Civil Fines account.

When the Department detected the error in December 2009, the Department posted an entry intended to correct the error. The Department posted the correction backwards, which compounded the original \$9,000 error to an \$18,000 error. The Department did not detect and correct this additional error prior to fiscal year close.

5. The Department is unable to explain a \$15,000 difference in Protective Legislation Civil Fines revenue posted to NHFirst versus the revenue posted to the AS/400.
6. The Department could perform revenue reconciliation procedures in a more efficient and effective manner. The Department's current reconciliation process is limited to reconciling posted receipt transactions and excludes adjustments, transfers, and other non-receipt transactions. The reconciliations performed during fiscal year 2010 did not detect the \$142,972 duplicate transaction noted above and excluded the Wage Claim Settlements and Special Fund for Second Injuries accounts, which were not subject to any reconciliation procedures. During the second half of fiscal year 2010, an inexperienced employee, who did not have sufficient knowledge of the Department's normal activity and accounts necessary to detect errors, performed the reconciliations.
7. As noted in Observation No. 9, the Department was under the misunderstanding that it was not responsible for recording accounts receivable at the end of fiscal years 2009 and 2010. The lack of revenue accruals overstated the Department's fiscal year 2010 revenues reported in NHFirst by \$754,141. The Department did adjust its financial statements for this error.
8. The Department did not properly record accounts payable at the end of fiscal years 2009 and 2010. The lack of expenditure accruals overstated the Department's fiscal year 2010 expenditures reported in NHFirst by \$606,122. The Department did adjust the accompanying financial statements for this error.

Recommendation:

The Department should strengthen its financial accounting and reporting processes to ensure that it is recording and reporting accurate and meaningful financial information.

The Department should review the issues noted above as well as the other similar observations in this report to determine a reasonable plan of action to strengthen its financial accounting and reporting. While a number of the errors that occurred during fiscal year 2010 were related to the Department's business office being unfamiliar with NHFirst, the Department's inability to recognize the errors early and its ineffectual attempts at correcting some of the errors indicate that the Department's financial accounting and reporting control structure needs improvement.

Auditee Response:

We concur. The Department continues to work to gain knowledge and understanding of NHFirst. We have been in contact with the Department of Administrative Services and they will provide us with continuing training to strengthen our financial needs.

Observation No. 2: Adjustments To Assessed Fines And Penalties Should Be Reviewed

Observation:

The Department has a material weakness in its processing of adjustments to assessed fines and penalties that could allow a material fraud or error to go undetected.

The Department's information system, used to generate invoices, track outstanding balances owed to the Department, and record cash receipts against those balances, allows authorized users to adjust accounts receivable outstanding without requiring a separate review and approval of those transactions. In addition, certain Department employees are authorized to meet with employers in informal hearing settings and adjust assessment amounts invoiced. Employees in the Department's Inspection Division can adjust fine and penalty assessments through voids and or waivers without being required to document the basis for the adjustment or have the adjustment reviewed and approved by any other Department employee. Adjustments resulting from informal hearings in the Workers' Compensation Division are approved by the Deputy Commissioner. During the fiscal year ended June 30, 2010, according to system reporting, the Department wrote off approximately \$40 million of previously assessed fines and penalties through 5,200 separate void and waiver transactions. The Department deemed the collection of those amounts either unenforceable or counter productive to the Department's mission.

Testing of a random sample of 40 adjusted assessment transactions revealed the following:

- Sixteen of 40 adjusted assessment transactions tested (40%) were entered into the information system by accounting office employees that also had significant cash handling responsibilities during the audit period. There were 14 different employees with system privileges allowing the posting of assessment adjustment transactions during the audit period. Of those 14, four were accounting office personnel responsible for collecting and recording the Department's cash receipts. The ability to adjust assessment transactions in the information system and have access to cash and checks remitted to the Department is a significant segregation of duties weakness that increases the Department's exposure to the risk of fraud through misappropriation of assets.

- Twenty-one of 40 adjusted assessment transactions tested (53%) represented civil fines or penalties significantly reduced at informal hearings, without documentation to support the propriety of the assessment reduction. The Department allows employers the opportunity to meet with Department employees, outside of a formal hearings process, to discuss the findings of the Department inspectors and possible reduction of the assessed penalty. These informal hearings, not governed by statute, administrative rule, or internal policies, allow two senior employees in the Inspection Division, based on discussions with the employer, to make a case-by-case determination regarding the adjustment of an assessment amount. Any adjustment to the assessment arrived at during the meeting is not subject to review and approval by any other Department employee. The audit sample of 40 adjusted assessment transactions included a \$142,750 waiver adjustment. This waiver adjustment was part of a waiver that reduced a \$793,000 assessed penalty to \$14,000.
- Seventeen of 40 adjusted assessment transactions tested (43%) had no signature on the correspondence evidencing the approval by an authorized Department employee of the void/waiver. While documentation in the file indicated supervisor involvement in the adjustment, the letter notifying the employer of the final adjusted amount was electronically signed. There was no other documentation in the file to establish who had proposed the adjustment and that the adjustment was approved. Because the Department does not have procedures for monitoring adjustments to assessments entered into the Department's information system, any of the 14 Department employees with permissions to process an adjustment could do so without any subsequent review or monitoring of the transaction. The Department does not perform any trend or other analysis to determine the reasonableness or appropriateness of void and waiver activity processed by Department personnel.

Recommendation:

The Department should review its fine and penalty assessment practices to determine why it is appropriate and necessary to process so many large adjustments to assessed fines and penalties through an informal hearing process. The Department should consult with the Department of Justice about the appropriateness of waiving assessments in an informal hearing process.

The Department should take steps to lessen the risk of fraud and error in its processing of adjustments of assessed fines and penalties as follows.

- The Department should review authority levels to determine if employees have job functions that are incompatible with assessment adjustment transactions.
- The Department should establish procedures for reviewing and approving adjustments to fine and penalty assessments. Procedures should include monitoring individual adjustment transactions by reviewing the propriety and basis of adjustments and agreeing the adjustments to properly documented support, and performing and reviewing trend analysis by comparing the number and amount of adjustments processed by employee to expected levels of activity.

Auditee Response:

We concur. The Inspection Division has reviewed its penalty assessment practices and has taken steps to revise the guidelines for determining the number of violations used in the calculation of fines and penalties initially cited by inspectors; this will lessen the original amount used in assessing penalties.

To lessen the risk of fraud and error in its processing of adjustments of assessed fines and penalties, the Department has reviewed the authority levels to determine if employees have job functions that are incompatible with assessment adjustment transactions. The Department has taken steps to lessen the risk of fraud and error in its processing of adjustments by limiting the employees who make adjustment transactions to only employees with job functions that are appropriate.

To further lessen the risk of fraud and error, the Inspection Division has reviewed the procedures and revised the process of reducing proposed assessed penalties after informal hearings. Prior to making an adjustment to the invoice the senior employee who held the informal hearing receives a separate review and approval from the Commissioner or, in his place, the Deputy Commissioner on a form that shows the basis for the reduction.

We will review the use of informal hearings with the Department of Justice.

Significant Deficiencies

Observation No. 3: Formal Risk Assessment Process Should Be Established

Observation:

The Department has not conducted a formal risk assessment and does not have risk assessment policies and procedures in place to continually assess where and how things could go wrong, evaluate the likelihood of those occurrences, and establish reasonable responses to those potential occurrences.

An entity's performance can be at risk due to internal or external factors. These factors can affect the entity's ability to reach and maintain adherence to its stated or implied objectives. External factors include economic changes affecting decisions related to financing, capital expenditures, changing customer needs or expectations, new legislation, natural catastrophes, and others. Internal factors including disruption of information systems, quality of personnel hired, methods of training and motivating employees, and changes in management responsibilities can affect the way certain controls operate. Risks increase during times of change including changes in organization, personnel, procedures, and major information systems such as the State's accounting system (NHFirst).

There is no indication the Department has regularly and formally reviewed its operations for exposure and response to risk.

- The Department does not have formal policies and procedures in place for periodically reviewing its operations for risks that could jeopardize its ability to continue to function as management intends. While currently, when risks are identified, the Department may react with changes in process, there are no formal policies and procedures to continuously review operations for risks.

Management's assessment of and response to risks facing the organization and its systems is an integral component of internal control. The purpose of an entity's risk assessment efforts is to identify, analyze, and where appropriate respond to risks and thereby manage risks that could affect the entity's ability to reach its objectives. Effective risk assessment practices should be a core element of management's planning activities and should be an ongoing activity. A business continuity plan, as discussed in Observation No. 4, is an example of an organization's response to perceived risks for a disruption in operations.

Without a formal risk assessment activity, the Department may be unaware of and not able to respond timely to significant risks facing its operations.

Recommendation:

The Department should establish a risk assessment process to continuously review operations for exposure to risk and respond by eliminating or mitigating the risk where reasonably possible.

The Department should develop formal documented risk assessment policies and procedures that establish and formalize a risk assessment process and provide for a regular and continuous risk assessment of its operations. Identifying risks significant to Department operations, and strategies to mitigate those risks, should enhance the effectiveness of the Department's planning and resource allocation processes and its control processes.

Auditee Response:

We concur. The Department acknowledges that it does not have a formal risk assessment process in place. The Department does have procedures in place for obvious risks inherent in the hearing process such as inclement weather, hostile participants, and blackouts. The Department will review and formalize these procedures as well as assess other risk factors. We will develop a formal risk assessment process and periodically review and test this plan.

Observation No. 4: Business Continuity Plan Should Be Completed

Observation:

The Department has not finalized and implemented its draft business continuity plan.

The Department reported it initiated an effort to develop a business continuity plan in 2008 or 2009. That effort ended in late fiscal year 2009 with a draft plan. The Department has not taken the necessary steps to finalize and implement the plan.

Business continuity plans are designed to be a formal printed manual available for reference before, during, and after disruptions to minimize the impact on operations resulting from a natural or man-made disaster or disruption.

While the Department's draft plan appears comprehensive in its scope, there are a number of aspects of the plan that should be completed and tested before the plan can be deemed ready for distribution to key employees for training and implementation.

We noted the following deficiencies with the Department's draft plan:

- The Department does not maintain hard copies of the plan offsite. While the Department does backup its network files daily and store backup tapes offsite, all key employees and other key individuals should have immediate access to off-site copies of the plan.
- The Department has not identified in the plan designees in the event of the leadership structure (commissioner, deputy commissioner, and two division directors) being unavailable to immediately respond to a situation.
- The Department reports it has not tested the plan.
- The Department has not performed the Plan's risk and vulnerability assessment.
- The Department has not accumulated and included in the plan document personnel contact information for key employees and other key individuals designated by the plan.

Recommendation:

The Department should finalize and implement its comprehensive business continuity and disaster recovery plan to address the risks faced by the Department. The Department should clearly identify relevant emergencies, protocols for the notification of an emergency, the response to an emergency, and the establishment of a crisis management team to direct response operations intended to mitigate any physical, financial, and other damage and disruption that may result.

Once implemented, the Department will need to regularly review the plan for continued relevance and ensure its key employees and others with plan responsibilities are adequately trained in the plan's provisions and are provided with readily accessible copies of the most current version of the plan.

Auditee Response:

We concur. The Department will finalize and implement its comprehensive business continuity and disaster recovery plan to address the risks faced by the Department. This plan is partially completed and the Department will work toward completion and will have periodic testing of the plan. The committee will meet regularly to discuss and update the plan.

Observation No. 5: Policies And Procedures Manuals Should Be Established

Observation:

The Department has not established policies and procedures manuals to assist staff in the performance of their responsibilities. With the exception of an inspection manual intended to support certain activities of the Department's inspectors and standard State policies and procedures manuals, the Department does not have job-specific policies and procedures manuals to provide descriptions and criteria for the performance of job activities and responsibilities.

Well-documented manuals could also support the continuity of controlled Department operations in the event of key employee turnover. The director or other senior person at each of the Department's three divisions has worked for the State for 35, 38, and 22 years, respectively. Although these long-tenured Department employees are or will be eligible for retirement in the near future, the Department has not taken formal steps to prepare for their departure.

Recommendation:

The Department should establish comprehensive policies and procedures manuals for all critical Department operations. The manuals should provide descriptions and criteria for the performance of all significant job activities and responsibilities.

The Department should implement a succession planning process to mitigate the potential for significant disruption in operations when key employees choose to terminate employment with

the Department. This process should ensure there is sufficient remaining appropriate expertise to allow for continued controlled operations without unreasonable disruptions upon key employee turnover.

Auditee Response:

We concur. The Department has had a committee to establish a policy and procedures manual but that committee did not complete the manual. We will reestablish the committee and complete the manual. The Department did develop a claims manual for adjusters which explains much of the necessary paperwork and this manual would also assist those in the claims area.

While many of the employees in the Department are long tenured, steps have been taken to teach other employees different aspects of the key employee's responsibilities in the event of long absences or retirement. Steps will be taken to develop job specific policies and procedures for each division as well as the key employees so that there will not be unreasonable disruptions upon key employee turnover.

Observation No. 6: Policies And Procedures For Handling Wage Claim Settlements Should Be Established

Observation:

The Department does not have policies and procedures for processing payments from its Wage Claim Settlements Account (Account).

During fiscal year 2010, the Department collected approximately \$275,000 in wage claim settlements from employers. The Department subsequently pays the amounts collected to the affected workers. At June 30, 2010, the Department held approximately \$18,000 in the Account owed to the affected workers of three employers subject to wage claim settlements.

The balance in the Account at June 30, 2010 included approximately \$4,400 related to a fiscal year 2008 inspection action. That inspection initially determined the employer owed approximately \$17,000 to 28 workers. A settlement between the Department and the employer reduced the wages owed to \$7,500, which the Department received in three separate installments in June and July 2008. While the Department made an interim payment of \$2,600 to five affected workers in June 2008 and \$500 to two other workers shortly thereafter, approximately \$4,400 remained in the account at June 30, 2010, approximately 24 months after the employer paid the settlement amount to the Department.

- The payments the Department made in June 2008 disbursed the amount collected to date to the five workers for whom the Department had addresses. The payments to the workers were not made on a pro-rata basis but were made in a way the Department reported reduced the proportionate payments of two workers significantly (by approximately \$500 each) yet gave each of the workers a significant amount of the settlement collected. The Department,

through oversight, did not subsequently pay the two workers their remaining amounts owed when the employer subsequently remitted the remainder of the settlement amount.

The lack of policies and procedures to describe how to allocate partial payments to affected workers owed wage settlements increases the likelihood that allocations made, as described above, could appear unfair.

The lack of policies and procedures for the regular review of the account balance and attempts to locate owners of owed wages increases the likelihood that amounts will remain unclaimed in the Account, as described above.

Recommendation:

The Department should establish policies and procedures for making disbursements from the Wage Claim Settlements Account.

The policies and procedures should include provisions for periodic review of the Account to ensure reasonable and regular attempts are made to locate affected workers and make timely payments.

As discussed in Observation No. 10, amounts for which the Department cannot locate an owner should be reported to the State's Abandoned Property Program, in accordance with RSA 471-C.

Auditee Response:

We concur. The Department has implemented procedures, that when checks are received and all other means of locating the workers have been exhausted, they will be reported to the State's Abandoned Property Program on Form T-1. Periodic reviews will be done.

Observation No. 7: Controls Over The Special Fund For Second Injury Disbursement Process Should Be Improved

Observation:

The Department has opportunities to improve controls over its processing of Special Fund for Second Injury (Fund) disbursements.

The Department administers the Fund pursuant to RSA 281-A:55, I. The Fund is used to equalize the costs that employers and their insurance companies must pay for impaired and non-impaired workers alike, thereby removing a potential barrier to the employment of impaired workers. Each workers' compensation insurance carrier and self-insured employer pays into the Fund on a pro-rata basis described in statute and rule. Reimbursements for compensable payments made by insurance carriers and self-insured employers are made upon written order by the Labor Commissioner to the State Treasurer. The Treasurer, as custodian of the Fund, holds all moneys and securities in the Fund in trust.

We noted the following control deficiencies in our review of the Department's Fund disbursement process.

1. Insurance carriers and self-insured employers submit requests for Fund reimbursements to the Department. A Department employee reviews the requests and, if the employee and the director of Workers' Compensation determine the request meets all requirements, the employee applies the Commissioner's signature with a stamp to indicate the approval of the request. The use of a signature stamp in a business process presents an accountability risk if access to and use of the stamp is not tightly controlled.
2. The approved Fund reimbursement requests are aggregated by insurer and forwarded to the Commissioner for his approval, as required by RSA 281-A:55, II. There were four separate disbursement requests prepared by the Department during fiscal year 2010. Two of the four (50%) disbursement requests for \$3.8 million and \$1.7 million, respectively, did not include the initials or other evidence that the Commissioner approved the payments.
3. Checks drawn from the Fund to reimburse insurers and self-insured employers are forwarded to the Department for inclusion with supporting documentation, prior to the Department mailing the checks to the payees. During fiscal year 2010, the Department directed the State accounting system (NHFirst) to forward \$12.9 million of Second Injury Fund checks to the Department for disbursement. The practice of forwarding checks to requesting agencies is generally regarded as a control weakness and is contrary to State Treasury policy dated October 2008, which restricts the return of checks to certain limited situations.

Recommendation:

The Department should improve controls over Fund disbursements.

1. The Department should reconsider its use of a signature stamp as part of its normal business process, the associated risks it incurs, and the appropriate controls necessary to mitigate those risks. The Department should reconsider the use of signature stamps in all areas of the Department.
2. The Department should ensure that all payments from the Fund comply with RSA 281-A:55, II, and are only made upon written order of the Commissioner.
3. The Department should discontinue its practice of directing the return of checks to the Department prior to disbursement. The Department should ensure that checks are disbursed directly to payees, to lessen the opportunity for payments to be lost or misdirected.

Auditee Response:

We concur.

1. While all requests for disbursements are reviewed by the employee and checked by the director, the Commissioner's stamp should not be used by the employee to indicate approval of the request. Steps have already been taken to eliminate the use of the stamp.
2. All requests for disbursement sent to the Treasury will have a double review by the Director and the Commissioner with a notation by the Director and the signature by the Commissioner.
3. Arrangements have already been made to have Treasury mail the disbursement checks to the payee rather than have the checks come to the Department for mailing. While we understand the sending of the checks by the Department is a control weakness, this new policy will result in a lack of a control on the Department's end to double check the amount of the check and the address of the payee. The Department does review each amount and address prior to the request, but the policy has always been to review each check prior to mailing. The Department also sends back up material with the check and this new procedure will result in a double mailing to the parties.

Observation No. 8: Department-Wide Costs Should Be Allocated For Accurate Cost Recovery

Observation:

The Department in its budget and in its recording of actual expenditures does not allocate significant operating costs to two of its operating divisions.

During fiscal year 2010, the Department charged the following general Department expenditures entirely to the Department's Workers' Compensation Division accounts, even though the related activities supported all three of the Department's divisions.

<u>Expenditure Type</u>	<u>Unallocated Cost</u>
Information Technology Costs	\$ 752,336
Building Rent	225,145
Indirect Costs	130,066
Total	<u>\$ 1,107,547</u>

The effect of budgeting and recording these expenditures entirely in the Workers' Compensation Division is to overstate the cost of operating that Division and to understate the costs of operating the Administrative and Inspection Divisions. The Department recovers expenditures

charged to the Workers Compensation Division through its administrative assessment charged to insurers.

The effect of this over-allocation of costs to the Workers' Compensation Division is that insurers and self-insurers are paying a higher administrative assessment.

Recommendation:

The Department should establish a reasonable cost allocation process that distributes general service costs to the divisions using those services in a manner that reflects the divisions' proportionate use of those services.

To be most effective, this cost allocation process should be a part of the Department's budget process.

Auditee Response:

We concur. The Department will establish with the Department of Administrative Services a process that will reflect proportionate costs in the budget process.

Observation No. 9: Accounts Receivable Should Be Reported

Observation:

The Department has not established policies and procedures for reporting accounts receivable. While the Department was aware of the State's year-end requirements for reporting accounts receivable to the Department of Administrative Services, the Department reported it was under the mistaken understanding that the requirement did not apply to the Department's revenue accounts and, therefore, the Department has not reported accounts receivable for a number of years.

The following table reports the Department's unrecorded accounts receivable at June 30, 2009 and 2010 and their net effect on Department revenue for fiscal year 2010.

Revenue Source	Unrecorded Accounts Receivable		Net
	June 30, 2009	June 30, 2010	Overstatement Of Fiscal Year 2010 Revenue
Non-Federal	\$ 355,405	\$ 314,151	\$ 41,254
Federal *	712,887	-0-	712,887
Total	\$ 1,068,292	\$ 314,151	\$ 754,141

* Federal programs were transferred out of the Department during fiscal year 2010.

The Department appropriately adjusted fiscal year 2010 revenues in the accompanying financial statements.

Recommendation:

The Department should establish policies and procedures for determining and reporting accounts receivable to the Department of Administrative Services.

The Department should review with the Department of Administrative Services the most efficient methods for recording revenue transactions in the State's accounting system (NHFirst) to determine whether the use of the accounts receivable functionality in NHFirst could improve the processing and recording of accounts receivable transactions on an ongoing basis throughout the year.

Auditee Response:

We concur. We have been in contact with the Department of Administrative Services to establish policies and procedures to report accounts receivable at fiscal year end 2011.

Observation No. 10: Unclaimed Wages Should Be Reported And Transferred To The Abandoned Property Program

Observation:

Unclaimed wages reported to and held by the Department have been allowed to lapse to the General Fund and have not been reported and transferred to the Abandoned Property Division of the State Treasury Department, contrary to RSA 471-C. According to the Department, it was unaware the unclaimed wages had not been properly reported and transferred to the Abandoned Property Program.

Regularly, the Department accepts wages from employers on behalf of the employers' workers. The Department is responsible for distributing those wages to the workers. Occasionally, the Department is unable to locate workers who are owed wages and the Department holds the unclaimed wages in its Unclaimed Wages Account. Because the Account has been established as an unrestricted revenue account in the State's budget and accounting system, wages remaining unclaimed at the end of each fiscal year are lapsed to the General Fund.

A review of State accounting system reports indicated approximately \$44,000 of unclaimed wages were lapsed to the General Fund, over the past eight fiscal years.

Had the Department submitted the unclaimed wages to the State's Abandoned Property Program, the State Treasury would have advertised and made other efforts to locate the rightful owners of the wages.

Recommendation:

The Department should contact the State Treasury to determine the proper steps for reporting unclaimed wages to the Abandoned Property Program.

The Department should compile available information on the unclaimed wages inappropriately lapsed to the General Fund. The Department should contact the Department of Administrative Services to determine the appropriate steps to fund the payments to the Abandoned Property Program for amounts previously lapsed.

Auditee Response:

We concur. The Department has put in proper steps to report unclaimed wages to the Abandoned Property Program and has worked with the Department of Administrative Services to move \$18,174 for the last three years from the General Fund over to the Abandoned Property Program.

Observation No. 11: Regular Payroll Record Maintenance Should Be Performed

Observation:

The Department has not established adequate policies and procedures, including appropriate levels of communication between its business office and the boards for which the Department processes payroll, to ensure the employee records in the payroll system remain current. Untimely payroll maintenance increases the risk that errors or frauds could occur and not be detected and corrected timely.

- Three part-time board members were identified in the State's payroll system (GHRIS) as active employees, even though these employees were not included on any listing of Department board members and had not received any compensation from the Department during the three most recent fiscal years. The Department removed these three individuals from active payroll status in August 2010, when the auditors brought this issue to the Department's attention.
- A part-time Department Research Analyst was identified in GHRIS as an active employee, even though this employee had not received compensation from the Department since December 2007.

According to the Department's business office, it has minimal interaction with the Department's boards and it would not necessarily be aware of changes in the status of board members and employees.

Recommendation:

The Department should establish policies and procedures to ensure its business office receives timely notice of all changes in the payroll status of employees, including board members.

The Department should regularly review the payroll records for all of its employees and board members to ensure the records, including the records in GHRIS, remain current.

Auditee Response:

We concur. The Department has reviewed the list of employees and board members and has put in procedures to update them as necessary.

State Compliance Comments

Observation No. 12: Civil Penalties Should Be Assessed In Accordance With Applicable Statute And Administrative Rule

Observation:

The Department does not assess civil penalties related to an insurance carrier’s or employer’s late filing of first reports of injury in accordance with the required minimum assessment outlined in administrative rule.

Pursuant to N.H. Admin. Rules, Lab 512.01 (b), “In determining the severity of the civil penalty, the commissioner shall document violations of the carrier or employer and the fine shall be based on the number of violations of the statute and rules prior to the assessment. The minimum penalty shall be \$500, graduating to \$2,500.”

According to the Department, insurance carriers or employers making late filings are charged \$100 for the first offense, \$250 for the second offense, and \$500 for the third offense as part of a graduating fee structure up to \$2,500. The Department reports it has been charging these noncompliant fees for several years because it considered the \$500 fee to be excessive for a first or second offense.

The following analysis of Department data indicates that the Department under assessed approximately \$275,000 of late-filing penalties during the fiscal year ended June 30, 2010.

Minimum Assessment <u>Amount</u>	Amount <u>Assessed</u>	Net Under <u>Assessed</u>	Number Of <u>Transactions</u>	Total Under <u>Assessed</u>
\$ 500	\$ 100	\$ (400)	583	\$ (233,200)
500	150	(350)	4	(1,400)
500	250	(250)	163	(40,750)
500	500	-0-	9	-0-
Total Under Assessed				<u><u>\$ (275,350)</u></u>

Recommendation:

The Department should collect fees in compliance with N.H. Admin. Rules, Lab 512.01 (b).

If the Department determines that the fees required by N.H. Admin. Rules, Lab 512.01 (b) are not in the best interests of the Department and State, the Department should seek to have the rule appropriately amended.

Auditee Response:

We concur. The Department is in the process of promulgating rules related to this matter.

Observation No. 13: Costs Recovered Through Administration Fund Assessment Should Be In Compliance With Statute

Observation:

Annually, at the beginning of the fiscal year, the Department bills a pro-rata administrative assessment on all carriers of workers' compensation insurance and self-insurers in the State to recover the Department's cost of administering the State's workers' compensation law, RSA 281-A. The amount assessed and collected by the Department for fiscal year 2010 was not in compliance with statute.

RSA 281-A:59, III provides, "Each [workers' compensation] insurance carrier and self-insurer, including the state, shall make payments to the [Administration] fund of its pro rata share of one fiscal year's costs to be appropriated out of the fund.... Total assessments shall not exceed the amount appropriated for the budget of the workers' compensation division of the department of labor for the fiscal year in which the assessment is made."

The Department calculated the total fiscal year 2010 assessment as the sum of the budget for the Workers' Compensation Division, \$7.6 million, plus an additional \$428,000 representing 90% of the amount budgeted for the Administration Division, adjusted by a carry-forward balance from prior years. In addition to not having clear statutory authority to assess amounts in excess of the amount appropriated to the Department's Workers' Compensation Division, the Department reported its determination of 90% as the portion of the Administration Division budget costs related to the administration of RSA 281-A was based on an estimate and was not supported by any cost allocation process or other analysis of costs.

Recommendation:

The Department should comply with RSA 281-A:59, III, in its workers' compensation assessments.

If the Department determines that it is the intent of the statute to recover all of its costs in administering RSA 281-A and not all relevant Department costs are budgeted in the Workers' Compensation Division, the Department should either change its budget requests to include all relevant costs to that Division budget or request an appropriate statutory change.

If it is determined the Department should assess additional costs, the Department should establish a reasonable cost allocation plan or perform a documented cost analysis to support a determination of relevant costs.

Auditee Response:

We concur in part. RSA 281-A:59, I, states “An administration fund is hereby established in the state treasury for the sole purpose of paying all costs of administering this chapter.”

The Department has always felt that RSA 281-A:59, I, provided for “all costs of administering this chapter”. The Department will seek to request an appropriate statutory change so that section I and section III are not in conflict with each other. The Department will establish a reasonable cost allocation plan.

Observation No. 14: Administrative Rules Should Be Adopted

Observation:

Certain administrative rules related to the Department’s operations have either not been adopted, have expired, or have been allowed to become inconsistent with statute. The following chart identifies rules that appear to require Department attention.

Administrative Rule / RSA	Effective Date	Current Status
RSA 275-F:7, V (N.H. Worker Adjustment and Retraining Notification Act)	Not Applicable	Rules not adopted.
RSA 277-B:3 (Employee Leasing Companies)	11/4/97	Rules expired 11/4/05.
RSA 281-A:32, XIV (Permanent Impairment) - The statute requires the Department to adopt rules incorporating by reference the 5th edition of the American Medical Association's “Guides to the Evaluation of Permanent Impairment” to determine the degree of permanent impairment. The Department has established and adopted rules in response to this statutory requirement; however, the rules refer to the “most recent edition of the <u>Guides to the Evaluation of Permanent Impairment</u> , published by the American Medical Association.” The 5th edition is not the most recent edition of the Guide.	11/1/07	Rules in effect, but inconsistent with statute.

Recommendation:

The Department should comply with statute and adopt required rules.

The Department should regularly review its statutes and rules to ensure that the statutes and rules remain current and relevant to the Department’s operations. If the Department determines that certain statutes or rules are not current and relevant, the Department should request revisions to statutes and rules as appropriate.

Auditee Response:

We concur. The Department is in the process of promulgating rules related to the Worker Adjustment and Retraining Notification (WARN) Act, Leasing Companies and Permanent Impairment Awards. At present, we are working with the Legislative Rules Committee on the WARN Act. Rules should be adopted within six months.

Independent Auditor's Report

To The Fiscal Committee Of The General Court:

We have audited the accompanying financial statements of the Department of Labor (Department) as of and for the fiscal year ended June 30, 2010 as listed in the table of contents. The financial statements are the responsibility of the management of the Department. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note 1, the financial statements referred to above do not purport to and do not constitute a complete financial presentation of the Department in the General Fund in conformity with accounting principles generally accepted in the United States of America.

In our opinion, except for the matter discussed in the third paragraph, the financial statements referred to above present fairly, in all material respects, certain financial activity of the Department as of and for the fiscal year ended June 30, 2010, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming opinions on the financial statements, referred to above, of the Department. The supplementary information, as identified in the table of contents, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in

the audit of the financial statements. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the financial statements taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued a report dated February 10, 2011 on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, rules, regulations, contracts, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Office Of Legislative Budget Assistant

February 10, 2011

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
STATEMENT OF REVENUES AND EXPENDITURES - GENERAL FUND
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

Revenues

Restricted Revenues

Insurance Assessments	\$ 7,762,198
Federal Revenues - ARRA (Note 3)	1,157,606
Federal Revenues	790,490
Civil Penalties	<u>377,117</u>

Total Restricted Revenues **10,087,411**

Unrestricted Revenues

Civil Fines And Penalties	2,210,776
License And Certificate Fees	1,082,095
Other	<u>50,115</u>

Total Unrestricted Revenues **3,342,986**

Total Revenues **13,430,397**

Expenditures

Salaries And Benefits	5,910,585
Federal Grants - ARRA (Note 3)	1,157,606
Federal Grants	790,490
Information Technology	752,336
Current Expenses	249,556
Rent	225,145
Workers' Compensation	159,135
Indirect Costs	130,066
Travel	73,462
Other	<u>5,677</u>

Total Expenditures **9,454,058**

Excess (Deficiency) Of Revenues

Over (Under) Expenditures **3,976,339**

Other Financing Sources (Uses)

Net General Fund Appropriations (Note 2)	-0-
Transfer To The General Fund (Note 6)	<u>(500,000)</u>

Total Other Financing Sources (Uses) **(500,000)**

Excess (Deficiency) Of Revenues And

Other Financing Sources Over (Under)

Expenditures And Other Financing Uses **\$ 3,476,339**

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
COMBINING STATEMENT OF FIDUCIARY NET ASSETS
PRIVATE-PURPOSE TRUST FUNDS
JUNE 30, 2010**

	<u>Special Fund For Second Injuries</u>	<u>Special Fund For Active Cases</u>	<u>Total Private-Purpose Trust Funds</u>
<u>Assets</u>			
Cash And Cash Equivalents	\$ 3,085,215	\$ 22,188	\$ 3,107,403
Total Assets	<u>3,085,215</u>	<u>22,188</u>	<u>3,107,403</u>
<u>Liabilities</u>			
Total Liabilities	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Net Assets Held In Trust For Benefits And Other Purposes	<u>\$ 3,085,215</u>	<u>\$ 22,188</u>	<u>\$ 3,107,403</u>

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
COMBINING STATEMENT OF CHANGES IN FIDUCIARY NET ASSETS
PRIVATE-PURPOSE TRUST FUNDS
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

	<u>Special Fund For Second Injuries</u>	<u>Special Fund For Active Cases</u>	<u>Total Private-Purpose Trust Funds</u>
<u>Additions</u>			
Assessments	\$ 15,320,153	\$ -0-	\$ 15,320,153
Interest And Dividends	<u>8,105</u>	<u>-0-</u>	<u>8,105</u>
Total Additions	<u>15,328,258</u>	<u>-0-</u>	<u>15,328,258</u>
<u>Deductions</u>			
Payments To Insurance Carriers And Self-Insurers	<u>12,909,415</u>	<u>52,379</u>	<u>12,961,794</u>
Total Deductions	<u>12,909,415</u>	<u>52,379</u>	<u>12,961,794</u>
Net Increase/(Decrease)	<u>2,418,843</u>	<u>(52,379)</u>	<u>2,366,464</u>
<u>Net Assets Held In Trust For Benefits And Other Purposes</u>			
Beginning Of The Year	<u>666,372</u>	<u>74,567</u>	<u>740,939</u>
End Of The Year	<u>\$ 3,085,215</u>	<u>\$ 22,188</u>	<u>\$ 3,107,403</u>

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
STATEMENT OF CHANGES IN ASSETS AND LIABILITIES - AGENCY FUND
WAGE CLAIM SETTLEMENTS ACCOUNT
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

	Balance <u>July 1, 2009</u>	<u>Additions</u>	<u>Deletions</u>	Balance <u>June 30, 2010</u>
<u>Assets:</u>				
Cash And Cash Equivalents	\$ 11,824	\$ 274,657	\$ 267,973	\$ 18,508
<u>Liabilities:</u>				
Custodial Funds Payable	\$ 11,824	\$ 274,657	\$ 267,973	\$ 18,508

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accompanying financial statements of the Department of Labor have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and as prescribed by the Governmental Accounting Standards Board (GASB), which is the primary standard-setting body for establishing governmental accounting and financial reporting principles.

A. Financial Reporting Entity

The reporting entity of this audit and audit report is the New Hampshire Department of Labor (Department). The Department is an organization of the primary government of the State of New Hampshire. The accompanying financial statements report certain financial activity of the Department.

The governmental fund type financial activity of the Department is accounted for and reported in the General Fund in the State of New Hampshire's Comprehensive Annual Financial Report (CAFR). Assets, liabilities, and fund balances are reported by fund for the State as a whole in the CAFR. The Department, as an organization of the primary government, accounts for only a small portion of the General Fund and those assets, liabilities, and fund balances as reported in the CAFR that are attributable to the Department cannot be determined. Accordingly, the accompanying Statement of Revenues and Expenditures - General Fund is not intended to show the financial position or fund balance of the Department in the General Fund.

B. Financial Statement Presentation

The State of New Hampshire and the Department use funds to report on their financial position and the results of their operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities. A fund is a separate accounting entity with a self-balancing set of accounts. The Department reports its financial activity in the funds described below:

Governmental Fund Type:

General Fund: The General Fund is the State's primary operating fund and accounts for all financial transactions not specifically accounted for in any other fund. All revenues of governmental funds, other than certain designated revenues, are credited to the General Fund. Annual expenditures that are not allocated by law to other funds are charged to the General Fund.

Fiduciary Fund Types:

Private-Purpose Trust Funds: Private-Purpose Trust Funds report resources of trust arrangements in which principal and income benefit individuals, private organizations, or other governments.

Agency Funds: Agency Funds report assets and liabilities for deposits and investments entrusted to the State as an agent for others.

C. Measurement Focus And Basis Of Accounting

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay the liabilities of the current period. For this purpose, except for federal grants, the State generally considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, expenditures related to debt service, compensated absences, and claims and judgments are recorded only when payment is due.

Fiduciary fund financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flow.

D. Revenues And Expenditures

In the governmental fund financial statements, revenues are reported by source. For budgetary control purposes, revenues are further classified as either “general purpose” or “restricted”. General purpose revenues are available to fund any activity accounted for in the fund. Restricted revenues are, either by State law or by outside restriction (e.g. federal grants), available only for specified purposes. Unused restricted revenues at year end are recorded as reservations of fund balance. When both general purpose and restricted funds are available, it is the State’s policy to use restricted revenues first. In the governmental fund financial statements, expenditures are reported by function.

E. Budget Control And Reporting

General Budget Policies

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes a separate budget for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs and estimating revenues. There is no constitutional or statutory requirement that the Governor propose, or that the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the

expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental funds, with the exception of the Capital Projects Fund and certain proprietary funds. The Capital Projects Fund budget represents individual projects that extend over several fiscal years. Since the Capital Projects Fund comprises appropriations for multi-year projects, it is not included in the budget and actual comparison schedule in the State of New Hampshire CAFR. Fiduciary Funds are not budgeted.

In addition to the enacted biennial operating budget, the Governor may submit to the Legislature supplemental budget requests necessary to meet expenditures during the current biennium. Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require prior approval of the Joint Legislative Fiscal Committee and the Governor and Council.

Both the Executive and Legislative Branches of government maintain additional fiscal control procedures. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial operations, needs, and resources, and to maintain an integrated financial accounting system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations lapse at year-end to undesignated fund balance unless they have been encumbered or legally defined as non-lapsing, which means the balances are reported as reservation of fund balance. The balance of unexpended encumbrances is brought forward into the next fiscal year. Capital Projects Fund unencumbered appropriations lapse in two years unless extended or designated as non-lapsing by law.

Contracts and purchasing commitments are recorded as encumbrances when the contract or purchase order is executed. Upon receipt of goods or services, the encumbrance is liquidated and the expenditure and liability are recorded.

A Budget To Actual Schedule - General Fund is included as supplementary information.

F. Cash Equivalents

Cash equivalents represent short-term investments with original maturities less than three months from the date acquired by the State.

NOTE 2 - NET GENERAL FUND APPROPRIATIONS

Net General Fund appropriations reflect appropriations for expenditures in excess of restricted revenues.

NOTE 3 - ARRA

ARRA refers to the American Recovery and Reinvestment Act of 2009.

NOTE 4 - FIDUCIARY FUNDS

Special Fund For Active Cases And Special Fund For Second Injuries

The Department of Labor administers two private-purpose trust funds (Accounts) in the custody of the State Treasurer. The *Special Fund for Active Cases* was established by RSA 281-A:30 for the purpose of reimbursing insurance carriers and self-insurers who pay workers' compensation benefits for individuals who sustained total disability from a work related injury on or before June 30, 1975. The *Special Fund for Second Injuries* was established by RSA 281-A:55 for the purpose of reimbursing insurance carriers and self-insurers who pay workers' compensation benefits to individuals who had previously suffered permanent physical or mental impairment, and incur a subsequent disability arising from the course of the individual's employment on or after July 1, 1975. Each insurance carrier or self-insurer who pays workers' compensation benefits is required to contribute to the Accounts through annual assessments billed by the Department. Funds collected are deposited by the State Treasurer. Disbursements from the Accounts are authorized by the Labor Commissioner and are made upon written request by the insurance carrier or self-insurer for reimbursements of eligible benefits paid as defined by the governing statutes.

Wage Claim Settlements Agency Account

The Department of Labor's *Wage Claim Settlements Agency Account* was established during fiscal year 2010 to account for receipt and disbursement of wages related to the mediation and settlement of wage claims between employers and their employees. Employers remit employee wages to the Department who acts as an agent in disbursing the amounts collected directly to the affected employees. Wage claim settlements remitted to the Department are held by the State Treasurer until such time as disbursements are made to the affected parties.

The State pools cash and investments except for separate cash and investment accounts maintained in accordance with legal restrictions.

Deposits:

The following statutory requirements and State Treasury policies have been adopted to minimize risk associated with deposits:

RSA 6:7 establishes the policy the State Treasurer must adhere to when depositing public monies. Operating funds are invested per investment policies that further define appropriate investment choices and constraints as they apply to those investment types.

Custodial Credit Risk: The custodial risk for deposits is the risk that, in the event of a bank failure, the State’s deposits may not be recovered.

Custodial credit risk is managed in a variety of ways. Although State law does not require deposits to be collateralized, the State Treasurer does utilize such arrangements where prudent and/or cost effective. All banks, where the State has deposits and/or active accounts, are monitored as to their financial health through the services of Veribanc, Inc., a bank rating firm. In addition, ongoing reviews with officials of depository institutions are used to allow for frequent monitoring of custodial credit risk.

Whereas all payments made to the State are to be in U.S. dollars, foreign currency risk is essentially nonexistent on State deposits.

The following table reports the bank balances and related exposure to custodial credit risk for deposits in the Department’s fiduciary funds at June 30, 2010. The amounts reported below also represent the Department’s carrying value for those deposits at June 30, 2010.

<u>Fund</u>	<u>Deposit Type</u>	<u>Insured</u>	<u>Collateralized And Held</u>	
			<u>In State's Name</u>	<u>Uncollateralized</u>
Special Fund for Active Cases	Demand Deposits	\$ -0-	\$ 22,188	\$ -0-
Wage Claim Settlements Account	Demand Deposits	-0-	18,508	-0-
	Total	\$ -0-	\$ 40,696	\$ -0-

At June 30, 2010, the \$3,085,215 balance in the *Special Fund for Second Injuries* was held in a money-market mutual fund by the State Treasury on behalf of the Department.

NOTE 5 - ADMINISTRATION FUND

The *Administration Fund* (Fund), established pursuant to RSA 281-A:59, is used to fund all costs of administering the workers’ compensation statute. An assessment is levied on each insurance carrier and self-insurer who paid workers’ compensation benefits and is based on the pro-rata share of one fiscal year’s costs to be appropriated out of the fund. The balance in the Fund at the beginning of the new fiscal year is used to proportionately reduce the assessments.

The Workers’ Compensation Division and a portion of the Administration and Support Division of the Department are supported by the Fund. The Fund is budgeted in the State’s General Fund and is accounted for in the State accounting system in the Department’s Workers’ Compensation Division.

NOTE 6 - TRANSFER TO THE GENERAL FUND

The Department of Administrative Services, pursuant to Chapter 144:230, Laws of 2009, transferred a total of \$500,000 to the State's General Fund from the Department of Labor's Workers' Compensation Fraud Fund, established in RSA 281-A:7, and Workers' Compensation Safety Inspection Fund, established in RSA 281-A:64.

NOTE 7 - EMPLOYEE BENEFIT PLANS

New Hampshire Retirement System

The Department of Labor, as an organization of the State government, participates in the New Hampshire Retirement System (Plan). The Plan is a contributory defined-benefit plan and covers all full-time employees of the Department. The Plan qualifies as a tax-exempt organization under Sections 401 (a) and 501 (a) of the Internal Revenue Code. RSA 100-A established the Plan and the contribution requirements. The Plan, which is a cost-sharing, multiple-employer Public Employees Retirement System (PERS), is divided into two membership groups. Group I consists of State and local employees and teachers. Group II consists of firefighters and police officers. All assets are in a single trust and are available to pay retirement benefits to its members and beneficiaries.

Group I members at age 60 qualify for a normal service retirement allowance based on years of creditable service and average final compensation (AFC). The yearly pension amount is 1/60 (1.67%) of AFC multiplied by years of creditable service. AFC is defined as the average of the three highest salary years. At age 65, the yearly pension amount is recalculated at 1/66 (1.5%) of AFC multiplied by years of creditable service. Members in service with ten or more years of creditable service who are between ages 50 and 60 or members in service with at least 20 or more years of service, whose combination of age and service is 70 or more, are entitled to a retirement allowance with appropriate graduated reduction based on years of creditable service.

Group II members who are age 60, or members who are at least age 45 with at least 20 years of creditable service can receive a retirement allowance at a rate of 2.5% of AFC for each year of creditable service, not to exceed 40 years.

All covered Department employees are members of Group I.

Members of both groups may qualify for vested deferred allowances, disability allowances, and death benefit allowances subject to meeting various eligibility requirements. Benefits are based on AFC or earnable compensation, service, or both.

The Plan is financed by contributions from the members, the State and local employers, and investment earnings. During the fiscal year ended June 30, 2010, Group I members were required to contribute 5%, except for State employees whose employment began on or after July 1, 2009 who contribute 7%, and Group II members were required to contribute 9.3% of gross earnings. The State funds 100% of the employer cost for all of the Department's employees

enrolled in the Plan. The annual contribution required to cover any normal cost beyond the employee contribution is determined every two years based on the Plan's actuary.

The Department's payments for normal contributions for the fiscal year ended June 30, 2010 amounted to 9.09% of the covered payroll for its Group I employees. The Department's normal contributions for the fiscal year ended June 30, 2010 were \$327,237.

A special account was established by RSA 100-A:16, II (h) for additional benefits. During fiscal year 2007, legislation was passed that permits the transfer of assets into the special account for earnings in excess of 10.5% as long as the actuary determines the funded ratio of the retirement system to be at least 85%. If the funded ratio of the system is less than 85%, no assets will be transferred to the special account.

The New Hampshire Retirement System issues a publicly available financial report that may be obtained by writing to them at 54 Regional Drive, Concord, NH 03301 or from their web site at <http://www.nhrs.org>.

Other Postemployment Benefits

In addition to providing pension benefits, RSA 21-I:30 specifies that the State provide certain health care benefits for retired employees and their spouses within the limits of the funds appropriated at each legislative session. These benefits include group hospitalization, hospital medical care, and surgical care. Substantially all of the State's employees who were hired on or before June 30, 2003 and have 10 years of service may become eligible for these benefits if they reach normal retirement age while working for the State and receive their pensions on a periodic basis rather than a lump sum. During fiscal year 2004, legislation was passed that requires State Group I employees hired after July 1, 2003 to have 20 years of State service in order to qualify for health insurance benefits. These and similar benefits for active employees are authorized by RSA 21-I:30 and provided through the Employee and Retiree Benefit Risk Management Fund, which is the State's self-insurance fund implemented in October 2003 for active State employees and retirees. The State recognizes the cost of providing these benefits on a pay-as-you-go basis by paying actuarially determined contributions into the fund. The New Hampshire Retirement System's medical premium subsidy program for Group I and Group II employees also contributes to the fund. The Department's medical subsidy contribution rate for the fiscal year ended June 30, 2010 was 1.96% of the covered payroll for its Group I employees. The Department's contributions for the medical subsidy for the fiscal year ended June 30, 2010 were \$70,571.

The cost of the health benefits for the Department's retired employees and spouses is a budgeted amount paid from an appropriation made to the administrative organization of the New Hampshire Retirement System. The portion of the Department that is funded through workers' compensation insurance assessments reimburses the New Hampshire Retirement System for its share of postemployment health care benefits. The amount reimbursed for the fiscal year ended June 30, 2010 totaled \$149,975.

The State Legislature currently plans to only partially fund (on a pay-as-you-go basis) the annual required contribution (ARC), an actuarially determined rate in accordance with the parameters of Governmental Accounting Standards Board (GASB) Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits other than Pensions*. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities over a period not to exceed 30 years. The ARC and contributions are reported for the State as a whole and are not separately reported for the Department.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
BUDGET TO ACTUAL SCHEDULE - GENERAL FUND
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

	<u>Original Budget</u>	<u>Actual</u>	<u>Favorable (Unfavorable) Variance</u>
<u>Revenues</u>			
Restricted Revenues			
Insurance Assessments	\$ 8,010,082	\$ 7,762,198	\$ (247,884)
Federal Revenues - ARRA (Note 3)	-0-	1,157,606	1,157,606
Federal Revenues	13,850,000	790,490	(13,059,510)
Civil Penalties	<u>-0-</u>	<u>377,117</u>	<u>377,117</u>
Total Restricted Revenues	<u>21,860,082</u>	<u>10,087,411</u>	<u>(11,772,671)</u>
Unrestricted Revenues			
Civil Fines And Penalties	2,050,850	2,210,776	159,926
License And Certificate Fees	1,058,500	1,082,095	23,595
Other	<u>60,500</u>	<u>50,115</u>	<u>(10,385)</u>
Total Unrestricted Revenues	<u>3,169,850</u>	<u>3,342,986</u>	<u>173,136</u>
Total Revenues	<u>25,029,932</u>	<u>13,430,397</u>	<u>(11,599,535)</u>
<u>Expenditures</u>			
Salaries And Benefits	6,937,554	5,910,585	1,026,969
Federal Grants - ARRA (Note 3)	-0-	1,157,606	(1,157,606)
Federal Grants	13,836,150	790,490	13,045,660
Information Technology	1,088,550	752,336	336,214
Current Expenses	497,700	249,556	248,144
Rent	261,718	225,145	36,573
Workers' Compensation	6,000	159,135	(153,135)
Indirect Costs	130,066	130,066	-0-
Travel	142,644	73,462	69,182
Other	<u>274,174</u>	<u>5,677</u>	<u>268,497</u>
Total Expenditures	<u>23,174,556</u>	<u>9,454,058</u>	<u>13,720,498</u>
Excess (Deficiency) Of Revenues			
Over (Under) Expenditures	<u>1,855,376</u>	<u>3,976,339</u>	<u>2,120,963</u>
<u>Other Financing Sources (Uses)</u>			
Net General Fund Appropriations (Note 2)	1,314,474	-0-	(1,314,474)
Transfer To The General Fund (Note 4)	<u>-0-</u>	<u>(500,000)</u>	<u>(500,000)</u>
Total Other Financing Sources(Uses)	<u>1,314,474</u>	<u>(500,000)</u>	<u>(1,814,474)</u>
Excess (Deficiency) Of Revenues And			
Other Financing Sources Over (Under)			
Expenditures And Other Financing Uses	<u>\$ 3,169,850</u>	<u>\$ 3,476,339</u>	<u>\$ 306,489</u>

The accompanying notes are an integral part of this schedule.

Notes To The Budget To Actual Schedule - General Fund For The Fiscal Year Ended June 30, 2010

Note 1 - General Budget Policies

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes annual budgets for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs as well as estimating revenues to be received. There is no constitutional or statutory requirement that the Governor propose, or the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental funds, with the exception of the Capital Projects Fund and certain proprietary funds.

The New Hampshire biennial budget is composed of the initial operating budget, supplemented by additional appropriations. These additional appropriations and estimated revenues from various sources are authorized by Governor and Council action, annual session laws, and existing statutes which require appropriations under certain circumstances.

The budget, as reported in the Budget To Actual Schedule, reports the initial operating budget for fiscal year 2010 as passed by the Legislature in Chapter 143, Laws of 2009.

Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require prior approval of the Joint Legislative Fiscal Committee and the Governor and Council. Additional fiscal control procedures are maintained by both the Executive and Legislative Branches of government. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations at year-end will lapse to undesignated fund balance and be available for future appropriations unless they have been encumbered or are legally defined as non-lapsing accounts.

Variances - Favorable/(Unfavorable)

The variance column on the Budget To Actual Schedule highlights differences between the original operating budget and the actual revenues and expenditures for the fiscal year ended June 30, 2010. Actual revenues exceeding budget or actual expenditures being less than budget

generate a favorable variance. Actual revenues being less than budget or actual expenditures exceeding budget cause an unfavorable variance.

Note 2 - Net General Fund Appropriations

Net General Fund appropriations reflects appropriations for expenditures in excess of restricted revenues.

Note 3 - ARRA

ARRA refers to the American Recovery and Reinvestment Act of 2009.

Note 4 - Transfer To The General Fund

The Department of Administrative Services, pursuant to Chapter 144:230, Laws of 2009, transferred a total of \$500,000 to the State's General Fund from the Department of Labor's Workers' Compensation Fraud Fund, established in RSA 281-A:7, and Workers' Compensation Safety Inspection Fund, established in RSA 281-A:64.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (CASH BASIS)
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

Federal Catalog Number	Federal Grantor <i>Federal Program Title</i>	Expenditures	Pass Thru Percent
	<u>U.S. Department Of Labor</u>		
17.235	<i>Senior Community Service Employment Program</i>	\$ 137,770	100%
17.235	<i>Senior Community Service Employment Program-ARRA (Note 3)</i>	12,272	100%
17.258	<i>WIA Adult Program</i>	396,217	100%
17.258	<i>WIA Adult Program-ARRA (Note 3)</i>	292,139	100%
17.259	<i>WIA Youth Activities</i>	213,610	100%
17.259	<i>WIA Youth Activities-ARRA (Note 3)</i>	615,645	100%
17.260	<i>WIA Dislocated Workers</i>	458,426	100%
17.260	<i>WIA Dislocated Workers-ARRA (Note 3)</i>	482,742	100%
17.266	<i>Work Incentive Grants</i>	49,491	100%
17.600	<i>Mine Health And Safety Grants</i>	2,671	100%
	Total	<u>\$ 2,660,983</u>	

The accompanying notes are an integral part of this schedule.

Notes To The Schedule Of Expenditures Of Federal Awards For The Fiscal Year Ended June 30, 2010

Note 1 - Purpose Of Schedule And Summary Of Significant Accounting Policies

A. Purpose Of Schedule

The accompanying Schedule Of Expenditures Of Federal Awards (Schedule) is a supplementary schedule to the Department of Labor's (Department) financial statements and is presented for purposes of additional analysis.

B. Reporting Entity

The reporting entity is defined in the Notes to the Department's financial statements presented in this report. The accompanying Schedule includes all federal awards of the Department for the fiscal year ended June 30, 2010.

C. Basis Of Presentation

The information in the Schedule presents the Department's federal award activity.

a. *Federal Awards* - Federal financial assistance and federal cost-reimbursement contracts that non-federal entities receive directly from federal awarding agencies or indirectly from pass-through entities.

b. *Pass Thru Percent* - The amount of federal funds, expressed as a percentage of expenditures, passed through by State agencies to various subrecipients.

D. Basis Of Accounting

Expenditures are presented in the Schedule on the cash basis of accounting. Expenditures are recorded when paid rather than when the obligation is incurred. The Schedule reflects expenditures for all programs that were active during the fiscal year ended June 30, 2010.

Note 2 - Categorization Of Expenditures

The categorization of expenditures by program is based upon the Catalog of Federal Domestic Assistance (CFDA). Changes in categorization of expenditures occur based upon revisions to the CFDA, which is issued in June and December of each year. The Schedule reflects CFDA changes issued through June 2010.

Note 3 - ARRA

ARRA refers to the American Recovery and Reinvestment Act of 2009.

APPENDIX - CURRENT STATUS OF PRIOR AUDIT FINDINGS

The following is a summary, as of February 10, 2011, of the current status of the observations contained in the financial audit report of the Department of Labor for the nine months ended March 31, 2000. The prior report can be accessed at, and printed from the Office of Legislative Budget Assistant website at: www.gencourt.state.nh.us/lba/audit.html.

	<u>Status</u>		
<i>Internal Control Comment</i>			
<i>Reportable Condition</i>			
1. Control Procedures Over Revenue Processing Need Strengthening (<i>See Current Observation No. 1</i>)	●	○	○
<i>Compliance Comments</i>			
<i>State Compliance</i>			
2. Filings Of Statements Of Financial Interests Need To Be Monitored	●	●	○
3. Hourly Rate Paid To Compensation Appeals Board Members Not Specified In Statute	●	●	●
<i>Federal Compliance</i>			
4. Mine Safety And Health Administration Grant Expenditures Not In Accordance With Federal Guidelines	●	●	●
5. Personal Use Mileage Needs To Be Reported	●	●	●
<i>Management Issue Comment</i>			
6. Future Computer System Costs Should Be Allocated Between Workers' Compensation And Inspection Divisions (<i>See Current Observation No.8</i>)	○	○	○

<u>Status Key</u>	●	●	●	<u>Count</u>
Fully Resolved	●	●	●	3
Substantially Resolved	●	●	○	1
Partially Resolved	●	○	○	1
Unresolved	○	○	○	1

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