# STATE OF NEW HAMPSHIRE
# DEPARTMENT OF LABOR

# FINANCIAL AUDIT REPORT
# FOR THE NINE MONTHS ENDED MARCH 31, 2021

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

*To The Fiscal Committee Of The General Court:*

We have audited the financial statements of the New Hampshire Department of Labor (Department), as of and for the nine months ended March 31, 2021 and have issued our report thereon dated October 12, 2021.

This financial audit report presents information related to our audit in two sections; a management letter section and a financial section. The management letter section, prepared by the auditors, is a byproduct of the audit of the Department's financial statements. This section contains an auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings, and a summary of the status of prior audit findings, originally reported in the audit report of the Department for the fiscal year ended June 30, 2010.

The financial section of this report, with the exception of the independent auditor's report on the Department's financial statements, was prepared by the financial management of the Department, with assistance from the Department of Administrative Services, Bureau of Financial Reporting. In addition to the auditor's report, the financial section of the report includes the financial statements and notes to the financial statements.

This report can be accessed in its entirety on-line at:

http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

October 12, 2021

**STATE OF NEW HAMPSHIRE**
**DEPARTMENT OF LABOR**

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**MANAGEMENT LETTER SECTION**

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**Abbreviations Used**

| | |
|---|---|
| Department | Department of Labor |
| DoIT | Department of Information Technology |
| IT | Information Technology |
| MOA | Memorandum of Agreement |
| NHFirst | New Hampshire State Government Accounting and Financial Reporting System |
| SLA | Service Level Agreement |

* Audit comment suggests legislative action may be required.

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**Independent Auditor's Report On Internal Control Over Financial Reporting And On Compliance And Other Matters Based On An Audit Of Financial Statements Performed In Accordance With *Government Auditing Standards***

*To The Fiscal Committee Of The General Court:*

We have audited, in accordance with the 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, the financial statements of the New Hampshire Department of Labor (Department), which comprise the Statement of Revenues and Expenditures – General Fund for the nine months ended March 31, 2021, and the Statements of Fiduciary Net Position and Changes in Fiduciary Net Position as of and for the nine months ended March 31, 2021, and the related notes to the financial statements and have issued our report thereon dated October 12, 2021. Our report on the financial statements was modified as the Statement of Revenues and Expenditures – General Fund does not purport to and does 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.

## Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Department's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

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 entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a 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.


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Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, we did identify certain deficiencies in internal control, described in Observations No. 1 through No. 7, that we consider 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 its compliance with certain provisions of laws, rules, regulations, contracts, and grant agreements, 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 instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in Observations No. 8 through No. 10.

**Department of Labor's Responses To Findings**

The Department's responses to the findings identified in our audit are included with each reported finding. The Department's responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

**Purpose Of This Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Department's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

October 12, 2021

## Internal Control Comments
## Significant Deficiencies

**Observation No. 1: Controls Should Be Established To Ensure Second Injury Fund Disbursements Are Properly Supported**

*Observation:*

The Department does not perform a thorough review of Second Injury Fund disbursements to determine the requests submitted for medical reimbursement are accurate, occurred, and relate to the case the request is filed for. As a result, there is increased risk that the Department approves medical reimbursement requests that are inaccurate, did not actually occur, or are otherwise unallowable.

For the nine months ended March 31, 2021, the Department disbursed $18.4 million from the Second Injury Fund. Insurance carriers request reimbursement through the Second Injury Fund by submitting itemized reimbursable costs via a Schedule of Reimbursable Payments form, but are not required to provide supporting documentation, such as invoices or payment vouchers, to substantiate the medical costs. Instead, the Department reviews the itemized lists and relies on evidence of insurance adjuster licensure and the associated ethical requirements for licensure to determine that costs submitted for reimbursement are appropriate.

Control activities, such as review and approval, are an essential component of internal control that helps management mitigate risks and helps ensure the achievement of objectives. Establishing policies and procedures related to this control can help to increase accountability over the procedures performed and help reduce the risk of processing errors and omissions.

*Recommendation:*

The Department should implement an effective control supported by formal policies and procedures to strengthen its review of Second Injury Fund medical disbursements. The control procedures should include, at a minimum, a process to obtain and review supporting documentation from insurance carriers for requested medical cost reimbursements under the Second Injury Fund on a sample basis.

*Auditee Response:*

We concur. Recognizing that the observation applies to only a subset of this activity, we can confirm the controls that are already in place. Insurance carriers are required to submit itemized expenditures demonstrating payment made in conjunction with a request for reimbursement of allowable expenses. On receipt and review, the Department's Special Funds Coordinator assesses and verifies, using the documentation on file with the Department, that the itemized expense is one allowed by statute. Submissions are reviewed by more than one employee and then approved by the Division Director. Any expense sought for reimbursement that is not allowed by statute is removed and not reimbursed. The observation above relates specifically and only to medical expenses, but in those instances where indemnity is sought, the Special Funds Coordinator verifies that a legally required and approved Memo of Payment determining the compensation rate paid to the injured worker is on file, and that the indemnity reported as paid to the injured worker comports with the Department's approved compensation rate. The insurance carrier is not reimbursed for any overpayment made if that research shows that money in excess of the calculated compensation rate was paid. For indemnity related to lump sum settlement, the Fund Coordinator verifies record of approval of the settlement and settlement amount, as well as the compensation rate upon which the settlement is based. Any portion of a lump sum settlement attributable to a non-reimbursable expense is not reimbursed through the Fund. The apportionment of lump sum settlements is a required component of the settlement itself and contained in and referenced from the Department's own records. As noted by the auditors, in instances where medical benefits are sought for reimbursement, the Department relies on the ethical obligations attendant to an adjuster's license, as regulated and overseen through the Department of Insurance, as well as the legally required examinations of insurance carrier records, practice, and policy administration, which is also regulated through the Department of Insurance. The Labor Department also relies on statutory and regulatory requirements regarding provision of treatment narratives to an insurance carrier in conjunction with medical expenses sought for payment as a safeguard that the reimbursed treatment occurred.

We are in full agreement, however, that it would be an improvement to create an additional control over the medical portion of these submissions by use of random sample audits as proposed. We will adopt policy and procedure to that end.

**Observation No. 2: Reconciliation Policies And Procedures Should Be Developed For Receipt Accounts**

*Observation:*

The Department does not have effective reconciliation policies and procedures in place to detect errors or frauds in a timely manner for its General Fund and Fiduciary Fund receipt accounts.

The Department records daily cash receipts in its AS/400 subsystem and in the State's accounting system, NHFirst. While the Department was performing monthly reconciliations of its General Fund cash receipts during the audit period, it was not consistently and effectively investigating discrepancies identified to ensure the transactions were recorded in each system accurately. The Department changed its reconciliation process in November 2020 to ensure that all differences were appropriately addressed, however the Department does not have formal policies in place to ensure that reconciliations are performed timely, and that they are appropriately reviewed and approved.

The Department receives daily Fiduciary Fund receipts that are recorded in its AS/400 system and deposited into a State Treasury bank account, and subsequently transferred to money market accounts. The Department does not perform a formal reconciliation to compare balances and activities recorded in its AS/400 system to the money market statements and the State Treasury's Fiduciary Fund statements.

Reconciliations are an essential component of internal control that help to ensure data integrity.

*Recommendation:*

The Department should establish policies and procedures to ensure monthly reconciliations are performed between the Department's subsystem and NHFirst, including reconciling to appropriate money market accounts. Differences between the systems and statements should be investigated and resolved in a timely manner.

The reconciliations should also be formally documented and include evidence of management's review and approval.

*Auditee Response:*

We concur. In response to the 2010 audit, the Department had adopted a reconciliation process that was later considered by management to be unsatisfactory. As the auditors note above, the Department has been making efforts for some time to improve and automate monthly reconciliations. It did not seem rational to adopt formal policies through the agency's Policy Committee until a satisfactory system was created. The new reconciliation process developed in 2020 now meets our needs, and the Policy Committee formally adopted policy statement REC-02 on September 24, 2021. We considered this observation to be resolved.

## Observation No. 3: Controls Over Bi-Weekly Payroll Should Be Strengthened

*Observation:*

The Department does not have formal policies and procedures in place for reviewing and approving its bi-weekly payroll.

The Department's payroll is processed bi-weekly, and while employees' timesheets are approved by their supervisors, there is no formal procedure to compare bi-weekly payroll totals to identify and investigate large or unusual fluctuations. The average bi-weekly payroll during the audit period was approximately $167,000, and fluctuations ranged from a low of approximately $155,000 to a high of approximately $184,000.

Reviewing bi-weekly payroll is an essential control for identifying anomalies and allows for appropriate review and understanding of significant changes in payroll to ensure that payroll costs are complete and accurate. Documented management approval provides evidence that an appropriate review has occurred, and that management understands and accepts the changes in payroll costs that occur in each period.

*Recommendation:*

The Department should establish policies and procedures for reviewing and formally approving the bi-weekly payroll. Significant changes in bi-weekly payroll costs should be adequately explained.

*Auditee Response:*

We concur. Current staff at the Department have excellent skills and experience relative to payroll review, and have routinely identified and corrected errors in the course of detailed biweekly ad hoc analysis. The fluctuations during the study period noted by the auditors above are easily explained by ordinary payroll events, namely: twelve step increases per collective bargaining contracts, one promotion, hiring, terminations, three position reclassifications, per diem board member workloads, variances in part time staff usage, and two-thirds of the high-low variance cited above was due to a one-time retirement payout of leave time per the personnel rules.

Our payroll reviews have now been formalized to include comparisons of biweekly totals in official policy PAY-01 adopted by the agency's Policy Committee on September 24, 2021. We also consider this observation resolved.

**Observation No. 4: Effectively Design, Develop, And Timely Implement New Information System**

*Observation:*

The Department has not effectively and efficiently addressed the risks of continuing to use an outdated information system critical to its operations.

The Department's AS/400 computer system, used for tracking revenues and accounts receivable, financial reporting, and case management, was determined to be the Department's key accounting and financial reporting subsystem. Due to its age and the personnel resources needed to support it, the Department deemed it a medium risk to program interruption if the system were to fail. A strategic plan commissioned by the Department and facilitated by Price Waterhouse Coopers in August 1999 advised the Department to retire the AS/400 in 14-16 months. The Department requested funds in its SFY 2022-2023 budget to fully migrate off the AS/400.

With the replacement of any information system, there is a risk that the new system will be designed to recreate current methods and processes rather than improving efficiency and streamlining operations. The successful design and implementation of the Department's new information system will depend upon a full understanding of current Department operations, including financial accounting and reporting, as well as the consideration of anticipated future Department needs.

*Recommendation:*

The Department should design, develop, and implement a replacement for its aging AS/400 computer system without delay. Necessary personnel resources should be available to properly design and develop a replacement system to successfully support the current and future direction of the Department.

The Department should also ensure, through consultation with the Department of Administrative Services, that the State's financial reporting needs will be appropriately addressed in the design and operation of the new information system, including ensuring that available system documentation contains the standard accounting schema for all significant financial transaction types.

*Auditee Response:*

We concur, emphatically. As the auditors note, the Department has requested and received funding in the 2022-2023 budget for exactly this purpose, and we are grateful for the support of the Governor and Legislature for this project.

**Observation No. 5: Establish An IT Security Management Program**

*Observation:*

The State does not have a formal, comprehensive, written security management program. RSA 21-R:4, XVI, states the Department of Information Technology (DoIT) Commissioner is responsible for "[d]eveloping and implementing a strategy to address cyber security risks to the state's data, information, and technology resources."

An entity wide information security management program is the foundation of a security control structure and a reflection of senior management's commitment to addressing security risks. The security management program establishes a framework and continuous cycle of activity for assessing risk, developing and implementing effective security procedures, and monitoring the effectiveness of these procedures. Policies and plans are developed at the entity-wide level and system and application-specific procedures and controls are established to implement the entity-wide policies.

Without a well-designed security management program in place, security controls may be inadequate; responsibilities may be unclear, misunderstood, or improperly implemented; and controls may be inconsistently applied. Such conditions may lead to insufficient protection of sensitive or critical resources and disproportionately high expenditures for controls over low-risk resources.

*Recommendation:*

The DoIT should establish a written, comprehensive State-wide security management program based on a recent risk analysis. Subordinate plans should then be established at the agency-level to increase the likelihood information systems and data are properly protected. In the meantime, the Department should make every effort to protect its information system assets from cyber security risks.

*Auditee Response:*

We concur. We look forward to collaboration with DoIT in addressing the observation.

*DoIT Response:*

We concur in part.

DoIT does have an extensive array of security and privacy control policies and practices that covers Information Technology for the entire Executive Branch and in some cases beyond (Cybersecurity Advisory Council and Statewide Cyber Awareness Training for all branches) we are operating under on a continuous basis. The National Association of State CIO's (NASCIO) annual polling of State Chief Information Officers has rated cybersecurity #1 for eight straight years. New Hampshire DoIT rates cybersecurity as our #1 priority as well. Recent very serious cybersecurity incidents, that have had very large impacts on many organizations, like the SolarWinds supply chain exploit, the Microsoft Exchange vulnerability and the Print Nightmare vulnerability have been successfully managed via DoIT's cybersecurity management program with little or no impact on the state's delivery of citizen services or the integrity of citizen data. We have a strong program.

But, as the finding states, there is no single document that describes the program in a way that is easily consumable. While it is important that we not share too much information about how we operate lest we increase our vulnerability, being able to communicate our cybersecurity strategy is important. We see this as a deficiency in transparency rather than a material operational weakness.

There really should not be subordinate cybersecurity plans at the agency level. Independent findings from the 2012 South Carolina Department of Revenue breach concluded that inconsistent policies and a lack of a central cybersecurity authority were significant contributing factors leading to the breach. This led many states to embark on Executive Branch IT consolidation or centralization programs. Consolidation/Optimization is still on the NASCIO 2021 state CIO top 10 priorities list at #7.

The fact that there can be legitimate agency level uniqueness as it relates to cybersecurity and compliance led us to adopt the baseline plus approach to security and compliance. Underpinning baseline plus is the policy that all baseline cybersecurity policies and practices will be implemented for all agencies, but an agency has the option to adopt more strict policies to remain in compliance with federal mandates and-or state statutes. There is really no need to document this uniqueness separately because it is already documented, and we evolve with the standards as they do. Areas where we are seeing agency level uniqueness are primarily driven by federal compliance requirements, which can vary by federal authority and Payment Card Industry requirements.

Steps to remediation:

1. Work with our Security team and the vendor partner who performed the recent risk assessment (NuHarbor) to develop an updated cybersecurity strategy document for the State of New Hampshire. Included in this document will be details on how the baseline plus approach is employed to enhance the cybersecurity posture of the State of New Hampshire.
2. Work with the Information Technology Council (RSA 21-R:6) to ratify this updated cybersecurity strategy document as we had done back in 2015, and publish same.

**Observation No. 6: Establish A Formal Service Level Agreement With The Department Of Information Technology**

*Observation:*

The Department did not have a service level agreement (SLA) or memorandum of agreement (MOA) with the Department of Information Technology (DoIT) describing each agency's responsibilities. According to the ITIL®, a compilation of leading practices in the information technology (IT) field, a SLA "describes the IT service, documents service level targets, and specifies the responsibilities of the IT service provider and the customer."

Auditors noted confusion between DoIT's reported responsibilities and the Department's understanding of DoIT's responsibilities. While the DoIT reported it is responsible for cybersecurity, infrastructure, email, and policy framework, agencies were reportedly responsible for their data housed on the cloud or outside the DoIT data center. The Department was unclear whose responsibility it was to develop security plans and secure its applications and data. Complicating matters, the DoIT IT Lead located at the Department had retired and the Department's in-house Information Security Officer had resigned 10 months prior to our discussions with Department management.

A lack of clarity in agency roles and responsibilities increases the risk that the Department's data and systems are exposed to unknown security vulnerabilities.

*Recommendation:*

The Department should seek to enter into a SLA or MOA with the DoIT to document the roles, responsibilities, and expectations of each Department with respect to information technology responsibilities. The agreement should cover all major DoIT service areas provided to the Department. The Department should also appoint a new, qualified Information Security Officer as soon as practical.

*Auditee Response:*

We concur. The Department believes it would benefit from such an agreement, however, preliminary and informal discussions with DoIT indicate they prefer a different approach than such an agreement. We will seek further guidance in addressing the observation.

A new DoIT lead started work at Labor on September 24, 2021, and the former DoIT lead has returned on a temporary, part time basis. A new ISO has been appointed from our DOL team.

**Observation No. 7: Continuity Of Operations Plan Should Be Tested**

*Observation:*

While the Department has a continuity of operations plan, it has never been tested. To determine whether recovery plans will work as intended, they should be tested periodically in disaster-simulation exercises.

The purpose of a business continuity plan is to document plans and procedures in the event of a significant change in the way a business conducts its daily business functions. Effective planning is essential to minimize business interruptions in the event of an unforeseen occurrence and relies heavily upon an organization's risk assessment activities.

Losing the capability to process, retrieve, and protect electronically maintained information can significantly affect an entity's ability to accomplish its mission. If contingency planning controls are inadequate, even relatively minor interruptions can result in lost or incorrectly processed data, which can cause financial losses, expensive recovery efforts, and inaccurate or incomplete information.

*Recommendation:*

The Department should test its continuity of operations plan on a regular basis and make adjustments where necessary to ensure the plan remains relevant and effective, and employees are practiced in implementing the plan.

*Auditee Response:*

We concur. Prior to the audit period, we established an annual review and training meeting every August for the full management team, and plan to hold test exercises with assistance from New Hampshire Homeland Security and Emergency Management.

## Compliance Comments
## State Compliance

**Observation No. 8: The Department Should Review The Administration Fund Assessment For Compliance With Statute**

*Observation:*

The Department should review its Administration Fund Assessment to ensure it is in compliance with RSA 281-A:59 and is assessed equitably to insurance carriers and self-insurers.

RSA 281-A:59, I, establishes an Administration Fund "for the sole purpose of paying all costs of administering this chapter [Workers' Compensation]. The commissioner shall administer the fund. The state treasurer shall be the custodian of the fund…" Paragraph III states, "Each insurance carrier and self-insurer, including the state, shall make payments to the 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 fund, which shall include the budget of the workers' compensation division of the department of labor for the fiscal year in which the assessment is made and all other costs of administering this chapter. The balance in the fund at the beginning of the new fiscal year shall proportionately reduce the assessments under this section."

Based on auditor review of the Department's fiscal year 2021 budget and Administration Fund Assessment, we noted the following:

- The Department's fiscal year 2021 budget appears to over allocate the costs of administering the Department's workers' compensation program. The Department's fiscal year 2021 budget allocates 80.9% of the total Department's cost to be funded by the Administration Fund Assessment as illustrated in the table below.

Source: Laws of 2020 HB1 Adopted by Both Bodies - Fiscal Year 2021 Department of Labor Budget

| NHFirst Accounting Unit (A/U) | A/U Description | Total Budget | Amount Funded By Assessment | % Funded By Assessment |
|---|---|---|---|---|
| 60000000 | Administrative Support | $ 1,492,888 | $ 1,343,642 | 90.0% |
| 61000000 | Inspection Division | 3,720,609 | 1,839,434 | 49.4% |
| 62000000 | Workers' Compensation | 5,426,296 | 5,426,296 | 100.0% |
| 61600000 | Unemployment Compensation | 1 | 1 | 100.0% |
| 81430000 | Workers' Compensation (Department's) | 6,000 | 5,000 | 83.3% |
| | Total Department of Labor | $ 10,645,794 | $ 8,614,373 | 80.9% |

The Department reports its statutory responsibilities for the licensing and inspection of elevators, boilers, and pressure vessels are complementary to the Workers' Compensation program and accordingly are included in the overall Workers' Compensation cost. Regardless of a complementary relationship, the Department's other programs and responsibilities would continue to be necessary in the event the Department ceased operation of the Workers' Compensation program. As noted in the table above, for fiscal year 2021, the Department allocated 90% of budgeted Administrative Support costs and 49.4% of budgeted Inspection Division costs to be covered by the Administration Fund assessment. The calculation and the budget for the Administration Fund Assessment should be reviewed to ensure it equitably allocates Workers' Compensation program administrative costs and does not overcharge the state's insurance carriers and self-insurers.

*Recommendation:*

The Department should reevaluate its policies and procedures for budgeting and computing its Administration Fund Assessment to equitably charge insurance carriers and self-insurers for the costs of administering the Department's Workers' Compensation program in accordance with RSA 281-A.

*Auditee Response:*

We concur.

In 2017, the Department adopted a 48-page cost allocation plan and policy (CAP-01), inclusive of legal references and appendices, in order to address the auditors' 2010 recommendation, which follows:

"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."

In response to this recommendation, the 2017 policy relies upon traceable statistical information from our operations to allocate budget support for our activities between the Administration Fund and the Restricted Fund.

Far from being merely "complimentary" to the worker compensation statute as characterized above, the inspection of boilers, pressure vessels, and elevators are actually integral to the state's workplace safety program, which is expressed most clearly in RSA 281-A:64, which states, in relevant part: "Every employer shall provide employees with safe employment. Safe employment includes but is not limited to furnishing personal protective equipment, safety appliances and safeguards; ensuring that such equipment, appliances, and safeguards are used regularly; and adopting work methods and procedures which will protect the life, health, and safety of the employees." The emphasis placed on workplace safety in several sections of RSA 281-A by the Legislature is not trivial or passing. Boiler and Elevator safety are placed under the direction of the Labor Commissioner because of the inherently dangerous workplace hazards of unregulated and uninspected devices. Half of all U.S. states also place their boiler, pressure vessel, and elevator safety inspection under their respective Labor Departments.

The addition of the clause "and all other costs of administering this chapter" demonstrates the Legislature's understanding that RSA 281-A had a broad scope, beyond native Worker Compensation Division activities, and inclusive of workplace safety.

It should be understood, as well, that such a cost allocation plan only leads to an agency budget request, which must then have the acceptance and approval of the Governor and Legislature in the most public of forums. Only the Legislature is granted assessment authority by the NH Constitution, and the adoption of this agency's budget by the General Court makes it law.

While we are confident in the propriety of our well-documented assessment strategies, we do concur that any such plans require regular review and evaluation.

**Observation No.9: Statutes Should Be Clarified And Conflicting Statutes Amended**

*Observation:*

The Department deposits civil penalties collected under RSA 275-A:5 for violations of RSA 275-A *Citizens Job Protection* into the Restricted Fund established by RSA 273:1-b, contrary to RSA 273:11-a, I, which requires the penalties to be deposited in the General Fund.

<u>RSA 275-A:5 Penalties</u>
This statute, last amended January 1, 2007, states "Any person, partnership, agency, firm, or corporation violating any provision of RSA 275-A [Citizens Job Protection] shall be subject to a civil penalty of up to $2,500 for each day of noncompliance..."

<u>RSA 273:1-a Budget and Accounting</u>
This statute, effective July 1, 2011, states, "The department of labor shall budget and account for its operations through restricted funds rather than through the general fund; said restricted funds to be funded through all fees, licenses, certificates, and civil penalties of the department of labor, as well as existing assessment procedures."
<u>RSA 273:1-b Restricted Fund</u>
This statute, effective July 1, 2011, establishes a "...restricted fund for the sole purpose of paying costs of operating the department of labor other than workers' compensation. All moneys in the restricted fund shall be continually appropriated to the department of labor...All moneys in the fund in excess of amounts used by the department for authorized personnel expenses, administrative costs, and other related costs for the operation of the department, shall be transferred on June 30 of each year to the general fund."

<u>RSA 273:11-a Civil Penalties</u>
This statute, last amended August 15, 2014, provides for civil penalties imposed under Title XXIII [Labor], with certain exceptions, to be deposited in the General Fund. The exceptions are RSA 273-A [Public Employee Labor Relations], 273-C [Dog and Horse Racing Employees], and 282-A [Unemployment Compensation]. The statute does not include an exception for violations of RSA 275-A [Citizens Job Protection] which is in conflict with RSA 273:1-a and the Department's current practice of depositing penalties for violations of the statute in the Restricted Fund.

The Department reports it has deposited fine revenue collected under RSA 275-A:5 into the Restricted Fund since the establishment of the Fund in 2011. The Department believes it complies with RSA 275-A:5 through the annual transfer of excess revenue from the Restricted Fund to the General Fund at year end in accordance with RSA 273:1-b. If the Restricted Fund balance less penalties collected under RSA 275-A does not cover the administrative costs of the Department, excluding the costs of the Workers' Compensation Division, the Department's risk of noncompliance with the statute is increased, as total penalties assessed under RSA 275-A would be excluded from the June 30 transfer to the General Fund.

*Recommendation:*

The Department should seek to amend the conflicting language noted in RSA 273:1-a and RSA 273:11-a regarding the deposit of civil penalties for violations of RSA 275-A *Citizens Job Protection*. Statutes should be reviewed regularly to ensure they continue to be current and relevant to the Department's mission and objectives.

*Auditee Response:*

We concur. The Department believes that when the Legislature created the Restricted Fund and stated "said restricted funds [are] to be funded through all fees, licenses, certificates, and civil penalties of the department of labor..." it indeed intended that all such revenue was to be deposited in the Restricted Fund, notwithstanding existing law at the time.

There were similar vestigial statutes that directed specific penalties towards dedicated funds in the past, and the Department had also deposited those penalties in the Restricted Fund since 2011. In the legislative review of Dedicated Funds in 2018, the Department liquidated those accounts, transferred those funds to the General Fund, and the statutes were corrected in HB 4 of the 20-21 biennial budget. We will seek a legislative resolution in this remaining case as well.

**Observation No. 10: Statements Of Financial Interests Should Be Filed As Required By Statute**

*Observation:*

Four of 49 individuals associated with the Department of Labor and its related boards and councils did not file statements of financial interests with the Secretary of State in 2021 as required by RSA 15-A.

A Department employee, two of 24 members of the Department's Compensation Appeals Board, and one of seven members of the Advisory Council on Workers' Compensation, did not file statements of financial interest though they are required filers under RSA 15-A:3, I (c) and (e) as they represent public officials designated by the agency head to file the required statement or individuals appointed by the Governor and Council to an equivalent state entity that is regulatory, advisory, or administrative in nature.

Statements of financial interests are due annually by the third Friday in January, or within 14 days of assuming the office, position, or appointment in accordance with RSA 15-A:6. For calendar year 2021, statements of financial interests were required to be filed with the Secretary of State no later than January 15, 2021.

According to RSA 15-A:6, "No person required to file a statement of financial interest pursuant to RSA 15-A:3, I, shall be eligible to serve in his or her appointed capacity prior to filing a statement in accordance with this section."

*Recommendation:*

The Department's boards and councils should establish procedures to ensure members submit statements of financial interests by the required filing deadline in accordance with RSA 15-A.

The Department should continue to send annual reminders to employees and board and council members to inform them of the filing requirements and encourage compliance.

*Auditee Response:*

We concur, as this is our practice. While noting that RSA 15-A does not make state agencies responsible for individual filings, the Department has nonetheless sent reminders to board members and selected employees for many years and has created a database to hold the images of annual RSA 15-A filings. 2021 was an extraordinary year, however, in that the Secretary of State's contracted vendor responsible for launching a new online filing system for RSA 15-A was unable to complete that task. State agencies received eight days' notice that the online filing procedure was not functional, and that filers would be required to file on paper.

## Current Status Of Prior Audit Findings

The following is a summary, as of October 12, 2021, of the current status of the observations contained in the financial audit of the New Hampshire Department of Labor for the fiscal year ended June 30, 2010. That report can be accessed at, and printed from, the Office of Legislative Budget Assistant website:
http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx

***Internal Control Comments***

*Material Weaknesses* **Status**

1. Financial Accounting And Reporting Processes Should Be Strengthened ● ○

   *Strengthen financial accounting and reporting processes to ensure the recording and reporting of accurate and meaningful financial information.(See Current Observation No. 2)*

2. Adjustments To Assessed Fines And Penalties Should Be Reviewed ● ●

   *Review 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. Take steps to lessen the risk of fraud and error in the processing of adjustments of assessed fines and penalties.*

*Significant Deficiencies*

3. Formal Risk Assessment Process Should Be Established ● ●

   *Establish a risk assessment process to continuously review operations for exposure to risk and respond by eliminating or mitigating the risk where reasonably possible. 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.*

4. Business Continuity Plan Should Be Completed ● ○

   *Finalize and implement a comprehensive business continuity and disaster recovery plan to address the risks faced by the Department. Review the plan on a regular basis for continued relevance, and ensure key employees are adequately trained in the plan's provisions. (See Current Observation No. 7)*

5. Policies And Procedures Manuals Should Be Established ● ●

   *Establish comprehensive policies and procedures manuals for all critical Department operations, including descriptions and criteria for the performance of all significant job activities and responsibilities. Also implement a succession planning process to mitigate the potential for significant disruption in operations* *and ensure there is sufficient expertise to allow for continued controlled operations without unreasonable disruptions upon key employee turnover.*

6. Policies And Procedures For Handling Wage Claim Settlements Should Be Established ● ●

   *Establish policies and procedures for making disbursements from the Wage Claim Settlements Account, including provisions for periodic review of the Account to ensure reasonable and regular attempts are made to locate affected workers and make timely payments.*

7. Controls Over The Special Fund For Second Injury Disbursement Process Should Be Improved ● ●

   *Improve controls over processing of Special Fund for Second Injury disbursements by reconsidering the use of a signature stamp, ensuring payments comply with statute, are made only upon written order of the Commissioner, and ensure checks are directly disbursed to payees.*

8. Department-Wide Costs Should Be Allocated For Accurate Cost Recovery ● ●

   *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. The cost allocation process should be incorporated into the Department's budget process.*

9. Accounts Receivable Should Be Reported ● ●

   *Establish policies and procedures for determining and reporting accounts receivable to the Department of Administrative Services. Determine if the functionality in NHFirst could improve the processing and recording of accounts receivable transactions.*

10. Unclaimed Wages Should Be Reported And Transferred To The Abandoned Property Program ● ●

    *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 unclaimed wages inappropriately lapse to the General Fund and take appropriate steps to fund the payments to the Abandoned Property Program.*

11. Regular Payroll Record Maintenance Should Be Performed ● ●

    *Establish policies and procedures to ensure its business office receives timely notice of all changes in the payroll status of employees, including board members, and regularly review payroll records to ensure the records remain current.*

***Compliance Comments***

*State Compliance*

12. Civil Penalties Should Be Assessed In Accordance With Applicable Statute And Administrative Rule ● ●

    *The Department should collect fees in compliance with N.H. Admin. Rules, Lab 512.01 (b) or seek to have the rule appropriately amended.*

13. Costs Recovered Through Administration Fund Assessment Should Be In Compliance With Statute ● ○

    *The Department should comply with RSA 281-A:59, III, in its workers' compensation assessments, and determine the true intent of the statute and then establish a reasonable cost allocation plan and reflect relevant costs in the Workers' Compensation Division Budget. (See Current Observation No. 8)*

14. Administrative Rules Should Be Adopted ● ●

    *The Department should comply with statute and adopt required administrative rules and regularly review the statutes and rules to ensure the statutes and rules remain current and relevant to the Department's operations.*

| **Status Key** | | **Count** |
|---|---|---|
| Resolved | ● ● | 11 |
| Remediation In Process (Action Beyond Meeting And Discussion) | ● ○ | 3 |
| Unresolved | ○ ○ | 0 |

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# STATE OF NEW HAMPSHIRE
# DEPARTMENT OF LABOR

## AUDITED FINANCIAL STATEMENTS
## FOR THE NINE MONTHS ENDED MARCH 31, 2021

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**STATE OF NEW HAMPSHIRE**
**DEPARTMENT OF LABOR**

**AUDITED FINANCIAL STATEMENTS**
**FOR THE NINE MONTHS ENDED MARCH 31, 2021**

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## FINANCIAL SECTION

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

## Independent Auditor's Report

*To The Fiscal Committee Of The General Court:*

### Report on the Financial Statements

We have audited the accompanying financial statements of the New Hampshire Department of Labor (Department), which comprise the Statement of Revenues and Expenditures – General Fund for the nine months ended March 31, 2021, and the Statements of Fiduciary Net Position and Changes in Fiduciary Net Position as of and for the nine months ended March 31, 2021, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements.

#### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

Our responsibility is to express an opinion 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 from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

***Basis For Qualified Opinion On The General Fund***

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

***Qualified Opinion***

In our opinion, except for the matter described in the Basis For Qualified Opinion paragraph, the Statement of Revenues and Expenditure – General Fund referred to above presents fairly, in all material respects, the respective revenues and expenditures of the Department's portion of the State of New Hampshire's General Fund for the nine months ended March 31, 2021, in accordance with accounting principles generally accepted in the United States of America.

***Unmodified Opinion On Fiduciary Funds***

In our opinion, the Statement of Fiduciary Net Position and the Statement of Changes in Fiduciary Net Position present fairly the fiduciary net position of the Department and the changes in fiduciary net position as of March 31, 2021 and for the nine months then ended in accordance with accounting principles generally accepted in the United States of America.

***Emphasis Of Matter***

As discussed in Note 1, the Statement of Revenues and Expenditures – General Fund referred to above reports certain financial activity of the Department. It does not purport to, and does not, present fairly the financial activity of the State of New Hampshire in the General Fund as of March 31, 2021, in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

***Other Matters***

*Required Supplementary Information*

Management has omitted management's discussion and analysis information and the budget to actual schedule for the General Fund that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of the financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the financial statement is not affected by this missing information.

**Other Reporting Required By *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated October 12, 2021 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 grant agreements 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* in considering the Department's internal control over financial reporting and compliance.

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

October 12, 2021

**State of New Hampshire**
**Department of Labor**
**Statement of Revenues and Expenditures – General Fund**
**For the Nine Months Ended March 31, 2021**

| | General Fund |
|---|---|
| **Revenues** | |
| **Restricted Revenues** | |
| Insurance Assessment (Note 6) | $ 7,246,219 |
| Civil Fines And Penalties | 2,001,432 |
| License And Certificate Fees | 810,286 |
| Other (Note 9) | 540,030 |
| Wage Claim Settlements | 33,861 |
| **Total Restricted Revenues** | **10,631,828** |
| **Total Revenues** | **10,631,828** |
| **Expenditures** | |
| Salaries And Benefits | 4,704,578 |
| Information Technology | 703,180 |
| Board Expenses | 249,528 |
| Rent, Leases, And Maintenance | 241,475 |
| Indirect Costs | 167,484 |
| Current Expenses | 90,848 |
| Wage Claim Settlements | 33,861 |
| Travel | 25,159 |
| Equipment | 2,962 |
| Other | 47,349 |
| **Total Expenditures** | **6,266,424** |
| **Excess (Deficiency) Of Revenues Over (Under) Expenditures** | **4,365,404** |
| **Other Financing Sources (Uses)** | |
| Net Appropriations (Note 3) | -0- |
| **Total Other Financing Sources (Uses)** | **-0-** |
| **Excess (Deficiency) Of Revenues And Other Financing Sources Over (Under) Expenditures And Other Financing Uses** | **$ 4,365,404** |

The notes to the financial statement are an integral part of this statement.

**State of New Hampshire**
**Department of Labor**
**Statement of Fiduciary Net Position**
**March 31, 2021**

| | Special Fund For Second Injuries Private Purpose Trust Fund | Special Fund For Active Cases Private Purpose Trust Fund | Crown Paper Workers Compensation Custodial Fund |
|---|---|---|---|
| **Assets** | | | |
| Cash And Cash Equivalents | $ 3,631,136 | $ 11,372 | $ 15,275 |
| Accounts Receivable | 60,809 | -0- | -0- |
| **Total Assets** | **3,691,945** | **11,372** | **15,275** |
| **Liabilities** | | | |
| Custodial Funds Payable | 22,895 | -0- | 15,275 |
| **Total Liabilities** | **22,895** | **-0-** | **15,275** |
| **Net Position Held In Trust For Benefits And Other Purposes** | **$ 3,669,050** | **$ 11,372** | **$ -0-** |

The notes to the financial statement are an integral part of this statement.

**State of New Hampshire**
**Department of Labor**
**Statement of Changes in Fiduciary Net Position**
**For the Nine Months Ended March 31, 2021**

| | Special Fund For Second Injuries Private Purpose Trust Fund | Special Fund For Active Cases Private Purpose Trust Fund | Crown Paper Workers Compensation Custodial Fund |
|---|---|---|---|
| **Additions** | | | |
| Contributions (Assessments) (Note 5) | $ 17,129,149 | $ 14,711 | $ -0- |
| Interest And Dividends | 1,495 | 12 | 1 |
| **Total Additions** | **17,130,644** | **14,723** | **1** |
| **Deductions** | | | |
| Benefits/Disbursements To Insurance Carriers and Self-Insurers | 18,382,630 | 15,336 | 1 |
| **Total Deductions** | **18,382,630** | **15,336** | **1** |
| **Change In Net Position** | **(1,251,986)** | **(613)** | **-0-** |
| Net Position Held In Trust For Benefits And Other Purposes | | | |
| Net Position - July 1 | 4,921,036 | 11,985 | -0- |
| **Net Position - March 31** | **$ 3,669,050** | **$ 11,372** | **$ -0-** |

The notes to the financial statement are an integral part of this statement.

**State of New Hampshire**
**Department of Labor**
**Notes to the Financial Statements**
**For the Nine Months Ended March 31, 2021**

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accompanying financial statements of the New Hampshire Department of Labor have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S. 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. REPORTING ENTITY

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

The financial activity of the Department is accounted for and reported in the State's General and Fiduciary Funds in the State of New Hampshire's Annual Comprehensive Financial Report (ACFR). Assets, liabilities, and fund balances are reported by fund for the State as a whole in the ACFR. 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 ACFR 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 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 the other funds are charged to the General Fund.

Fiduciary Fund Types:

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

*Custodial Funds:* report resources identified as a fiduciary activity which are not held in trust or equivalent arrangement.

## C. REPORTING PERIOD

The State's and the Department's fiscal year is the 12 months ended June 30. The accompanying financial statement of the Department is presented for the nine months ended March 31, 2021.

## D. 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 liabilities of the current period. For this purpose, the State generally considers revenues to be available if they are collected within 60 days after year end. Receivables not expected to be collected within 60 days are offset by deferred inflows of resources. An exception to this policy is federal grant revenue, which generally is considered to be available if collection is expected within 12 months after year end. Taxes, grants, licenses, and fees associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period when available.

Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, expenditures related to debt service and other long-term obligations including compensated absences, other post-employment benefits, pollution remediation obligations 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.

## E. CASH EQUIVALENTS

For the purposes of reporting in the Statement of Fiduciary Net Position cash equivalents represent short-term investments with original maturities less than three months from the date acquired by the State and are valued at cost, which approximates fair value, or net asset value. Cash equivalents include certain money market accounts.

## F. REVENUES AND EXPENDITURES

In the governmental fund financial statements, revenues are reported by source. For budgetary control purposes, revenues are further classified as either "unrestricted" (general purpose) or "restricted". Unrestricted revenues are credited directly to the General Fund or other fund balance upon recording in the State's accounting system. Pursuant to the State's operating budget, unrestricted revenues collected by an agency are not used as a direct source of funding for agency operations but are available to fund any activity accounted for in the fund. The recording of unrestricted revenues has no effect on an agency's authorization to expend funds.

Unused restricted revenues at year end are either lapsed or generally recorded as committed or assigned fund balance. When an expenditure/expense is incurred for purposes for which both restricted and unrestricted resources are available, it is the State's general policy to use restricted resources first. In the governmental funds, when expenditures are incurred for purposes for which unrestricted (committed, assigned, and unassigned) resources are available, and amounts in any of these unrestricted classifications could be used, it is the State's general policy to spend committed resources first followed by assigned and unassigned resources, respectively.

In the governmental fund financial statements, expenditures are reported by function.

## G. BUDGET CONTROL AND REPORTING

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 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. Fiduciary funds are not budgeted.

In addition to the enacted biennial operating budget, state departments may submit to the Legislature and Governor and Council, as required, supplemental budget requests necessary to meet expenditures during the current biennium. Appropriation transfers can be made within a department with the appropriate approvals; therefore, the legal level of budgetary control is generally at the expenditure class level within each accounting unit within each department.

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 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 generally lapse to assigned or unassigned fund balance and be available for future appropriations unless they have been encumbered or legally defined as non-lapsing, which means the balances are reported as restricted, committed or assigned fund balance. The balance of unexpended encumbrances is brought forward into the next fiscal year.

### H. USE OF ESTIMATES

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the basic financial statements and accompanying notes. Actual results could differ from those estimates.

### I. ADOPTION OF NEW ACCOUNTING PRONOUNCEMENTS

During the nine months ended March 31, 2021, the Department adopted the following new accounting standard issued by the Government Accounting Standards Board (GASB). **GASB Statement No. 84,** *Fiduciary Activities* improves guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported.

## 2. CASH AND CASH EQUIVALENTS

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.

All deposits at FDIC-insured depository institutions (including noninterest bearing accounts) are insured by the FDIC up to the standard maximum amount of $250,000 for each depository ownership category.

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 March 31, 2021. The amounts reported below also represent the Department's carrying value for those deposits at March 31, 2021.

| Fund | Deposit Type | Insured | Collateralized And Held In State's Name | Uncollateralized |
|---|---|---|---|---|
| Special Fund For Second Injuries | Demand Deposits | $ -0- | $ 3,631,136 | $ -0- |
| Special Fund for Active Cases | Demand Deposits | -0- | 11,005 | -0- |
| Crown Paper Workers' Compensation Fund | Demand Deposits | -0- | 15,275 | -0- |
| | Total | $ -0- | $ 3,657,416 | $ -0- |

## 3. NET GENERAL FUND APPROPRIATIONS

Net General Fund Appropriations reflect appropriations for expenditures in excess of restricted revenues. During the nine months ended March 31, 2021, restricted revenues exceeded expenditures and therefore, the Department's net appropriations from the State's General Fund were $0.

## 4. TRANSFER TO THE GENERAL FUND PURSUANT TO RSA 273:1-b

Department revenues from fees, licenses, penalties and any other source excluding assessments under RSA 281-A are deposited in the Restricted Fund established in RSA 273:1-b. The balance remaining in the Restricted Fund at fiscal year close in excess of authorized operating costs is transferred to the General Fund. This transfer is excluded from the Department's Statement of Revenues and Expenditures – General Fund, as the transfer is not due until the fiscal year closes on June 30.

## 5. 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 to equalize the compensation costs that the employer and their insurance company must pay for impaired and non-impaired workers alike, thereby removing a potential barrier to the employment of impaired workers. This fund gives employers the opportunity to limit their compensation costs in the event that an impaired worker sustains a workers' compensation injury 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.

*Crown Paper Workers' Compensation Fund*

The Department administers a custodial fund account, *Crown Paper Workers' Compensation Fund (Fund),* in the custody of the State Treasurer. The *Fund* was established to pay any potential workers' compensation claims on behalf of the defunct (bankrupt) Crown Paper Co., a paper milling company that was located in Berlin, NH. The *Fund* has not had any claims against it in over a decade and the Department has begun discussions with the New Hampshire Attorney General's office on how to properly dissolve the *Fund*.

## 6. 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 appropriation is proposed by the Department and approved by the Legislature and Governor. The balance in the Fund at the beginning of the new fiscal year is used to proportionately reduce the assessments.

The Workers' Compensation Division, as well as a portion of the Administration and Support and Inspection Divisions 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 within each accounting unit that is supported.

## 7. RISK MANAGEMENT AND INSURANCE

The State and the Department are exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; employee health benefits; and natural disasters.

### Principle of Self Insurance

As a general operating rule, the State self-insures against all damages, losses and expenses except to the extent that provisions of law require the purchase of commercial insurance or a risk assessment has indicated that commercial insurance is economical and beneficial for the State or the general public. In such instances, the State may elect to purchase commercial insurance. There are approximately 26 such commercial insurance programs in effect. These include, but are not exclusive to, state owned real property insurance, fleet automobile liability, watercraft insurance, foster parent liability, ski area liability for Cannon Mountain, data security and privacy cyber liability insurance, and a fidelity and faithful performance bond. In general, claims settled in the past three years under the insurance programs have not exceeded commercial insurance coverage. As of March 31, 2021, there were no outstanding fleet claims that are currently expected to exceed the policy coverage. The State's exposure per claimant is limited by law to a total of $475 thousand under RSA 541-B:14 and the State's current fleet policy coverage is $250 thousand per claimant.

Claim liabilities not covered by commercial insurance are recorded by the State when it is probable that a loss has occurred, and the amount of the loss can be reasonably estimated. Claim liabilities not covered by commercial insurance relate primarily to worker's compensation claims and health benefit claims.

## 8. EMPLOYEE BENEFIT PLANS

### NEW HAMPSHIRE RETIREMENT SYSTEM

**Plan Description**: The New Hampshire Retirement System (NHRS) is the administrator of a cost-sharing multiple-employer Public Employee Retirement System established in 1967 by RSA 100-A:2 and is qualified as a tax-exempt organization under Sections 401 (a) and 501 (a) of the Internal Revenue Code. NHRS is a contributory defined-benefit plan providing service, disability, death, and vested retirement benefits to members and beneficiaries. NHRS covers substantially all full-time State employees, public school teachers and administrators, permanent firefighters, and police officers within the State of New Hampshire. Full-time employees of political subdivisions, including counties, municipalities, and school districts, are also eligible to participate as a group if the governing body of the political subdivision has elected participation. NHRS 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 (age 65 for members beginning service on or after July 1, 2011) 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 (1.667%) of average final compensation multiplied by years of creditable service (1/66 of AFC times creditable service for members beginning service on or after July 1, 2011). AFC is defined as the average of the three highest salary years for members vested as of January 1, 2012 and five years for members not vested as of January 1, 2012. At age 65, the yearly pension amount is recalculated at 1/66 (1.515%) of AFC multiplied by years of creditable service.

Members in service with 10 or more years creditable service who are between age 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 a minimum of 20 years of creditable service (age 50 with a minimum of 25 years of creditable service or age 60 for members beginning service on or after July 1, 2011) can receive a retirement allowance at a rate of 2.5% of AFC for each year of service not to exceed 40 years (2% of AFC times creditable service up to 42.5 years for members beginning service on or after July 1, 2011). A member who began service on or after July 1, 2011 shall not receive a service retirement allowance until attaining age 52.5 but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service.

However, the allowance will be reduced by ¼ of one percent for each month prior to age 52.5 that the member receives the allowance.

Group II members hired prior to July 1, 2011 who have non-vested status as of January 1, 2012 are subject to graduated transition provisions for years of service required for regular service retirement, the minimum age for service retirement, and the multiplier used to calculate the retirement annuity, which shall be applicable on January 1, 2012.

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.

All covered Department employees are members of Group I.

Pursuant to RSA 100-A:52, RSA 100-A:52-a and RSA 100-A:52-b, NHRS also provides a postretirement medical premium subsidy for Group I employees and teachers and Group II police officers and firefighters.

NHRS issues publicly available financial reports that can be obtained by writing to them at 54 Regional Drive, Concord, NH 03301-8507 or from their web site at http://www.nhrs.org.

**Funding Policy:** NHRS is financed by contributions from the members, the State and local employers, and investment earnings. By statute, Group I members contributed 7.0% of gross earnings. Group II firefighter members contributed 11.80% of gross earnings and group II police officers contributed 11.55% of gross earnings. Employer contributions required to cover that amount of cost not met by the members' contributions are determined by a biennial actuarial valuation by the NHRS actuary using the entry age normal funding method and are expressed as a percentage of gross payroll. The State contributed 10.88% of gross payroll for Group I members, 26.43% of gross payroll for Group II firefighter members, and 24.77% of gross payroll for Group II police officer members.

The Department's required and actual contributions for the nine months ended March 31, 2021 were $346,542, which included an amount for other postemployment benefits of $30,500.

## OTHER POSTEMPLOYMENT BENEFITS

The State also participates in two Other Post Employment Benefit (OPEB) plans - (1) New Hampshire Retirement System (NHRS) which is a cost sharing OPEB plan (medical subsidy portion of the pension trust) administered through a trust that meets the criteria in paragraph 4 of GASB 75 (Trusted OPEB Plan), and (2) State's single employer (primary government with component units) defined benefit OPEB plan which is not administered through a trust that meets the criteria in paragraph 4 of GASB 75 (Non Trusted OPEB Plan). The actuarial liabilities and expenses of the OPEB plans do not flow to the Department level financial statement.

### General Information about the New Hampshire Retirement System Trusted OPEB Plan

**Plan Description**: Pursuant to RSA 100-A:52, RSA 100-A:52-a and RSA 100-A:52-b, NHRS administers a cost-sharing multiple employer defined benefit postemployment medical subsidy healthcare plan designated in statute by membership type. This plan has been previously defined as the Trusted OPEB Plan but is also commonly referred to as "medical subsidy plan". The membership groups are Group II Police Officers and Firefighters and Group I State Employees.

NHRS issues publicly available financial reports that can be obtained by writing to them at 54 Regional Drive, Concord, NH 03301-8507 or from their web site at http://www.nhrs.org.

**Benefits Provided:** The Trusted OPEB Plan provides a medical insurance subsidy to qualified retired members. The medical subsidy is a payment made by NHRS to the former employers of its members, or their insurance administrator, toward the cost of health insurance for a qualified retiree, spouse, and certifiably dependent children with a disability who is living in the household and being cared for by the retiree. Under specific conditions, the qualified beneficiaries of members who die while in service may also be eligible for the medical subsidy. The eligibility requirements for receiving Trusted OPEB Plan benefits differ for Group I and Group II members. Eligibility for the medical subsidy payment is determined by the relevant RSA's, however, the medical subsidy plan is closed to new entrants. The State is a recipient of these medical subsidy payments on behalf of its former employees.

**Contributions:** Pursuant to RSA 100-A:16, III, and the biennial actuarial valuation, funding for the medical subsidy payment is via the employer contribution rates set forth by NHRS. Employer contributions required to cover that amount of cost not met by the members' contributions are determined by a biennial actuarial valuation by the NHRS actuary using the entry age normal funding method and are expressed as a percentage of gross payroll. The State contributed 1.05% of gross payroll for Group I members, 3.66% of gross payroll for Group II firefighter members, and 3.66% of gross payroll for Group II police officer members. Employees are not required to contribute to the Trusted OPEB Plan.

The State Legislature has the authority to establish, amend and discontinue the contribution requirements of the medical subsidy plan. Employer contributions made by the State to NHRS for the medical subsidy component amounted $30,500 for the nine months ended March 31, 2021.

**General Information about the Non-Trusted OPEB Plan**

**Plan Description**: RSA 21-I:30 specifies that the State provide certain health care benefits for retired employees and their spouses through a single employer (primary government with component units) defined postemployment benefit plan, previously defined as the Non-Trusted OPEB Plan. These benefits include group hospitalization, hospital medical care, surgical care and other medical 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 on or after July 1, 2003 to have 20 years of state service in order to qualify for health benefits. During fiscal year 2011, legislation was passed that requires Group II employees to have 20 years of State service to qualify for retiree health benefits. Additionally, during fiscal year 2012, legislation was passed requiring Group I employees hired after July 1, 2011 to have 25 years of state service and increased the normal retirement age for Group I and Group II employees hired after July 1, 2011. These and similar benefits for active employees and retirees are authorized by RSA 21-I:30 and provided through the Employee and Retiree Benefit Risk Management Fund (Fund), a single-employer group health fund, which is the state's self-insurance internal service fund implemented in October 2003 for active state employees and retirees. The Fund covers the cost of medical and prescription drug claims by charging actuarially developed working rates to State agencies for participating employees, retirees and eligible spouses. The Department's contributions for the nine months ended March 31, 2021 were $277,709.

## 9. OTHER REVENUE

The Department recorded $375,692 as a one-time reimbursement from federal funds administered by the Governor's Office for Emergency Relief and Recovery (GOFERR) for staff assistance it provided to New Hampshire Employment Security, in fiscal years 2020 and 2021, to aid in the processing of an influx of unemployment compensation claims due to the COVID 19 pandemic. The remaining amounts included in Other Revenue consist primarily of Boiler and Elevator Service Fees.