

JK



State of New Hampshire

Department of Labor

Ken Merrifield
Commissioner of Labor

Rudolph W. Ogden III
Deputy Labor Commissioner

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3A

February 9, 2022

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 273:10 and RSA 281-A:61, authorize the acceptance of the Department of Labor's Biennial Report for the period July 1, 2019 through June 30, 2021 effective upon Governor and Council approval.

EXPLANATION

Attached, please find copies of the 2020-2021 Biennial report for the Department of Labor as required by law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ken Merrifield".

Ken Merrifield
Commissioner
Department of Labor

State of New Hampshire

DEPARTMENT OF LABOR



2019-2021

July 1, 2019 to June 30, 2021
As required by RSA 273:10 and
RSA 281-A:61

Mission Statement

*To serve and protect the interests
and dignity of the New Hampshire workforce*

Vision Statement

*Our vision is to be recognized by the public as
being a proactive and accessible resource to employees
and employers; ensuring fair and consistent labor practices; utiliz-
ing progressive technologies; having efficient and
responsive processes; treating all individuals with respect
and courtesy; and being competent and professional*

Commissioner
Ken Merrifield

Deputy Commissioner
Rudolph W. Ogden III

95 Pleasant Street
Concord New Hampshire 03301

TO THE
GOVERNOR AND EXECUTIVE COUNCIL

HIS EXCELLENCY, GOVERNOR
CHRISTOPHER T. SUNUNU

THE HONORABLE JOSEPH D. KENNEY
EXECUTIVE COUNCILOR - FIRST DISTRICT

THE HONORABLE CINDE WARMINGTON
EXECUTIVE COUNCILOR - SECOND DISTRICT

THE HONORABLE JANET STEVENS
EXECUTIVE COUNCILOR - THIRD DISTRICT

THE HONORABLE THEODORE L. GATSAS
EXECUTIVE COUNCILOR - FOURTH DISTRICT

THE HONORABLE DAVID K. WHEELER
EXECUTIVE COUNCILOR - FIFTH DISTRICT

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STATE OF NEW HAMPSHIRE—DEPARTMENT OF LABOR
64th Biennial Report

*Special thanks to the NH Department of Business &
Economic Affairs—Division of Travel & Tourism for our use of
their New Hampshire photography in this publication.*





State of New Hampshire

Department of Labor

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October 1, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Dear Governor Sununu and Members of the Executive Council:

Pursuant to RSA 273:10 and RSA 281:A:61, the team at the New Hampshire Department of Labor is pleased to submit its 64th Biennial Report, for the period of July 1, 2019 through June 30, 2021. Our report reflects the efforts and activities of the Department over the past two fiscal years. We hope that our readers enjoy learning about our achievements.

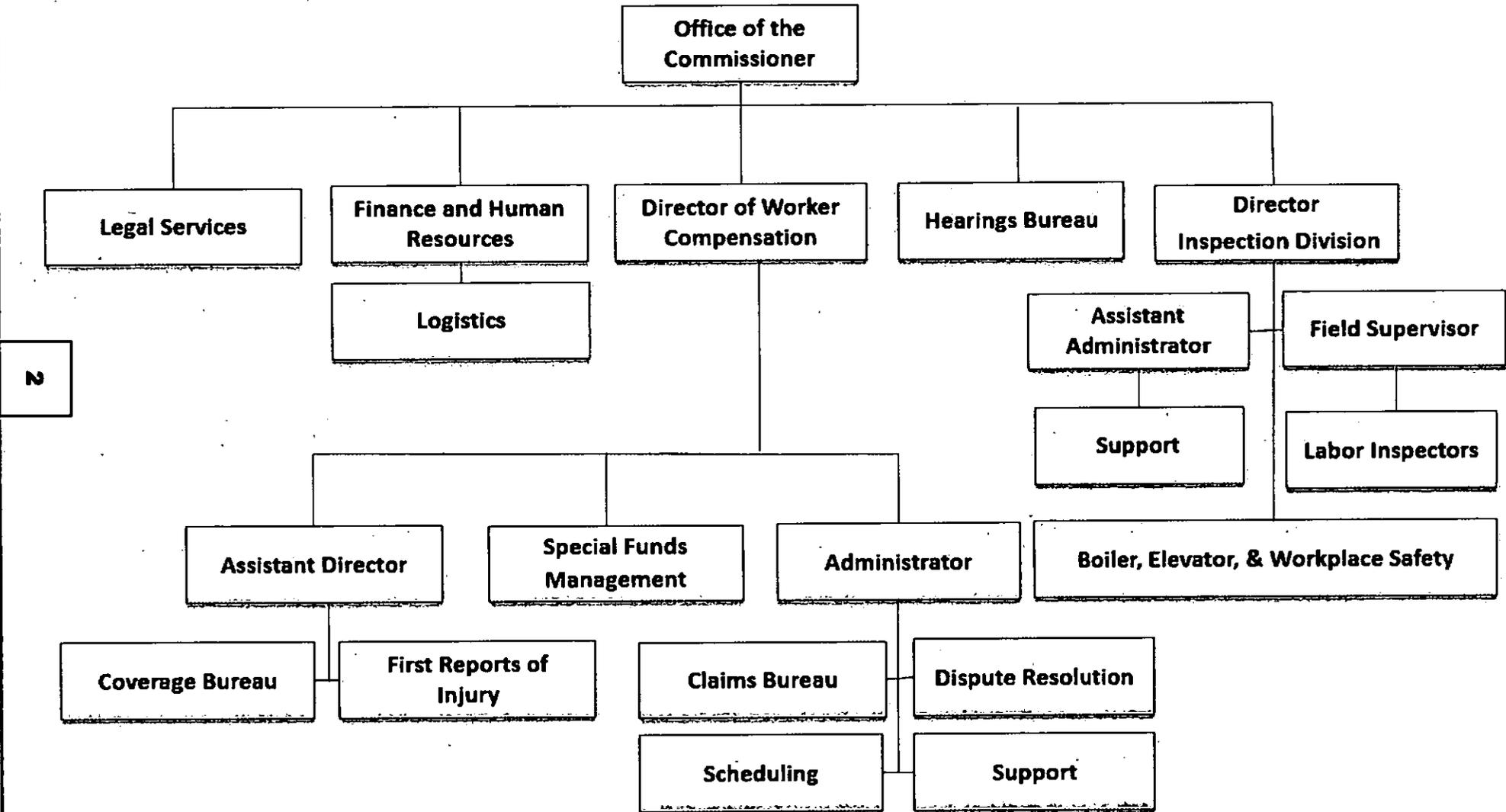
We are honored to continue our mission of protecting New Hampshire workers and helping businesses and insurers to operate successfully in our state. We will seek to increase our proactive and positive contacts with employers and insurers in the future, as we believe a safe and fair workplace is best achieved through positive educational efforts.

Thank you for your support as we strive to safeguard the interests of New Hampshire's workforce and economy.

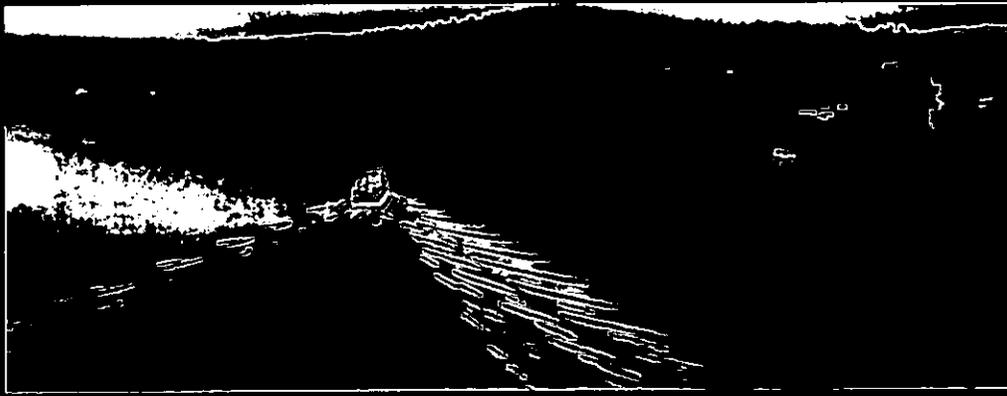
Respectfully submitted,

Ken Merrifield
Commissioner of Labor

New Hampshire Department of Labor



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Administration

The Commissioner's Office is pleased to report some of the progress being made at the Department of Labor during the last biennium:

- ◆ In State Fiscal Year 2021, the Department recorded its highest revenue ever in the Restricted Fund at \$3.7 million, an increase of nearly 23% over SFY 2020. This led to a General Fund contribution by the Department of over \$2.15 million, exceeding \$2M for the first time ever.
- ◆ The Worker's Compensation division has reorganized itself to provide better service to claimants, insurance carriers, and self-insured entities.
- ◆ The Legislative Budget Assistant has concluded its audit of the Labor Department for the nine months ending March 31, 2021. While there were ten observations noted in the management letter, none were considered material weaknesses. Two findings were resolved by the Department before the report was issued.
- ◆ The Department's Policy Team, established in 2017, has continued to meet monthly and has issued 31 internal policies and procedures.
- ◆ The Deputy Commissioner has been honored to lead the Governor's statewide collective bargaining team over the last year.

- ◆ Efforts to improve internal controls in the Department have led to a new, automated reconciliation process between the state's accounting system, NH FIRST, and the Department's AS400 IBM mainframe, which currently serves as the system of record for all activities and case management at Labor. In addition, we have developed a random sample post-audit function to review waivers of civil penalty actions carried out by the divisions.
- ◆ Each management unit in the Department has taken on the task of establishing performance metrics for each authorized position. This allows us to recognize the success of each team.

Asset Tracking Systems

- ◆ The Labor Department has accelerated its efforts to better track and control assets, inclusive of vehicles, technology, and furnishings. GPS tracking has been installed in all Department vehicles, and a new barcoding system will provide tighter security over other key state assets.

Technology Modernization Efforts

- ◆ On May 6, 2020, the Governor & Executive Council approved two contracts for the Department of Information Technology, for the benefit of the Department of Labor. ImageSoft Inc. of Southfield, Michigan, was awarded the contract to implement Hyland's "OnBase" ECM product as a replacement for Labor's 20-year-old electronic document management system, ViewStar. The Governor and the Legislature also approved funding for an eventual complete migration away from the Department's aging AS400 IBM mainframe. In time, we expect the project to improve all aspects of Labor's operations and related customer experiences.

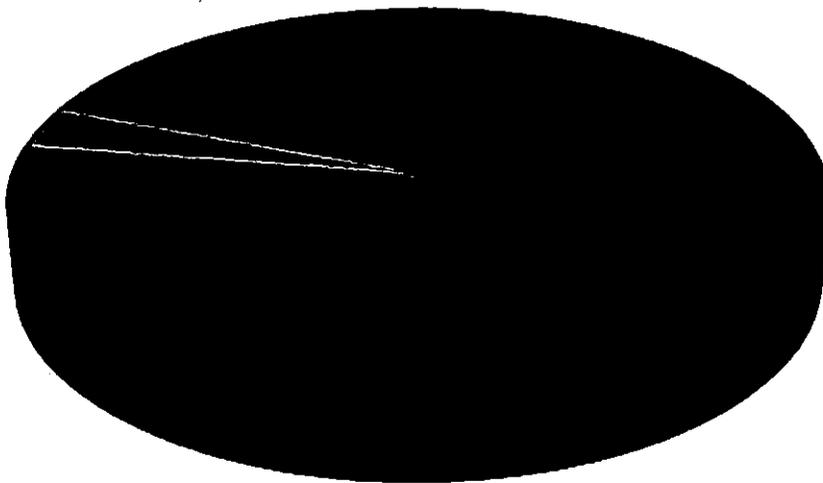
COVID-19 Challenges

Like every state agency, the Department of Labor was faced with many challenges during the public health crisis. A dozen Labor Inspectors were repurposed by the state in order to assist the Department of Employment Security with the issuance of unemployment benefits. The building was also closed to the public for several months during the State of Emergency, posing extraordinary logistical hurdles—particularly for the newly centralized and independent Hearings Bureau. The spring of 2020 saw many of our staff working remotely from home in order to reduce their exposure to the virus. With the assistance of the Department of Information Technology, we were able to overcome the challenges posed by the crisis and our staff can be quite proud that the Department never ceased operations, and in fact continued to meet customer needs with great efficiency. We have now returned to full, in-person service with the added benefit of remote capabilities when desired.

Receipts for the Biennium by Class

	<u>SFY 2020</u>	<u>SFY 2021</u>
006 RESTRICTED FUND SUPPORTING OPERATIONS	1,773,052	1,617,488
009 WC ADMINISTRATION FUND SUPPORTING OPERATIONS	7,719,797	7,193,441
006 RESTRICTED FUND TRANSFER TO GENERAL FUND	1,315,608	2,155,344
00D INTERAGENCY TRANSFER OF FEDERAL FUNDS (GOFERR)	-	375,735
TOTAL OPERATING REVENUES	10,808,457	11,342,008
003 REVOLVING FUNDS - WAGE CLAIM SETTLEMENTS	19,910	35,346
003 REVOLVING FUNDS - SPECIAL FUND FOR 2ND INJURY	16,502,213	18,404,356
TOTAL REVOLVING FUND RECEIPTS	16,522,123	18,439,702
<i>**non-appropriated, revolving accounts</i>		

Department of Labor SFY 2021 Actual Operating Revenue Source of Funds

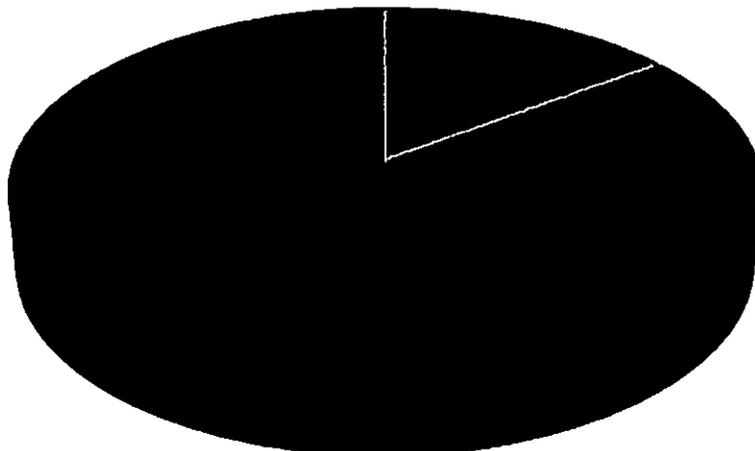


- WC Administration Fund
- Inspection Penalties-Fees-Certificates
- Interagency Transfer of Federal (GOFERR)
- Restricted Fund Returned to the General Fund

Expenditures for the Biennium by Class

	<u>SFY 2020</u>	<u>SFY 2021</u>
010 PERSONAL SERVICES PERMANENT	3,643,603	3,478,231
011 PERSONAL SERVICES UNCLASSIFIED	124,580	125,480
012 PERSONAL SERVICES UNCLASSIFIED	108,733	114,283
017 FT EMPLOYEE SPECIAL PAYMENTS	92,912	30,046
018 OVERTIME	-	2,671
020 CURRENT EXPENSES	135,216	126,203
022 RENTS-LEASES OTHER THAN STATE	11,453	11,026
024 MAINTENANCE	1,856	240
026 ORGANIZATIONAL DUES	3,312	3,368
027 TRANSFERS TO DOIT	953,498	1,549,249
028 TRANSFERS TO GENERAL SERVICES	293,925	280,799
030 EQUIPMENT NEW REPLACEMENT	78,965	12,749
039 TELECOMMUNICATIONS	56,330	60,386
040 INDIRECT COSTS	107,813	167,484
049 TRANSFER TO OTHER STATE AGENCIES	2,539	7,751
050 PERSONAL SERVICE TEMP	220,692	247,603
057 BOOKS PERIODICALS SUBSCRIPT	4,060	2,798
060 BENEFITS	2,092,175	1,878,877
062 WORKERS COMPENSATION	17,977	8,765
064 RET PENSION BENEFITS	349,576	353,412
065 BOARD EXPENSES	308,938	334,999
066 EMPLOYEE TRAINING	5,000	5,000
070 IN STATE TRAVEL	33,090	34,406
080 OUT OF STATE TRAVEL	217	-
089 TRANSFERS TO DAS MAINT FUND	18,750	18,750
211 CAT CASUALTY INSURANCE	197	310
	<hr/>	<hr/>
TOTAL OPERATING BUDGET EXPENDITURES	8,665,970	8,855,086
054 TRUST FUND EXPENDITURES	16,521,746	18,436,440
**non-appropriated, revolving accounts		

Department of Labor SFY 2021 Actual Expenditures by Division



- Administration & Support
- Inspection Division
- Worker Compensation Division

Personnel

94 fulltime authorized positions as reflected in the 22-23 Budget Request. 10 have since been abolished per HB2.

WORKER COMPENSATION DIVISION	
ADMINISTRATIVE ASSISTANT I	2
ADMINISTRATIVE SECRETARY	1
ADMINISTRATOR I	1
ADMINISTRATOR II	1
ADMINISTRATOR IV	1
BUSINESS SYSTEMS ANALYST II	1
CLAIMS AND HEARINGS CLERK I	3
CLAIMS AND HEARINGS CLERK II	3
CLAIMS PROCESSOR II	2
CLERK III	1
DATA CONTROL CLERK I	4
HEARINGS EXAMINER	1
HEARINGS OFFICER	6
LEGAL SECRETARY II	1
PROGRAM ASSISTANT I	2
PROGRAM ASSISTANT II	6
PROGRAM SPECIALIST I	2
PROGRAM SPECIALIST II	1
RESEARCH ANALYST	1
SECRETARY II	2
SPECIAL FUNDS COORDINATOR	1
	43

ADMINISTRATION & SUPPORT	
ADMINISTRATIVE ASSISTANT II	2
ADMINISTRATOR III	1
ATTORNEY II	1
ATTORNEY III	1
ATTORNEY IV	1
BUSINESS ADMINISTRATOR II	1
CLERK INTERVIEWER	2
HUMAN RESOURCES TECHNICIAN	1
PARALEGAL I	1
PROGRAM ASSISTANT I	1
PROGRAM ASSISTANT II	1
COMMISSIONER	1
DEPUTY COMMISSIONER	1
	15

INSPECTION DIVISION	
ADMINISTRATOR I	1
BOILER INSPECTOR	2
CHIEF BOILER INSPECTOR	1
CHIEF ELEVATOR INSPECTOR	1
ELEVATOR INSPECTOR	3
LABOR INSPECTOR	21
PROGRAM ASSISTANT II	4
PROGRAM SPECIALIST I	1
SUPERVISOR IV	1
WAGE & HOUR ADMINISTRATOR	1
	36

Statutes Administered by the Department

The New Hampshire Department of Labor was established by Chapter 48 of the Laws of 1893.

RSA 273 Department of Labor Principally provides for the operation and organization of the Department of Labor.

RSA 157-A Boiler and Pressure Vessel Inspection Law Establishes that the Department of Labor certifies boilers and pressure vessels for safe operation and issues licenses for all boiler inspectors active within the state.

RSA 157-B Elevator & Accessibility Lift Law Establishes that the Department of Labor certifies elevators and accessibility lifts for safe operation and issues licenses for all elevator and accessibility lift inspectors and mechanics active within the state.

RSA 275 Protective Legislation Governs the conditions of employment such as the prompt and proper payment of wages. Additionally this chapter provides a platform for the recovery of unpaid wages.

RSA 275-A Citizens Job Protection This law addresses labor strikes and employment of undocumented workers.

RSA 275-E Whistleblowers' Protection Act This act provides protection against retaliation for an employee reporting violations of law or for refusing to execute illegal directives

RSA 275-F WARN Act The Worker Adjustment and Retraining Notification Act protects workers by requiring advance notice of significant employment losses at employers numbering seventy-five or more employees.

RSA 276-A Youth Employment Sets forth the requisite standards and safeguards relative to the engagement of workers under the age of 18.

RSA 277 Safety and Health of Employees Establishes that the Department of Labor is responsible for addressing workplace safety issues and incidents in the public sphere.

RSA 277-A Workers' Right to Know Law Sets forth notice requirements for public employers that have a workforce that is exposed to toxic substances in the workplace.

RSA 277-B Employee Leasing Companies Establishes that the Department of Labor regulates Employee Leasing Companies in order to protect employers' and employees' payroll and benefits including tax payments

RSA 279 Minimum Wage Law Provides for the Enforcement of minimum wage and overtime payments

RSA 281-A Workers' Compensation Law Provides that the Department of Labor administers the workers' compensation system in New Hampshire, inclusive of processing claims, adjudicating benefits and enforcing coverage requirements.

Legislative Items of Note 2020 & 2021

HB253 (2020)

Title: relative to criminal records checks in the employee application process. This bill prohibited a public employer from inquiring about or conducting a criminal background check on a prospective employee prior to an interview, unless required by state or federal law.

HB1558 (2020)

Title: relative to discipline of students, addressing students' behavioral needs, and making an appropriation therefor; kindergarten funding; violence in schools; policies for students with head injuries; child sexual abuse prevention education and training; authorizing the issuance of bonds or notes by a municipality; adding the chancellor of the university system of New Hampshire to the department of business and economic affairs council of partner agencies; change of school or assignment due to manifest educational hardship; school board expenditure of year-end fund balances; a children's system of care; student wellness; and criminal background checks for bus drivers. This bill, relative to labor law, modified requirements for school safety programs highlighting the need for attention to incidence and causation of workplace violence.

HB258 (2021)

Title: permitting wage and hour records to be approved and retained electronically. This bill provided clarification that electronic maintenance of required records is appropriate.

HB261 (2021)

Title: relative to apprenticeship programs in trade and industry. This bill updated Apprenticeship Advisory Council standards to reflect current practice.

HB301 (2021)

Title: relative to the compensation appeals board. This bill clarified the instances of pro-rated pay for compensation appeals board members.

HB303 (2021)

Title: relative to required pay. This bill clarified the exception to the required two hour minimum law for employees reporting to work at their employer's request.

HB385 (2021)

Title: relative to workers' compensation for heart and lung disease in firefighters. This bill extended to age 70 the benefits from the presumption that heart or lung disease is occupationally related for firefighters.

HB448 (2021)

Title: establishing a committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire department of labor uses for public sector employees. This bill established a study committee to evaluate transitioning to an OSHA state plan.

SB137 (2021)

Title: relative to the minimum hourly rate for tipped employees. This bill changed the hourly rate for tipped employee contingent on an increase in the federal minimum wage; this bill also added "cigar bar" to the establishments at which tipped employees can be paid the subminimum rate.

Worker Compensation Division

OUR MISSION

To protect the rights of all parties effectively, efficiently, and equitably - administering the workers' compensation statute and treating all parties with dignity and respect.



OUR PURPOSE

Support Regulations | Enhance Service | Promote Knowledge

WORKERS' COMPENSATION DIVISION OVERVIEW

The Workers' Compensation Division of the New Hampshire Department of Labor is committed to enforcing the State's Workers Compensation Law (RSA 281-A). The Law requires all employers to secure compensation for all employees in case of accidental injury, death, or occupational disease. Workers' Compensation is a "no fault" system that provides compensation in the form of medical payments, wage replacement, and/or disability benefits to injured employees.

The Workers' Compensation Division is comprised of multiple bureaus:

- Coverage Bureau
- First Report of Injury Unit
- File Intake Bureau
- Claims Bureau
- Scheduling Bureau
- Vocational Rehabilitation Program
- Appeals Board
- Special Funds Bureau
- Director's Office

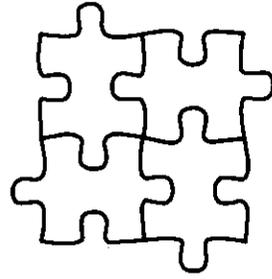
A primary function of the division is to educate insurance carriers, employers, and employees about the workers' compensation system. All parties need to understand their rights and responsibilities in order for the system to work properly. The Division works with various State and Federal agencies, in addition to private associations, to conduct training on the law and administrative regulations.

WORKERS' COMPENSATION BY THE NUMBERS



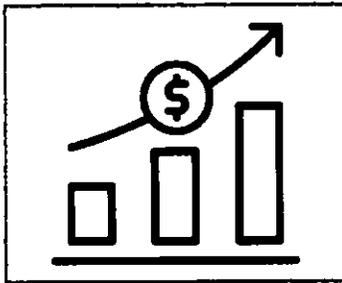
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Classified Positions



9

Bureaus and Units

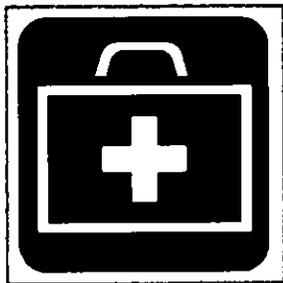


+ 66 %

Revenue in 20 & 21 over 18 & 19



205 Memo's of Payment
Received Weekly on Average



82,551

Reported Workplace Injuries



3,756 Hearings Scheduled



26 Voc. Rehab Providers



1,523 Injuries

Resulting in Permanencies

CLAIMS BUREAU

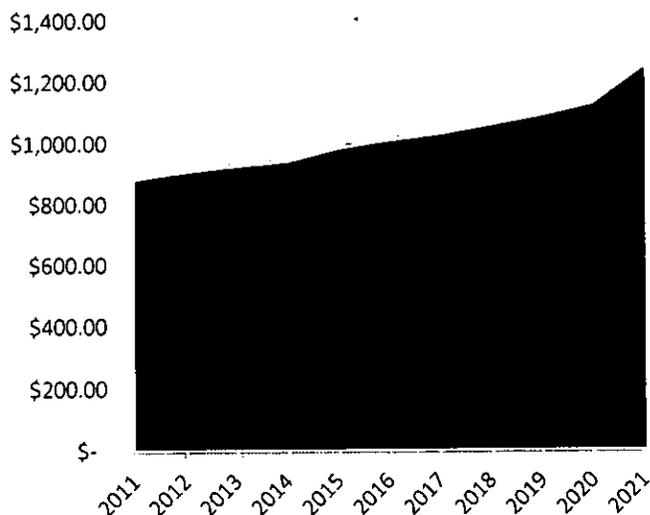
The Claims Bureau serves as the initial point of contact for all parties involved in the workers' compensation system. Injured workers, their attorneys, employers, and insurance carriers are all groups that are in contact with the Department of Labor whether they have a question or are filing official correspondence.

The Claims Bureau is responsible for receiving phone calls and performing basic technical guidance through the workers' compensation system. A primary focus in this bureau is to process Memos of Payment (MOP) filed by insurance carriers to demonstrate that a claim is being compensated. This process takes shape in the form of an acceptance or rejection based on the regulatory statutes and guidelines for this benefit.

These MOP's utilize calculations to determine the "Average Weekly Wage" (AWW) which is the maximum compensation rate based in conjunction with the State's annual adjustment and the injured workers earnings. RSA 281-A:15 is the statute followed for these calculations.

This chart below shows the growth in AWW over the last decade.

Average Weekly Wage



FILE INTAKE BUREAU

The File Intake Bureau initializes primary steps in both a Workers' Compensation claim and other correspondence to the Department. This bureau receives and processes a variety of correspondence which is then funneled to the appropriate division or bureau. Accurate and timely action in this bureau is required for the rest of the Department to continue their functions.

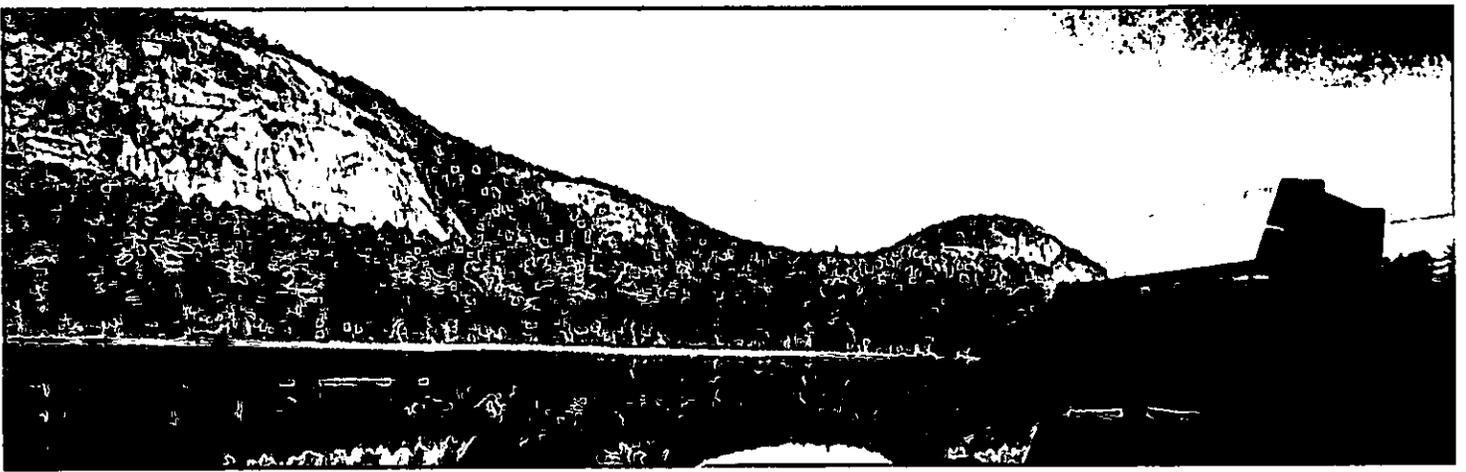


SCHEDULING BUREAU

The Scheduling Bureau is responsible for scheduling hearings for newly contested Worker Compensation cases, first-level continued hearings, and lump sum settlements. This bureau holds the responsibility for building accurate files and ensuring proper documentation is included for the Hearing Officers upon receipt.

In addition to scheduling cases, this bureau maintains a calendar of attorney availability which contributes towards accurate and efficient scheduling efforts within the 6-week time frame permitted for scheduling a hearing of Worker Compensation disputes per RSA 281-A:43.

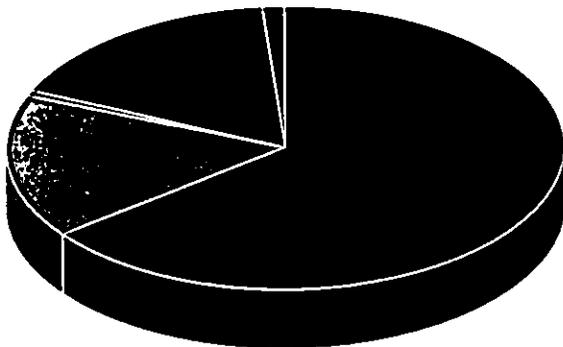
The number of continued cases was reduced significantly in the last year which has enabled resources to be readily available for hearing new cases.



COVERAGE BUREAU

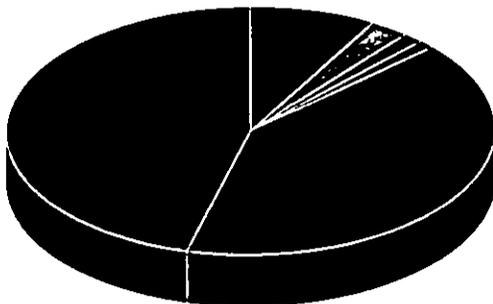
The goal of the Coverage Unit is to inform, educate, and ensure compliance with New Hampshire Workers' Compensation Laws so that all employers in the State of New Hampshire provide their employees with workers' compensation coverage. The Coverage Unit within the Department of Labor tracks employers through their coverage activity and allows the Department to identify and pursue employers in violation of coverage requirements. The corresponding charts below are demonstrative of the activity within the coverage area.

Coverage Activity SFY 2020 & 2021



- Voluntary_Coverage
- Assigned_Risk
- Self_Insured
- Reinstatement
- Leasing
- Wrap_Up

Coverage Terminations



- Change_Of_Carrier
- Out_Of_Business
- Business_Sold
- No_Employee
- Premium_Payment_Due
- Request_Of_Carrier
- Revocation

Industry Group Description	Highest Experience Modification	Lowest Experience Modification
Manufacturing	1.97	0.67
Contracting	1.91	0.66
Office and Clerical	2.23	0.63
Goods and Services	2.30	0.61
Miscellaneous	2.00	0.66
I-Class	0.97	0.97

National Council on Compensation Insurance, Inc. (NCCI) "New Hampshire Highest & Lowest Experience Modifications by Industry Group for 2020 Policies" Extracted in September, 2021

1 Includes New Hampshire Intra-State Experience Modifications with the following Rating Effective Date Range:

- 1/1/2020 - 12/31/2020

2 Industry Group was determined by using the governing class for the 2020 policy

3 Excludes:

- Cancelled policies
- P.O. Policies
- Policies where the premium for New Hampshire is 0%



MANAGED CARE ORGANIZATIONS

Employers may satisfy the requirements of RSA 281-A:23 to provide injured workers with reasonable, necessary, causally related medical treatment through participation in an approved Managed Care Organization (MCO). Specified criteria and certification through the Workers' Compensation Advisory Council must be met in order to operate as a Managed Care Organization for workers' compensation. There are currently seven Managed Care Organizations approved in New Hampshire.

Managed Care Organization	Recertification Date
CorVel Corp 170 South River Rd. Bedford, NH 03110	September 2025
Coventry Healthcare Workers' Compensation Inc. 118 Portsmouth Ave. Suite A202 Stratham, NH 03885	October 2025
GENEX Medical Plan of New Hampshire 138 River Rd. Suite 204 Andover, MA 01810	January 2023
Liberty Mutual Managed Care 150 Liberty Way Dover, NH 03820	October 2022
Tandem Injury Management LLC PO Box 1718 Manchester, NH 03105	May 2025
Travelers Insurance Managed Care Program 8 Commerce Dr. Bedford, NH 03110	May 2023
Windham Group 500 N. Commercial St. Suite 301 Manchester, NH 03101	September 2026

VOCATIONAL REHABILITATION

The Workers' Compensation law, through RSA 281-A:25, provides for provides for vocational rehabilitation benefits for injured workers with compensable work related injuries. Vocational Rehabilitation benefits provide services to injured workers who, as a result of a work related injury, are unable to return to the work for which they have training and experience. The purpose of the benefit is to restore injured workers to, or as close as possible to, their previous earning capacity.

ELIGIBILITY AND SERVICES

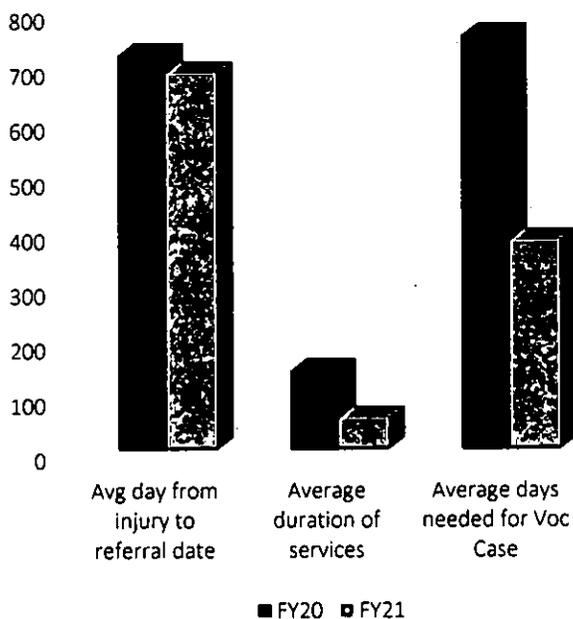
Injured workers who are disabled from performing work for which they have training or experience may be eligible for vocational rehabilitation services. Once an eligibility determination is made, a referral for services is filed with the Department of Labor, and an Individualized Written Rehabilitation Plan (IWRP) is developed. IWRPs are developed collaboratively between the injured worker and the vocational rehabilitation provider and approved by the Department. The IWRP will set forth the specific vocational services to be provided for the injured worker, and include services goals related to management, vocational counseling, exploration and testing, job placement, educational training, skills training, and return to work. A closure report is submitted to the Department once services have concluded.

The charts below provide data on vocational rehabilitation services provided, including total number of referrals, approved IWRPs, and case closure.

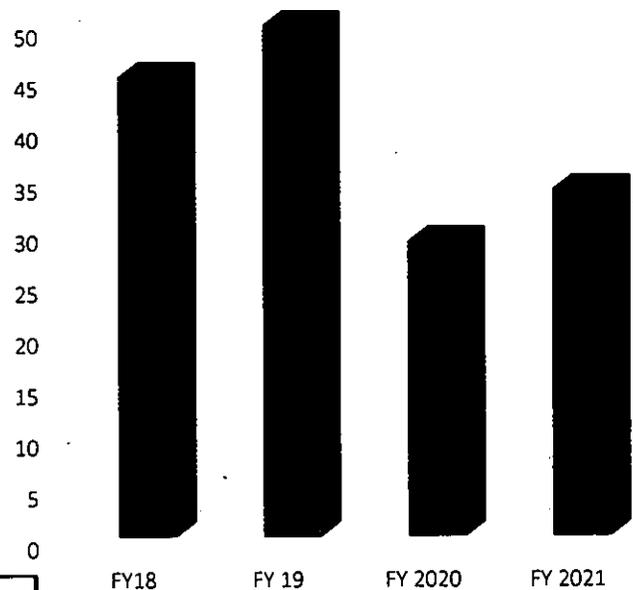
CERTIFIED VOCATIONAL REHABILITATION PROVIDERS

Vocational Rehabilitation services are provided by Certified Vocational Rehabilitation Providers (CVRP). CVRPs are employed by private rehabilitation companies and paid for by the employer or the employers' insurance carrier. Any CVRP providing services to an injured worker is certified through the New Hampshire Department of Labor and VR Provider Advisory Board, as required by RSA 281-A:68. CVRP's are required to be recertified on a biennial basis. There were 26 CVRPs certified by the Department through FY 2021.

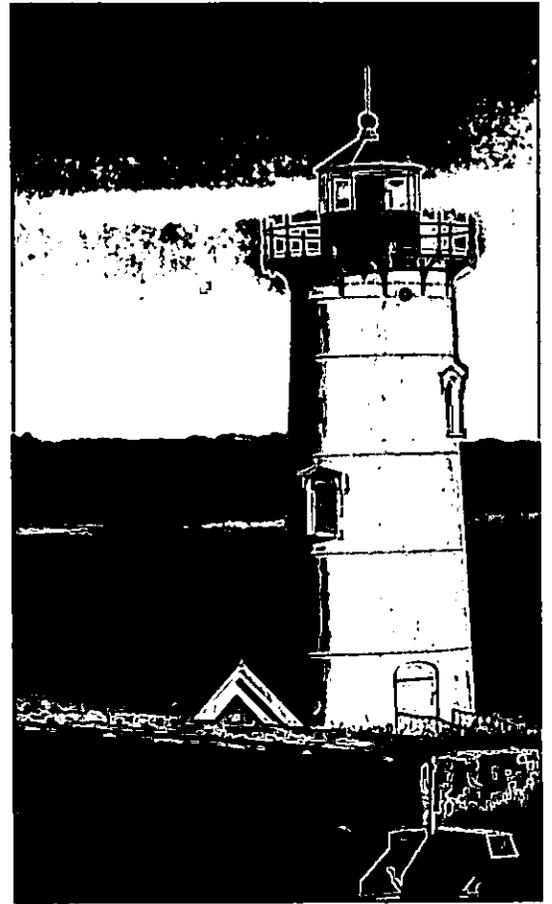
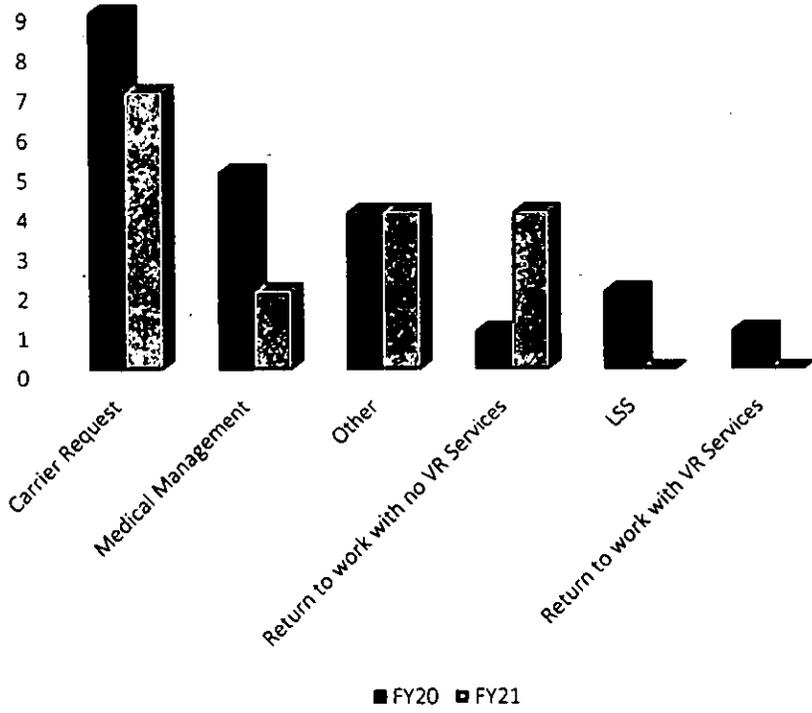
Vocational Rehabilitation Timeframes



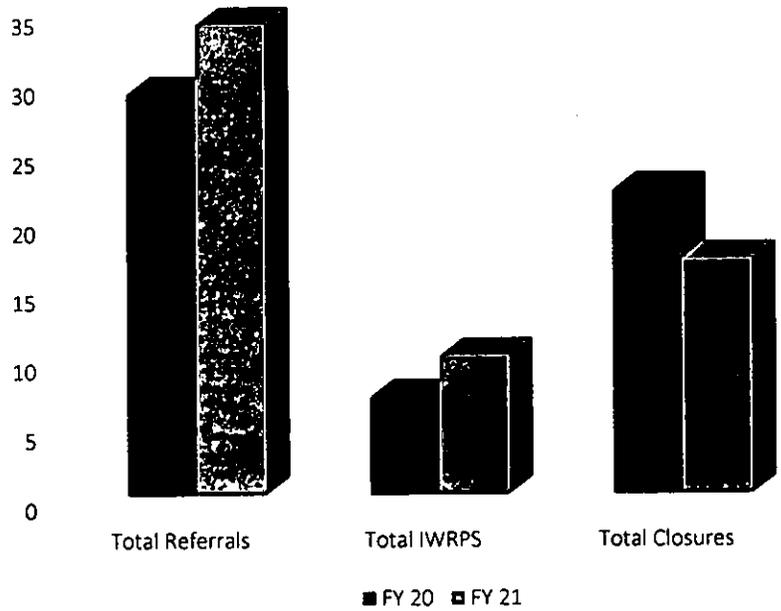
Vocational Rehabilitation Referrals



Vocational Rehabilitation Closure



Vocational Rehabilitation Case Totals

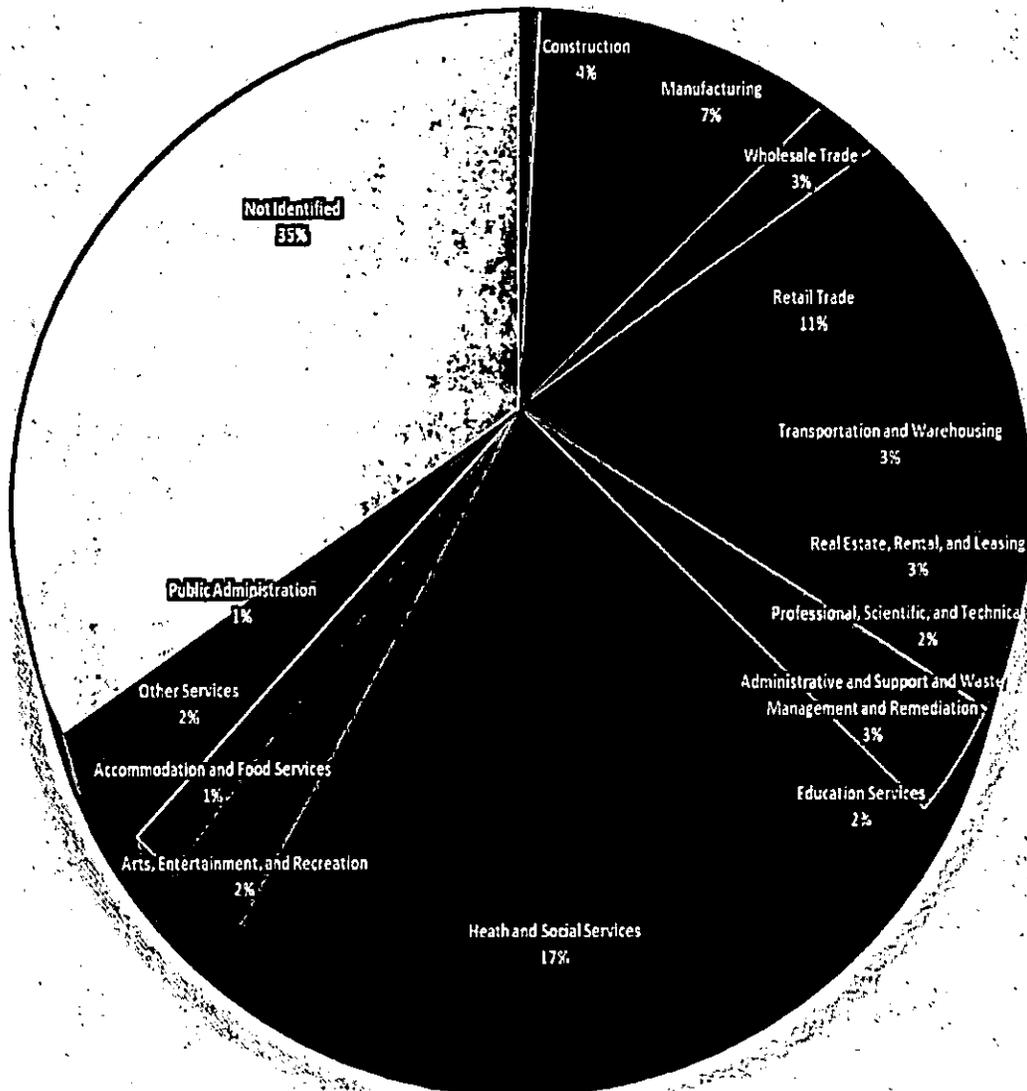


FIRST REPORT OF INJURY

The First Report of Injury Unit is responsible for ensuring these reports are filed completely, accurately, and within the proper time frames. Employers are required to file within five days of being notified by the employee of an occupational injury or illness. Failure to file timely can result in delayed payments to injured workers and medical providers. Accordingly, through education and enforcement, the Department work to ensure that employers file properly.

The first report is an important function of the Workers' Compensation system as it is the initial step needed before an injured worker may open a claim and start receiving indemnity benefits through the employer's insurance carrier.

First Reports of Injury in NH - by Industry - for FY20 & 21



This chart illustrates the share of reported injuries by major NAICS industry code. Industries reporting less than 1% of total have been removed from the legend.

Injury Outcome	2020	2021
Unreported	56	63
Allergic Reaction	6	10
Amputation	36	47
Bites and/or Scratches	290	266
Body Fluid Exposure	25	29
Broken or Fractured		
Bone	1,147	1,186
Bruise	8,410	7,184
Burn	977	839
Cancer or Exposure	6	5
Carpal Tunnel	71	76
COVID19 Coronavirus	1,194	2,670
Cut or Puncture	7,870	7,417
Death	13	8
Electrical Shock	63	63
Eyeglasses & Contacts	2	
Foreign Body	884	986
Frost Bite	4	2
Fumes, Dust or Smoke	14	14
Hearing Aid	10	22
Hearing Loss	13	20
Heart Attack	61	67
Heat Exhaustion	43	40
Hepatitis Exposure	1	4
Hernia	113	96
Muscle Pull / Strain	12,455	11,746
Nonapplicable	1,618	2,057
Other Disease	478	557
Other Respiratory	110	67
Rash or Dermatitis	126	184
Stress	1,091	724
Stroke or Seizure	3	7
Tendonitis	2	1
Unknown	4,870	3,987
Vision	21	24
	42,083	40,468

FIRST REPORTS OF INJURY

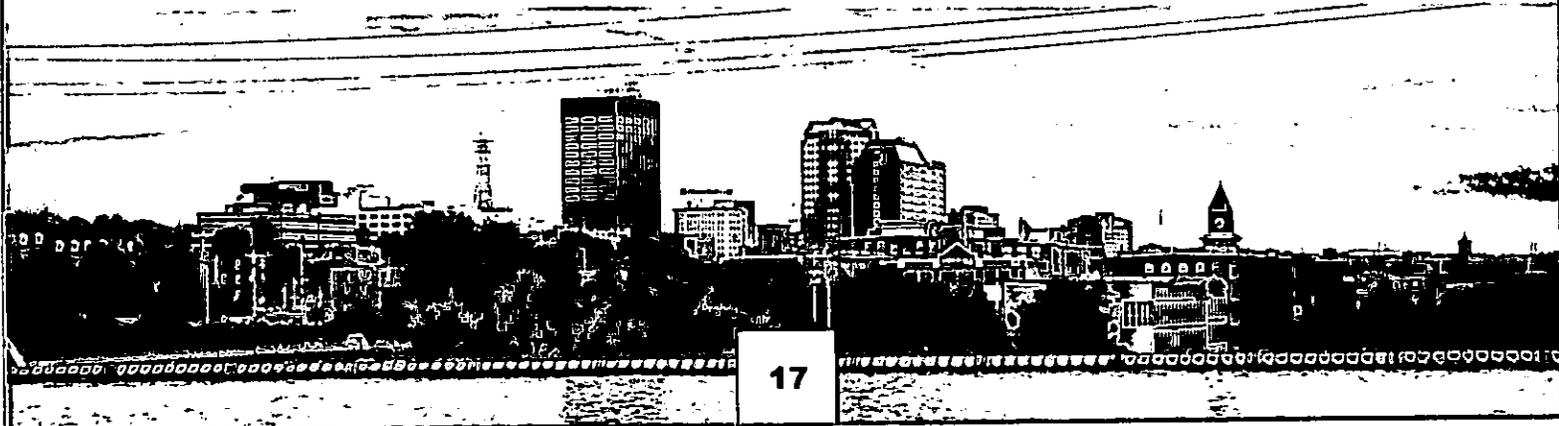
Workplace Injury Statistics for SFY2020 & 2021

Injury Cause	2020	2021
Unreported	89	82
Airborne Particle	689	730
Animal	805	816
Chemical	176	164
COVID19	1,108	2,032
Criminal Act	74	51
Electricity	44	58
Hit by Object	4,244	4,762
Hot Liquid / Object	792	669
Insect	51	43
Lifting Action	6,869	6,527
Machinery	441	364
Vehicle Accident	806	592
Needle	41	37
Nonapplicable	1,512	1,473
Other	3,895	4,874
Person	4,066	2,400
Pinch / Squeeze	755	702
Plant	411	323
Quality of Air	27	96
Repetitious	895	989
Sharp Object	2,245	2,116
Slip or Fall	9,307	7,744
Tool	1,994	2,010
Twist	681	712
Unknown	63	99
Weather	3	3
	42,083	40,468

Nature of Injury	2020	2021
Ankle	1,557	1,473
Arm	2,568	1,901
Back	873	958
Back & Leg	9	8
Brain	151	129
Buttocks	204	149
Ear	95	116
Elbow	748	694
Eye	1,495	1,511
Fatal	13	8
Finger	4,521	4,142
Foot	1,127	1,097
Foot & Ankle	1	5
Hand	2,916	2,753
Hand & Wrist	185	159
Head	2,439	2,117
Heart	60	43
Hip	375	362
Hip & Leg	3	4
Knee	2,887	2,640
Leg	317	264
Lower Back	3,402	2,870
Lower Leg	1,168	850
Lungs	532	924
Mouth	237	205
Neck	46	46
Neck & Back	11	6
Neck & Head	7	8
Neck & Shoulders	12	12
Nonapplicable	478	410
Nose	208	222
Other	2,926	2,879
Other Multiples	4,795	6,096
Shoulder	2,059	1,938
Thumb	1,194	1,111
Toe	369	367
Unreported	36	148
Unknown	95	76
Upper Leg	17	17
Wrist	1,947	1,750
	42,083	40,468

The data presented here demonstrates the variety and quantity of these first reports of injury which are categorized upon receipt to the Department. These categories include:

- Outcome of Injury
- Cause of Injury
- Nature of Injury



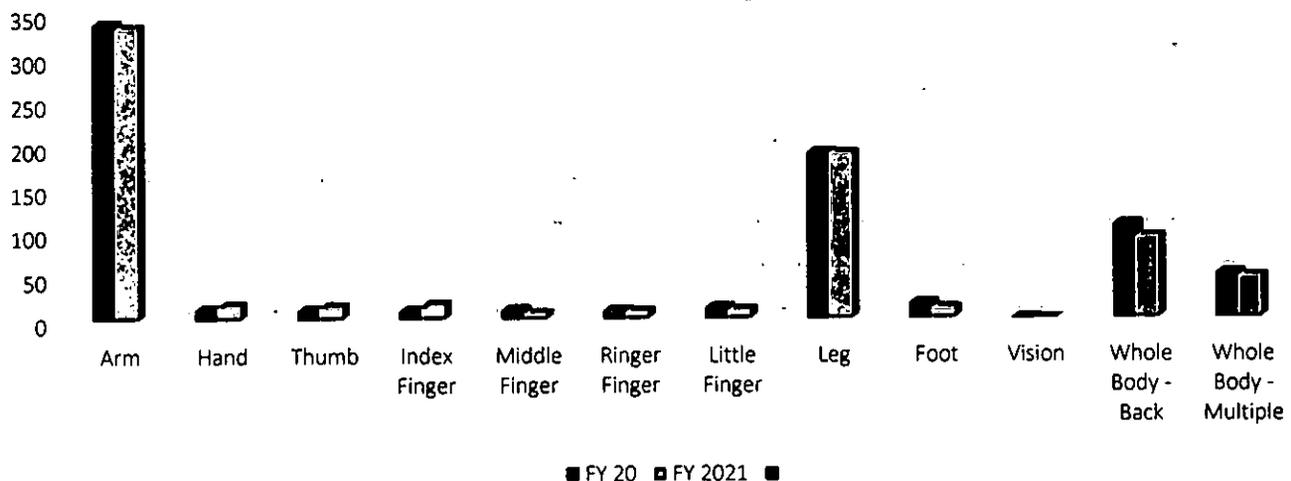
PERMANENT IMPAIRMENT

The Workers' Compensation law allows for a monetary award, called a permanent impairment award, in instances when a work related injury or illness causes permanent loss of use of certain compensable body parts as scheduled by statute. A permanent impairment award may be paid when an injured worker reaches maximum medical improvement and has had an impairment rating performed by a medical provider.

The following tables present figures relating to the occurrence of injuries resulting in permanent impairment awards, the types of injuries and average award for each type of compensable injury paid.

	FY 2020 Avg. Award	FY 2021 Avg. Award	FY 19 Avg. Award	FY 2018 Avg. Award
Arm	\$13,766	\$11,759	\$11,505	\$11,328
Hand	\$14,052	\$9,905	\$12,702	\$15,636
Thumb	\$3,830	\$7,568	\$7,003	\$9,052
Index Finger	\$7,683	\$9,479	\$12,963	\$10,313
Middle Finger	\$4,749	\$7,625	\$5,920	\$4,702
Ringer Finger	\$3,757	\$2,594	\$2,945	\$2,493
Little Finger	\$1,867	\$1,542	\$1,320	\$1,733
Leg	\$12,413	\$12,372	\$10,742	\$8,551
Foot	\$5,806	\$8,147	\$6,912	\$7,661
Vision	\$15,612	\$0	\$0	\$3,400
Whole Body - Back	\$30,807	\$31,461	\$30,438	\$29,436
Whole Body - Multiple	\$21,881	\$36,966	\$27,886	\$25,876

Number of Injuries Resulting in Permanency





Inspection Division

The Inspection Division is responsible for administering and enforcing the Protective Legislation Law, Citizens Job Protection Law, Whistleblowers' Protection Act, Youth Employment Law, Minimum Wage Law, WARN Act (Worker Adjustment and Retraining Notification Act), Boiler and Pressure Vessel Law, Elevator and Accessibility Lift Law, Safety & Health Laws, and the Worker's Right to Know Law. Along with these statutes, the division also enforces related administrative rules.

Division staff process and adjudicate wage claims and whistleblowers' complaints. The division also settles many disputes via telephone or e-mail whenever possible.

In response to complaints, the division conducts business inspections to ensure employers are in compliance with NH labor laws which may result in payment of wages due, and also civil penalties. The Division has implemented an informal settlement process for employers to demonstrate compliance efforts and to reduce civil penalties without the need for a formal hearing.

Education has been a major objective of the Inspection Division through remote webinars held for employers throughout the state, as well as for individual companies upon request. The division also uses email alerts and its website to keep employers informed about changes in employment law.

The division also monitors the employment of workers under age 18 by assuring compliance with the NH Youth Employment Law, including permits, hours worked, and the types of work performed by young people.

Students participating in school-sponsored work programs are protected by labor laws. Such programs as School-To-Work, Co-op Programs, Internships, and Building Trades Programs must be registered and approved by the Division to ensure a safe quality learning experience.

The Inspection Division also ensures compliance with elevator, accessibility lift, boiler, and pressure vessel safety codes adopted by the State of New Hampshire. This is accomplished through inspection, enforcement, administration, and licensing processes which protect employees and other citizens who may have facilities where these devices are operating.

In addition to safety related inspections in New Hampshire public work places, the Division performs safety training webinars for employers to inform them of their obligations. Our staff assists employers to develop their own safety program. We also monitor workplaces for compliance with state safety rules.

Find more helpful information about the Division at

<http://www.nh.gov/labor/inspection/index.htm>

Our Mission:

"To protect the public safety and economic well-being of New Hampshire's workforce through enforcement and education."

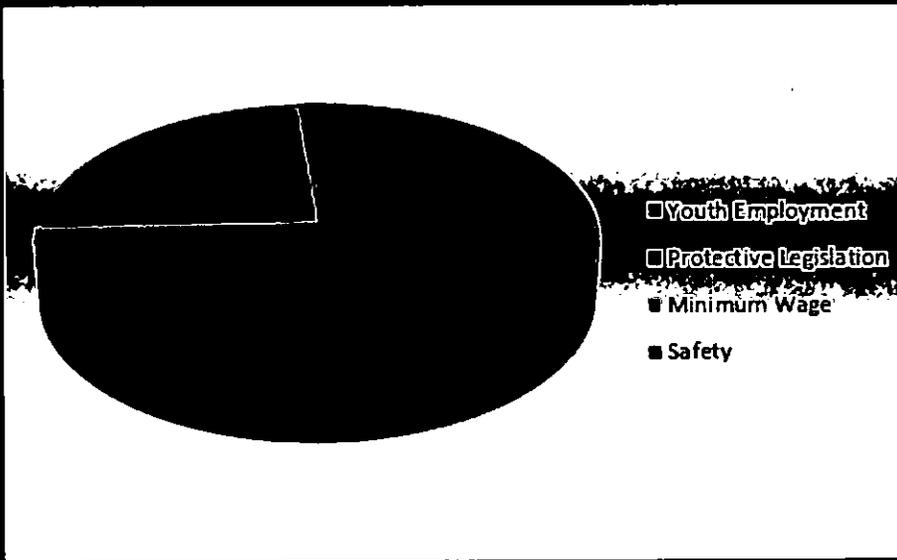
Wage Claims

Written claims are filed by employees for unpaid wages, commissions and unpaid fringe benefits, such as vacation pay, holiday pay, severance pay, sick pay, bonuses, expenses, etc. The process is by mail and/or online and may or may not result in a hearing.

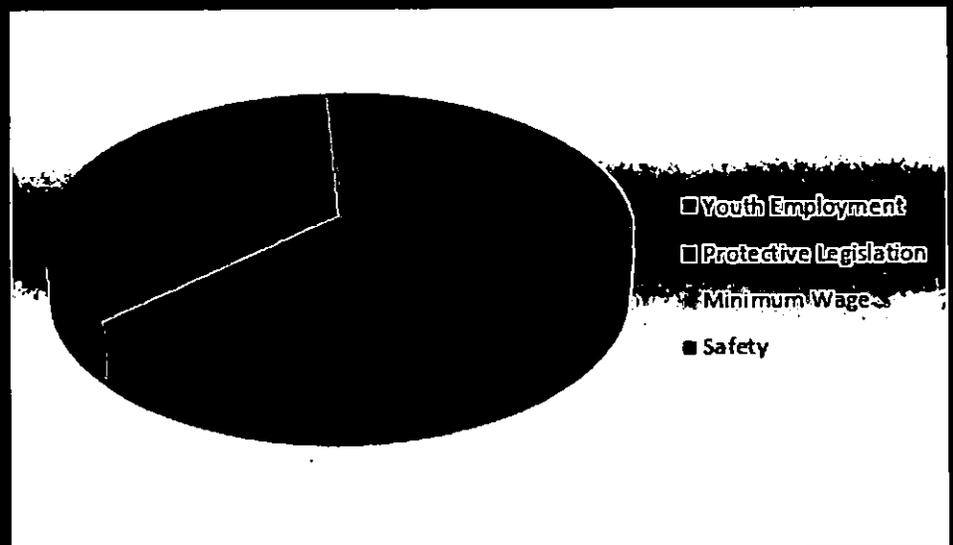
Unpaid Wages delivered to employees

	FY 2020	FY 2021
<i>Wage Claims</i>	1,328,931	385,857
<i>Wage Complaints</i>	\$260,192	\$74,201
<i>Wage Adjustments</i>	\$706,210	\$1,120,574
Total	2,295,333	1,580,632

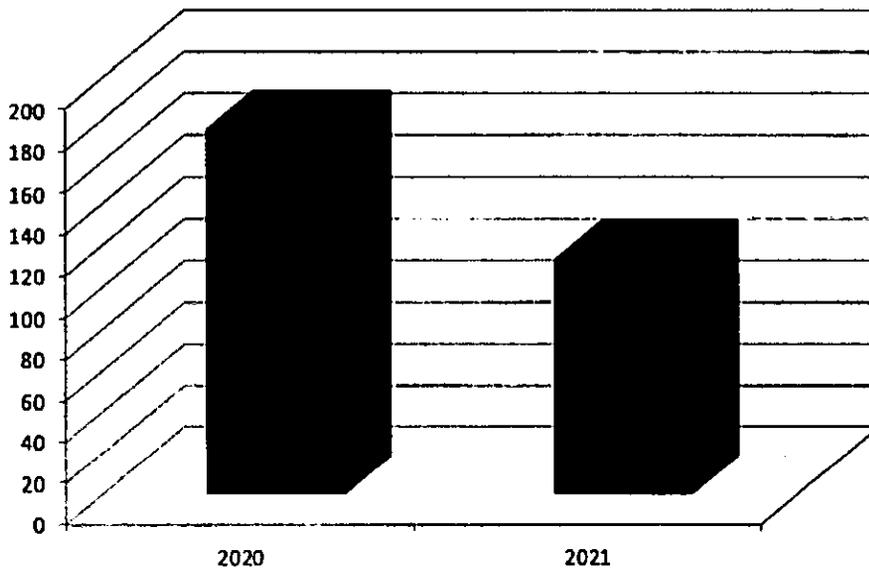
Inspections
Conducted



Violations
Observed 2021



Informal Conferences



Informal Conferences

The Inspection Division attempts to resolve compliance issues with employers by offering an opportunity to meet informally regarding the observations of our Labor Inspectors. This approach has resulted in resolution of 95% of our cases and eliminates the need for further action by the Department. These informal discussions have allowed the Department to reduce civil penalty collections by roughly 87% from the maximum penalties allowed by law.

Whistleblowers' Protection Act

The Whistleblowers' Protection Act process allows employees to file a claim if they believe they suffered adverse consequences for: reporting an alleged violation of law; or because they participated in an investigation regarding such a violation; or for refusal to execute an illegal directive. These employees might seek back wages, benefits, reinstatement, seniority, or any other injunctive relief that justice may require. The Department issues a decision following a hearing on the subject.

Civil Penalties Collected in 2020
\$439,823



Civil Penalties Collected in 2021
\$417,388





Youth Employment

A minor 16- or 17-year-old who wishes to work must have written permission from a parent or legal guardian, and the employer must keep this document on file. The parental permission must include the following:

- (1) The employer's name and location;
- (2) The date permission is given by the parent or legal guardian;
- (3) The signature of the parent or legal guardian;
- (4) The title of the position the minor will fill or a description of the work activities; and
- (5) The minor's date of birth.

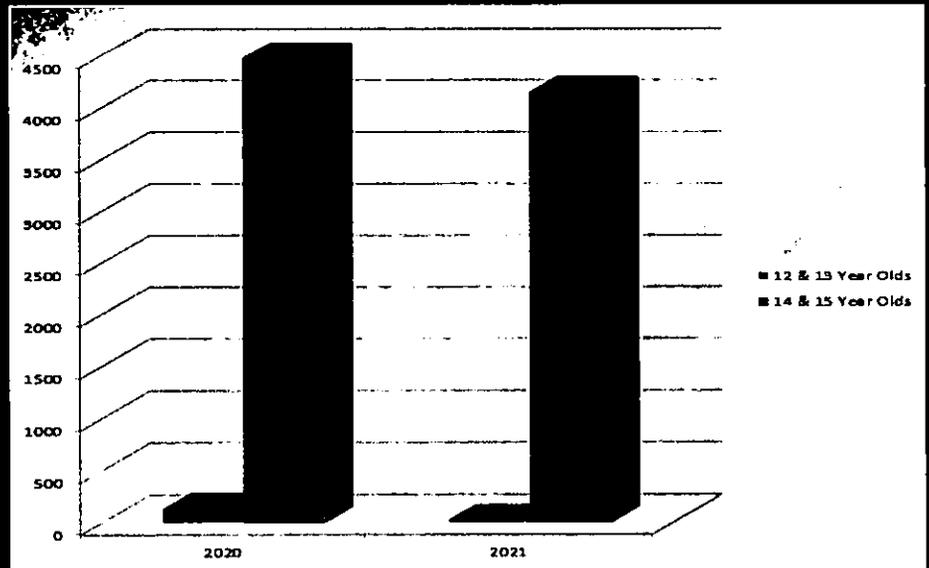
The parental permission must be on file at the establishment's worksite prior to the first day of employment. Parents can find a sample form for this purpose at: <https://www.nh.gov/lab/document/parental-permission.pdf>

Under age 16, the prospective employer completes a form called an Employer's Request for Child Labor and gives it to the youth. They bring this form either:

- to their local school or school superintendent's office to obtain the certificate (RSA 276-A:5),
- or to their parent or legal guardian, who may also complete the Youth Employment Certificate.

Whoever issues a certificate to a youth under the age of 16 should be making a favorable judgment as to the academic status and health status of the young person. They should revoke the certificate if they become dissatisfied with these conditions and notify the Department of Labor within 48 hours. The employer must have the certificate on file within three days of the employment date.

NH Youth Employment Reported to Labor



School-To-Work in New Hampshire

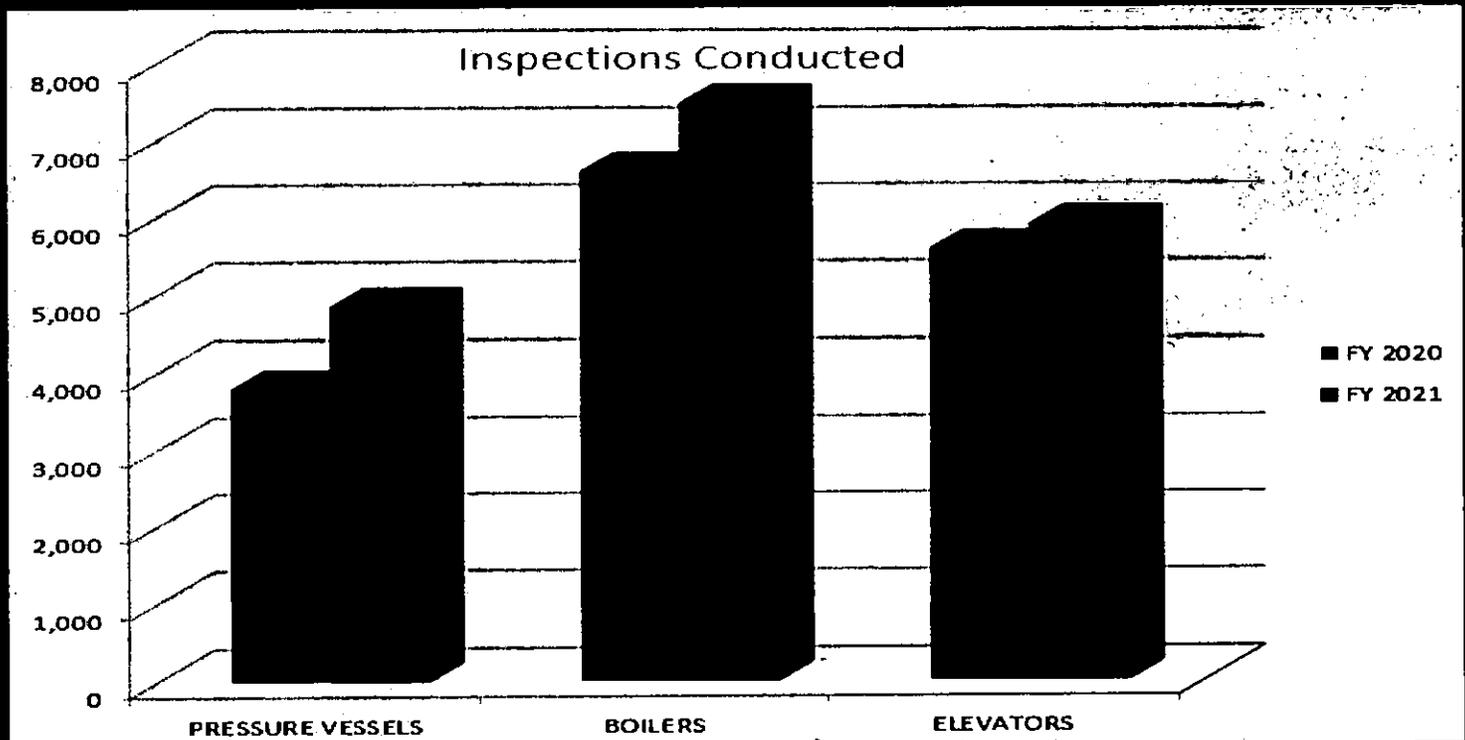
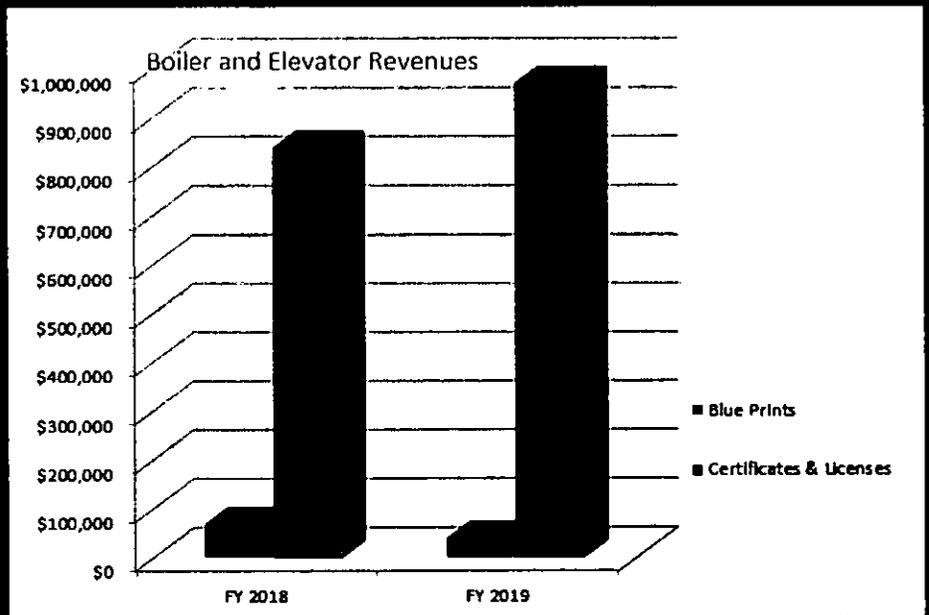
In the State of New Hampshire, work-based learning plays an integral role in workforce preparation. The goal of the School-to-Work initiative in New Hampshire is to prepare all students with the skills, abilities and knowledge necessary to make good career choices. Work based learning prepares our youth to become independent adults with opportunities for advanced education and career exploration, thus enhancing our economic strength. Schools and communities must work together in partnership to build a foundation of work-based learning and to provide the resources necessary to help all youth acquire the skills necessary to become independent and productive citizens. The Department approves school to work sites and lists pre-approved sites on its website at <https://www.nh.gov/labor/inspection/school-to-work.htm> and <https://www.nh.gov/labor/faq/school-to-work.htm>



Boiler & Elevator Inspection

The Inspection Division is also responsible for enforcing the state's Boiler and Pressure Vessel Law, and its Elevator and Accessibility Lift Law (RSA 157-A and RSA 157-B). Our highly trained staff ensure the safety of workers and the general public where these devices are present and in use.

It is our legal responsibility to seek compliance with safety codes through the inspection, enforcement, administration, and licensing process, for the protection of workers or the public who enter commercial buildings heated with boilers or equipped with pressure vessels, elevators, or accessibility lifts.



Safety & Training

Safety and health on-site inspections and statewide training sessions continue to be an important function of the Inspection Division. We provide these services to numerous public and private employers. Safety compliance inspections conducted in the public sector encompass state agencies, all municipalities, and the public schools.

In years past, the Inspection Division has held live labor law seminars in a variety of different locations around the State. We provide training to employers both in the public and private sectors, in order to assist them in understanding how to stay in compliance with NH labor laws. As shown in the chart at top right, the public health crisis of the past two years greatly impacted the delivery of this training, but technological improvements have allowed us to reach far more people and with greater convenience through remote learning opportunities in FY2021.

The entire live seminar documentation can still be found at the DOL website at <https://www.nh.gov/labor/inspection/seminar-packet.htm>



Lifecycle of a New Hampshire Employee



Hearings Bureau

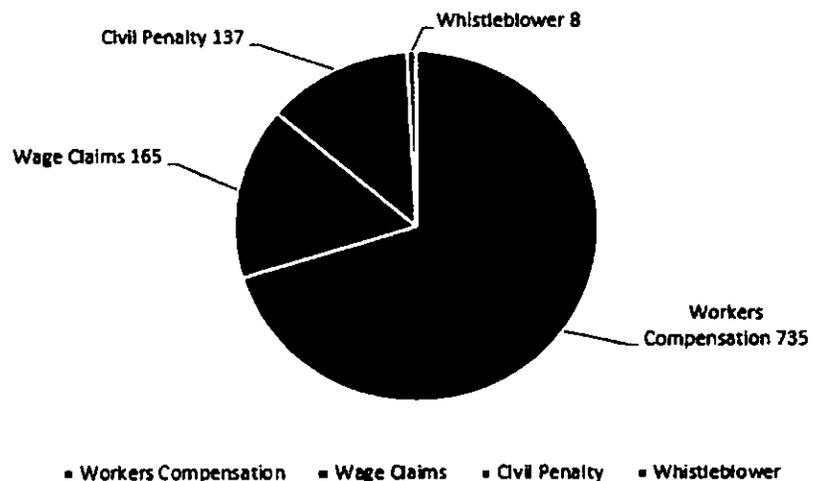
The Hearings Bureau, established by RSA 273:4-b, is comprised of six hearing officers, two program assistants, and is supervised by a hearings administrator. To ensure that the Bureau's decisions are made in a fair and impartial manner, it is a separate entity and therefore is no longer attached to another division. The Hearings Bureau is responsible for conducting all hearings for the Department of Labor covering the entire State of New Hampshire. Hearings are decided pursuant to statutory and administrative rule authority, which governs the adjudicative process. Parties requesting a hearing file a petition/request for hearing at the Department and pursuant to statutory and administrative requirements the hearings are scheduled within six weeks of receipt of the petition. Administrative hearings are conducted informally in an office setting and are based on a preponderance of the evidence legal standard. Pursuant to statute, hearing decisions are issued no later than 30 days after the close of the hearing record.

The scope of the hearings held by the hearings bureau is vast and the bureau holds hearings involving all areas that are regulated by the Department. The hearings range from workers' compensation disputes that arise out of RSA 281-A to alleged violations of the whistleblowers' protection act that arise from RSA 275-E.

The majority of the cases heard by the hearings bureau in FY 2020 and FY 2021 involved workers' compensation claims and alleged wage and hour violations. In addition to conducting formal hearings, the hearings bureau also conducts hearings pursuant to RSA 281-A: 37 with regards to approving and/or rejecting lump sum settlement agreements in workers' compensation cases. In FY 2020 the Department conducted 595 lump sum settlement hearings, and in FY 2021 the Department conducted 645 lump sum settlement hearings. After the hearings are conducted the Hearing Officer renders fair and just decisions based on the evidence presented. In FY 2020 the Bureau rendered 1,018 decisions.

Of the 1,018 decisions, 665 involved workers' compensation disputes and 348 involved claims of wage and hour and inspection violations. In cases involving workers' compensation matters, any party

1,045 DECISIONS RENDERED FY 2021



In March of 2020 the Hearing Bureau was faced with an unprecedented reality that its in-person hearing model would need to transition to a remote hearing platform due to the Covid19 pandemic. In making this transition, the Department relied on its administrative rules regarding telephonic and video hearings. These rules, adopted by the Department in 2007, had the foresight to envision that a remote hearing would be needed in the face of a contagious disease. See Lab 203.07 (b)(2)(e). The Department's seamless transition to a remote hearing model allowed for injured workers and employee/employers to continue to file petitions for hearing without any delays in the adjudicatory hearing process. The Department now continues to offer remote hearings as an option to our customers.

Participants at Department of Labor hearings can appear pro-se (without legal representation) or with an attorney to represent their interest. In workers' compensation cases the majority of participants are represented by legal counsel. In wage and hour and inspection cases the majority of participants appear without legal representation. Whether or not the person is represented, all parties are held to the same legal standards. The party with the burden of proof proceeds first at hearing. An aggrieved party to a hearing officer's decision with regards to a workers' compensation matter may appeal that decision to the Workers' Compensation Appeals board for a de novo hearing. An aggrieved party to a wage and hour decision may appeal that decision to the Superior Court. On appeal, the Court will not conduct a new hearing but will review the matter for an error in law. An aggrieved party to a matter involving a civil penalty may appeal that matter to the Civil Penalty Appeals Board.

to those cases can file a petition for hearing. In FY 2020, 55% of all workers' compensation hearings were requested by the injured workers. In FY 2021, 49% of the workers' compensation hearings were requested by the injured worker.

With regards to the 348 hearings decisions rendered on wage and hour and inspection cases in FY 20, 244 of those cases involved an employee alleging a violation of the New Hampshire Wage and Hour laws and 104

involve the Department of Labor seeking to assess a civil penalty for violations of legislation governed by the Department of Labor.

In FY 21 the hearings bureau rendered 302 decisions on wage and hour and inspection cases. 165 of those cases involved disputes between employees and employers alleging violations of the New Hampshire Wage and Hour laws and 137 involved the Department seeking to assess a civil penalty for violations of legislation governed by the Department of Labor.

Administratively Attached Boards

The Compensation Appeals Board

"The board shall consist of a pool of 33 members, of which 11 members shall represent labor, 11 members shall represent employers or workers' compensation insurers and 11 members shall be attorneys who shall be neutral... Members of the board shall have at least 5 years' experience in the area of workers'

compensation or human resources or administrative law... Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel, composed of an attorney who shall serve as chair, one member representing labor and one member representing employers or workers' compensation insurers. At least 2 like votes

shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, 1(b), from the decisions of the commissioner made pursuant to RSA 281-A:43... The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing." RSA 281-A:42-a.

As of June 30, 2021:

<u>Labor</u>	<u>Attorney Chair</u>	<u>Insurance / Management</u>
Dennis E.E. Adams	Donna Daneke, Esq.	Mary A. Ashcroft
Benjamin C. Baroodly	Eric P. Bernard, Esq.	Arthur J. Beaudry
Marc G. Beaudoin	Laurence W. Getman, Esq.	Maureen E. Dwyer-Heinrichs
James D. Casey	Hamilton R. Krans, Jr., Esq.	David F. Foster
Anne C. Eaton	Richard A. Mitchell, Esq.	Susan A. Jeffery
Leo D. Kelly	Edward Patch, Esq.	Brent Lemire
Vacancy	Christopher T. Regan, Esq.	Robert C. Norton
Daniel P. Manning	William J. Schubert, Esq.	Harry G. Ntapolis
Terence Pfaff	S. David Siff, Esq.	Thomas F. Parks, Jr.
Steven Soule	Timothy S. Wheelock, Esq.	Constance J. Roy-Morneau
Vacancy	Vacancy	Dennis Teravainen

Compensation Appeals Board Statistics

The Compensation Appeals Board began conducting appeal hearings on April 12, 1991. Since an appeal to the Compensation Appeals Board results in a new or de novo hearing at which additional evidence may be introduced, the decision of the appeal board may be different from the one issued by a hearing officer at the department level. For statistical purposes if the board decision is substantially different, it is counted here as reversed. If it is substantially similar, it is counted here as sustained.

APPEAL HEARINGS	FY2018	FY2019	FY2020	FY2021
APPEALS REQUESTED	415	419	397	441
APPEALS SCHEDULED	323	304	380	397
APPEALS WITHDRAWN	188	161	248	237
DECISIONS ISSUED	135	143	132	160
DECISIONS SUSTAINED	70.4%	58.7%	58.3%	60.0%
DECISIONS REVERSED	29.6%	41.3%	41.7%	40.0%

The Penalty Appeals Board

"There is hereby created a penalty appeal board which shall hear appeals from penalties imposed by the commissioner. The board shall be composed of 3 members, as follows: One person representing the interests of management, to be appointed by the governor and council; one person representing the interests of labor, to be appointed by the governor and

council; and one person to serve as chairman, who shall be an attorney and who shall be familiar with the labor laws of this state. The chairman shall be chosen and appointed jointly by the other 2 members of the board... At the time of making appointments pursuant to paragraph II, the governor and council or 2 appointing members of the board, as applicable, shall

also appoint an alternate member representing the interests of management, an alternate member representing the interests of labor and an alternate chairman..." RSA 273:11 -b. As of June 30, 2021:

Beth A. Deragon, Esq.	Chair
Gayle E. Troy	Management
Richard Laughton	Labor
Kathleen Peahl, Esq.	Alternate
Vacancy	Labor/Alternate

The Apprenticeship Advisory Council

"There is hereby created a state apprenticeship advisory council (the council), composed of: the labor commissioner or designee, the commissioner of the department of employment security or designee, the commissioner of the department of education or designee, a member representing the community college system of New Hampshire appointed by the chancellor of the community college system, and 2 members who shall be employers and 2 members who shall be employees or persons who represent said employees. The commissioner of labor, or designee, shall act as chairman. The 2 members who are employers and the 2 members who are employees or who represent said employees shall be appointed by the governor with the advice and consent of the council.

Over the course of the biennium, the Council has supported the efforts of the United States Department of Labor, Office of Apprenticeship in promoting the expansion of apprenticeship opportunities in New Hampshire.

The Council participates in annual events celebrating National Apprenticeship Week and promoting the use of apprenticeships in Granite State workplaces. Language approved by the Governor and Legislature in HB 2 for the 22-23 biennial budget has clarified the role of the Council as an advisory resource to the Office of Apprenticeship, rather than a regulatory agency. This simply codifies existing state and federal roles in apprenticeship programs in New

- Daniel LeClerc— Labor
- Catherine Walker—Employer
- Jonathan Mitchell—Labor
- Matthew Conserva—Employer
- Beth Doiron—CCSNH

The Worker Compensation Appeals Advisory Board

"There is hereby established a compensation appeals advisory board to advise the commissioner relative to candidates for the compensation appeals board, established in RSA 281-A:42-a. The board shall be composed of 5 members: One member representing labor, appointed by the commissioner... one member representing business... an attorney representing plaintiffs... an attorney representing defendants... [and] one member representing insurance... The advisory board shall: Evaluate candidates for the compensation appeals board based upon the nominee's education, knowledge, and experience in the area of workers' compensation law, submit names of qualified candidates to the commissioner, receive complaints from the commissioner pursuant to RSA 281-A:42-e, regarding current appeals board members, [and] distribute an anonymous questionnaire to participants who are involved in the appeals process. RSA 281-A:42-aa. As of June 30, 2021:

- Joshua Beauchemin — Labor
- Susannah Chance—Business
- Jared P. O'Connor, Esq— Plaintiffs
- Eric Falkenham, Esq— Defendants
- Nancy DiPietro—Insurance



The Vocational Rehabilitation Provider Board

"There is hereby established a vocational rehabilitation provider advisory board to advise the commissioner relative to certification procedures for vocational rehabilitation providers. The board shall be composed of 7 members: 5 members shall be vocational rehabilitation providers eligible for certification, appointed by the governor, one public member, appointed by the governor and the director of the division of workers' compensation, or designee... The board shall develop procedures which the commissioner shall adopt by rule under RSA 541-A, relative to:

- (a) The application process for certificates.
- (b) Certification categories.
- (c) The reviewing and certification process.
- (d) Continuing education requirements.
- (e) Renewals of certificates.
- (f) Fees for initial certificates and renewals and for other services provided under this subdivision.
- (g) Grounds for disciplinary proceedings and for revocation and suspensions of certificates.
- (h) Content and format of all forms required under this subdivision.
- (i) Requirements for certification.
- (j) Any other matter necessary to the administration of this subdivision." RSA 281-A:69

As of June 30, 2021:



Eileen Kackenmeister

Laurie Martin

Lisa Anastos

Francine Yencho

Vacancy

Vacancy

Danielle Albert—NH Labor Dept

The Worker Compensation

Advisory Council

"The advisory council shall consist of 9 members: the commissioner or a designee; the insurance commissioner or a designee; one member of the house of representatives, appointed by the speaker of the house; one member of the senate, appointed by the president of the senate; and 5 persons appointed by the governor and council, one representing the interests of management, who shall not have interests in the insurance field, one representing the interests of labor, one representing insurance interests of commercial workers' compensation carriers, one representing self-funded employers and one representing health care providers. The legislative members of the advisory council and the 5 members appointed by the governor and council shall be familiar with the workers'

compensation laws of New Hampshire... The advisory council shall discuss problems related to the administration of this chapter and shall discuss policy goals. The advisory council shall also ratify managed care programs established under RSA 281-A:23-a... The council shall meet as necessary and shall annually review the performance of the workers' compensation system and issue a report of its findings and conclusions ... as to the status of the workers' compensation system. In performing its responsibilities, the council may make recommendations relating to the adoption of rules and necessary legislation, develop recommendations regarding the method and form of statistical data collection, [and] monitor the performance of the workers' compensation system and monitor the implementation of legislative directives." RSA 281-A:62. As of June 30, 2021:

Sen. Harold French—NH State Senate

Hon. Leonard Turcotte—NH House

Margaret Crouch—Worker Compensation Carriers

Douglas M. Goumas, MD—Health Care Provider

Vacancy—Labor

Vacancy—Management

Marian Mitchell—Self-funded Employers

Ruju Dave—NH Insurance Dept

Danielle Albert—NH Labor Dept

STATE OF NEW HAMPSHIRE—DEPARTMENT OF LABOR
6-1th Biennial Report

