



A REPORT
TO THE
MONTANA
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

*Department of Labor
and Industry*

*For the Two Fiscal Years Ended
June 30, 2007*

OCTOBER 2007

LEGISLATIVE AUDIT
DIVISION

07-15

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October 2007

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Department of Labor and Industry for the two fiscal years ended June 30, 2007. Included in this report are control issues related to collections and federal and state compliance issues.

We thank the Commissioner and department staff for their assistance and cooperation during the audit.

Respectfully submitted,

/s/ Scott A. Seecat

Scott A. Seecat
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

Department of Labor and Industry

Keith Kelly, Commissioner

Dore Schwinden, Deputy Commissioner

Mike Cooney, Administrator, Business Standards Division

Jerry Keck, Administrator, Employment Relations Division

Ingrid Childress, Administrator, Workforce Services Division

Tammy LaVigne, Administrator, Centralized Services Division

Roy Mulvaney, Administrator, Unemployment Insurance Division

James Shea, Judge, Workers' Compensation Court

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REPORT SUMMARY

Department of Labor and Industry

This report documents 13 recommendations made as a result of issues noted during our financial-compliance audit of the Department of Labor and Industry (department) for the two fiscal years ended June 30, 2007. The previous audit report contained six recommendations.

We issued an unqualified opinion on the financial schedules presented in this report. This means the reader can rely on the presented financial information and the supporting detailed information on the primary accounting records.

The listing below serves as a means of summarizing the recommendations contained in the report, the department's response thereto, and a reference to the supporting comments.

Recommendation #1

We recommend the department implement adequate controls in its Unemployment Insurance tax collection and deposit process.....8

Department Response: Concur..... B-4

Recommendation #2

We recommend the department implement adequate controls for its deposit and reconciliation processes at the Business Standards Division. 10

Department Response: Concur..... B-4

Recommendation #3

We recommend the department implement computer access controls to limit license printing capability based on board assignments..... 10

Department Response: Concur..... B-4

Recommendation #4

We recommend the department establish controls for central purchases and for Workforce Investment Act contracts to ensure compliance with federal regulations related to suspension and debarment..... 12

Department Response: Concur..... B-4

Recommendation #5

We recommend the department establish written control procedures related to the Unemployment Insurance rate setting process to ensure compliance with state and federal law regarding cut-off points. 14

Department Response: Concur..... B-4

Recommendation #6

We recommend the department:

- A. Continue to enhance compliance with state law related to excess annual leave.
- B. Charge only allowable leave costs to federal programs 15

Department Response: Concur B-5

Recommendation #7

We recommend the department comply with state law related to surcharge and assessments calculations. 16

Department Response: Concur B-5

Recommendation #8

We recommend the department:

- A. Comply with state law related to Board of Pharmacy fees and Building Codes Program fines.
- B. Refund the amounts collected by the Board of Pharmacy and Building Codes Program in excess of existing statutory authority..... 16

Department Response: Concur B-5

Recommendation #9

We recommend the department classify revenue based on state accounting policy. 18

Department Response: Concur B-5

Recommendation #10

We recommend the department record surcharge revenue when it meets the recognition criteria as required by state policy. 19

Department Response: Concur B-5

Recommendation #11

We recommend the department improve its subrecipient monitoring to ensure compliance with federal cash management regulations. 20

Department Response: Concur B-6

Recommendation #12

We recommend the department submit applications in compliance with state law and monitor its subrecipients as required by federal regulations. 21

Department Response: Concur B-6

Recommendation #13

We recommend the department comply with state laws discussed in Table 6. 23

Department Response: Concur B-6

Chapter I — Introduction

Introduction

We performed a financial-compliance audit of the Department of Labor and Industry (department) for the two fiscal years ended June 30, 2007. The objectives of the audit were to:

1. Obtain an understanding of the department's control systems to the extent necessary to support our audit of the department's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the department.
2. Determine department compliance with applicable laws and regulations.
3. Determine if the financial schedules present fairly the results of operations of the department for each of the fiscal years ended June 30, 2007, and June 30, 2006.
4. Determine the implementation status of prior audit recommendations.

This report contains 13 recommendations to the department. In accordance with Section 5-13-307, MCA, we analyzed and disclosed, if significant, the costs of implementing the recommendations made in this report. Other areas of concern deemed not to have a significant effect on the successful operations of the department are not specifically included in the report, but have been discussed with management.

As required by Section 17-8-101(6), MCA, we analyzed the reasonableness of Internal Service Fund rates charged and fund equity balances at the department. The statute requires fees and charges for services be based upon commensurate costs. We found the rates were commensurate with costs for the activities in the Internal Service Fund in fiscal years 2006 and 2007.

Background

The Department of Labor and Industry operates as part of a national employment, unemployment insurance benefits, and training system that assists individuals in preparing for and finding jobs. The department assists employers in finding workers and pays workers unemployment benefits if they are temporarily unemployed through no fault of their own.

The department enforces state and federal labor, state wage and hour, workers' compensation, discrimination, and state and federal health safety laws. In addition, the department conducts research, collects statistics, and provides adjudicative services in labor management disputes. The department also administers building codes enforcement, weights and measures, and professional and occupational licensing.

The department is organized into the Commissioner's Office, five divisions, and 2 administratively attached units. A brief description of the divisions and administratively attached units with their full time equivalent (FTE) follows:

Commissioner's Office, Office of Legal Services and Office of Human Resources (29 FTE) - The Commissioner's Office provides administrative and support services to the department. It is responsible for the overall administration of the department, including direction and program focus. The Office of Legal Services provides legal services for the department and administratively attached boards and commissions. The Office of Human Resources provides personnel-related services to the department.

Centralized Services Division (40.5 FTE) - Centralized Services provides central services including payroll, accounting, purchasing, budgeting, and computer and general services. It provides administrative hearing and dispute resolution services.

Employment Relations Division (125.1 FTE) - Employment Relations administers and enforces federal and state statutes related to wage and hours, labor relations, workers' compensation, workplace safety, contractor registration, and human rights. In addition, both the Board of Personnel Appeals and Human Rights Commission, which are administratively attached to the department, are part of this division.

Unemployment Insurance Division (155 FTE) - Unemployment Insurance administers the state's unemployment insurance laws and related federal programs. The division operates through the Contributions, Program Support, and Claims Processing Bureaus. The Board of Labor Appeals that is administratively attached to the department is part of this division. The Unemployment Insurance fund balance in the Enterprise Fund at June 30, 2007, is \$261,617,692.

Workforce Services Division (306.7 FTE) - Workforce Services administers and operates employment, training, and re-training programs including the workforce centers. It collects, analyzes, and disseminates employment statistics, provides services to veterans and dislocated workers', and offers trade adjustment assistance to individuals affected by the North American Free Trade Agreement.

Business Standards Division (149.53 FTE) - Business Standards oversees professional and occupational licensing, weights and measures, and building codes administration. Thirty-four Licensing Boards that are administratively attached to the department are part of this division. Table 1 following this section provides the name of each Licensing Board.

Administratively attached units include:

Workers' Compensation Court (6 FTE) - The court provides a legal forum for Montana's employees and the insurance industry to resolve disputes arising out of work-related injuries and occupational disease.

Office of Community Services (4 FTE) - The office provides administration of the federal Corporation for National Service programs (Ameri Corps and Campus Corps) and community service and volunteer efforts statewide.

Table 1
Business Standards Division Boards

Board of Athletic Trainers
Board of Private Alternative Adolescent Residential or Outdoor Programs
Board of Barbers and Cosmetologists
Board of Sanitarians
Board of Public Accountants
Board of Realty Regulation
Board of Real Estate Appraisers
Board of Architects
Board of Landscape Architects
Board of Professional Engineers and Professional Land Surveyors
State Electrical Board
Board of Plumbers
Board of Athletics
Board of Outfitters
Board of Private Security Patrol Officers and Investigators
Alternative Health Care Board
Board of Medical Examiners
Board of Dentistry
Board of Pharmacy
Board of Nursing
Board of Nursing Home Administrators
Board of Optometry
Board of Chiropractors
Board of Radiologic Technologists
Board of Speech-Language Pathologists and Audiologists
Board of Hearing Aid Dispensers
Board of Psychologists
Board of Veterinary Medicine
Board of Funeral Service
Board of Social Work Examiners and Professional Counselors
Board of Physical Therapy Examiners
Board of Occupations Therapy Practice
Board of Respiratory Care Practitioners
Board of Clinical Laboratory Science Practitioners

Source: Compiled by Department of Labor and Industry personnel.

Prior Audit Recommendations

The prior financial-compliance audit of the Department of Labor and Industry for the two fiscal years ended June 30, 2005, contained six recommendations. The department has implemented five and has not implemented one. The recommendation not implemented relating to Licensing Boards reconciliations process is discussed on page 8.

Chapter II — Findings and Recommendations

Internal Control

In one of the newest auditing standards, internal control is defined as “...a process—effected by those charged with governance, management and other personnel—designed to provide reasonable assurance about the achievement of the entity’s objectives with regard to reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.”

During our audit we evaluated various aspects of the departments internal control process to the extent necessary to support our audit of the department’s financial schedules. State policy requires agencies to implement internal control procedures based upon their business processes. The following report sections discuss internal control issues we found.

Segregation of Duties and Reconciliations

We reviewed controls over collections, deposits, and recordkeeping at various locations within the department. State policy specifically requires controls over collections and deposits. An effective system of internal controls will provide reasonable assurance that the procedures for collections and deposits have been performed properly and reduces the potential for theft or misuse of funds or state resources. Two components of an effective control system are adequate segregation of duties and reconciliations. The following three report sections discuss instances where we found controls should be improved.

Unemployment Insurance Division Inadequate Segregation of Duties

Unemployment Insurance Division does not have adequate collections, deposit, and record keeping controls.

State policy requires that when feasible, responsibility for custody and recordkeeping for collections be separated to avoid placing employees in a position to perpetrate and conceal errors or irregularities in the normal course of their duties.

The department receives over \$80 million in Unemployment Insurance (UI) tax collections each year. Personnel estimated that 90 percent of collections are received in checks and cash, of which less than one-half of one percent is in cash. The remaining collections are received through electronic payments.

One employee at the department receives all checks and cash and prepares the daily deposit. Before completing the deposit, the employee reconciles the total from the checks and cash to the total on the computer system entered by data processing based on UI tax

reports. When the employee finds an error was made by data processing, the employee corrects the amount on the computer system. The responsibility for the deposit (custody) of the checks and the ability and responsibility to change amounts on the computer system (recordkeeping) are incompatible functions.

Department personnel indicated UI collections have been processed this way for years and they have never had any problems. However, under the current system the employee is in a position to change the amount received to a lesser amount on the computer system, remove checks or cash received, and replace with other checks and cash for a lesser amount. Despite other controls in the system, none of them would detect this on a timely basis. The department should evaluate its process and adequately segregate the custody and recordkeeping duties.

RECOMMENDATION #1

We recommend the department implement adequate controls in its Unemployment Insurance tax collection and deposit process.

Business Standards Division Inadequate Segregation of Duties and Lack of Reconciliations

The Business Standards Division does not have adequate controls over collections, deposits, and recordkeeping.

We noted the following weakness in control systems at the Business Standards Division (BSD). Table 2 on page 9 describes the three functions of the division.

Table 2 Business Standards Division		
Description of Activity	Revenue in Fiscal Years 2006 and 2007	Percent of Revenue Received Through Cash and Checks
34 Licensing Boards issue professional and occupational licenses and permits.	Over \$5 million in each fiscal year	75%
Buildings Codes Program issue building, mechanical, electrical, and plumbing permits.	Over \$5 million in each fiscal year	99%
Weights and Measures Program issue licenses and permits.	Over \$700,000 in each fiscal year.	Not relevant because collections for the program are through the one-stop function at Department of Revenue.
Source: Compiled by the Legislative Audit Division from department records.		

- ♦ The Licensing Boards and Building Codes Program do not have appropriate segregation of duties. As checks for licenses and permits are received, personnel are responsible for updating information on the computer system, printing out licenses and permits, and preparing the funds received for deposit.
- ♦ During fiscal year 2007 the Buildings Codes Program did not reconcile revenue on the state's accounting system for its program to the amounts sent to Centralized Services Division for deposit. Without this reconciliation in place, the department does not have adequate controls to ensure all funds received by Building Codes Program are deposited and recorded correctly on the accounting system.
- ♦ All Licensing Board deposit information is sent to Centralized Services Division (CSD) at the department to deposit and record the information on the state's accounting system. No reconciliation is performed between what is on the Licensing Board's computer system as licenses issued to revenue recorded on the state's accounting system.
- ♦ In response to a prior audit recommendation, the Licensing Boards initiated procedures to reconcile funds deposited to licenses printed. However, personnel found the reconciliation was not an adequate control to ensure that licenses cannot be printed if the appropriate fees have not been received and deposited.
- ♦ The Weights and Measures Program does not reconcile what the Department of Revenue records as revenue on the department's accounting records to the department's records of permits and licenses issued. Without the reconciliation the department does not know whether revenue recorded for the program is complete and accurate.

Our audit work performed in response to these control weakness did not identify any discrepancies between collections and deposits. Licensing Board personnel indicated that a committee has been organized to correct these control weaknesses and revamp the deposit process. Buildings Codes Program personnel stated that they have used their current system for many years and thought the controls were adequate. Weights and Measures Program personnel stated that in the past they did not receive all necessary information from the Department of Revenue to easily perform the reconciliation; however personnel indicated the information is now available to perform the reconciliation. Inadequate segregation of duties and lack of reconciliations increases the risk that errors or irregularities could occur and not be detected on a timely basis. The department should implement adequate controls over these processes.

RECOMMENDATION #2

We recommend the department implement adequate controls for its deposit and reconciliation processes at the Business Standards Division.

Licensing Board Access Controls

Employees with access to print licenses from the computer system have the ability to print licenses for all 34 Licensing Boards.

All Licensing Boards use the same computer system to process license applications and renewals. The department assigns certain employees to work for specific licensing boards. We identified a control weakness where employees with print access on the computer system can print licenses for any of the licensing boards. The computer system access controls do not restrict printing capability based on board assignments. Department personnel were not aware of this control weakness until it was brought to their attention during the audit.

This identified weakness increases the potential for licenses to be printed without proper authorization or payment and compensating controls do not exist. The department should implement controls to ensure only employees assigned to a specific board can print licenses for that board.

RECOMMENDATION #3

We recommend the department implement computer access controls to limit license printing capability based on board assignments.

Federal Compliance Controls

During both fiscal years 2006 and 2007 the department received over \$100 million in federal financial assistance. Federal regulations require the department to maintain internal control over federal programs to provide reasonable assurance that the department is managing its federal awards in compliance with laws, regulations and the provisions of grant agreements that could have a material effect on each of its federal programs. During the audit we tested the department's controls over material requirements for the Unemployment Insurance Program, Workforce Investment Act, and the Employment Services. Discussed below is an instance where we found the controls are not adequate.

Suspended and Debarred

The department does not have adequate controls to ensure compliance with federal suspension and debarment requirements.

Federal requirements prohibit the department from purchasing items or subgranting funds to entities on the federal suspended and debarred list.

Central Purchasing – At the department, all purchases except information technology items, go through a central purchasing person. We found that as part of this process, the department does not have controls in place to ensure that vendors selected for purchases over \$25,000 have not been suspended or debarred as required by federal regulations.

Department personnel indicated they rely on the Department of Administration (DOA) to ensure vendors have not been suspended or debarred for all purchases over \$25,000. Department personnel received a confirmation from one person at DOA that when they are aware that federal funds are involved they do review the federal suspended and debarred list for the purchase. However, on the DOA website it instructs agencies to review the federal suspended and debarred list if procurement projects involve federal funds. Since the department is ultimately responsible for compliance, the department should establish controls.

Workforce Investment Act – The department contracted with service providers for over \$9.8 million during the audit period to administer the Workforce Investment Act at the local level. The department's control to ensure the service providers comply with federal suspension and debarment regulations is through requirements in the contract. The contracts state "the entities will provide certification that they are not suspended or debarred." The department did not obtain certifications from any of the providers.

Department personnel indicated they intended the language in the contract to mean that by signing the contract the provider certified it had not been suspended or debarred. Since we brought this issue to their attention, department personnel have changed the language in their fiscal year 2008 contracts.

In both instances noted above, the department is not in compliance with federal regulations related to controls over suspension and debarment. The potential exists that the department could be contracting with vendors or providers that have been suspended or debarred.

RECOMMENDATION #4

We recommend the department establish controls for central purchases and for Workforce Investment Act contracts to ensure compliance with federal regulations related to suspension and debarment.

Compliance with State and Federal Laws and Regulations

The department is responsible for compliance with state and federal laws and regulations. During the audit of the department, we tested the department's compliance with approximately 385 laws. The following report sections discuss instances where the department was not complying with state and federal laws.

Unemployment Insurance

The department assigned employers incorrect Unemployment Insurance tax rates.

During fiscal year 2006 and 2007 the department collected over \$161 million in Unemployment Insurance (UI) tax revenue. For each calendar year the department has a process to assign approximately 35,000 employers each year to one of the 20 tax rates specified in state law based on employer experience in the UI program. The department first calculates theoretical cut-off points that will generate the amount of revenue needed to adequately fund the UI program. Next, they select actual cut-off points using the employer experience rating that are as close to the calculated cut-off points as possible. State law addresses whether an employer should be given the higher or lower tax rate if its experience rate falls between the actual and calculated cut-off points.

We found 15 of 40 cut-off points for the calendar years 2006 and 2007 rating process were incorrect. As a result, 21 employers were given an incorrect UI rate for calendar years 2006 and 2007. The dollar effect of the errors is in Table 3.

Table 3
Dollar Effect of the Errors

	Dollar amount of Over-Assessments	Dollar amount of Under-Assessments	Net Total
Calendar Year 2006	\$123,378	\$471	\$122,907
*Calendar Year 2007	\$141,604	\$130	\$141,474

*Calendar Year 2007 over and under assessments were estimated based on calendar year 2007 UI taxable wages available and 2006 taxable wages.

Source: Compiled by Department of Labor and Industry personnel.

Noncompliance with state UI law also is a federal compliance issue because federal regulations require the department to follow state UI laws that are approved by the federal government. As a result of the incorrect cut-off points, the department is not in compliance with state and federal laws.

Department personnel indicated the errors occurred for a number of reasons. Personnel assigned to establish and review the cut-off points for calendar year 2006 were not aware of the need to look at more than one factor when deciding the cut-off points. Beginning with calendar year 2007 cut-off points, the review was performed by personnel with a more complete understanding of the rating system. The review identified one of the errors, but since the review was after the rates were sent out, it could not be easily corrected so nothing was done.

Since a complete understanding of the rating system is limited, written control procedures including a timely review of cut-off points should be developed to comply with state and federal law.

Since we brought these tax rate errors to the department's attention, personnel have notified the employers' who paid more in UI taxes than they should have because of the incorrect tax rates. Their accounts have been credited for the difference between what they should have paid using the correct rate and what they paid using the incorrect rate. The department decided it would not bill employers' who paid less in UI taxes than they should have because of the incorrect tax rate since it was the departments error.

RECOMMENDATION #5

We recommend the department establish written control procedures related to the Unemployment Insurance rate setting process to ensure compliance with state and federal law regarding cut-off points.

Exceeding Authority in Law

The following three issues relate to instances where we noted the department exceeded its authority established in law.

Excess Annual Leave

The department did not follow state excess leave laws and charged unallowable leave costs to various federal programs.

Section 2-18-617, MCA, allows an employee to accumulate annual leave up to two times the maximum number of days earned annually. Additionally, it allows an employee to carry another years worth of leave which must be used in the following year or forfeited.

In January 2005 when a new department commissioner was appointed he instructed department personnel to comply with the excess leave law. However, personnel were allowed one year to use leave that should have already been forfeited according to state law. We found the department forfeited leave as required by state law for the two people who had excess leave as of January 2007.

Department personnel indicated that prior to January 2005, the department did not enforce the excess leave law. We noted the following three instances where the department allowed personnel to keep or use more annual leave than allowed by state law:

- ◆ Included in a termination payout was \$22,933 for 569 hours in excess of leave allowed by state law.
- ◆ One employee had accumulated 715 hours of excess leave when he transferred to another state agency. No payouts were made to this employee.
- ◆ One employee was allowed to use 14.67 hours (valued at \$303) annual leave which should have been forfeited.

According to federal regulations, any cost incurred in violation of a provision of a law is not allowed to be charged directly or indirectly to a federal program. Since the department did not follow state law in making the above payments and the costs were paid either

directly or indirectly from federal programs, we question \$22,933 in costs charged to various federal programs at the department.

RECOMMENDATION #6

We recommend the department:

- A. *Continue to enhance compliance with state law related to excess annual leave.*
 - B. *Charge only allowable leave costs to federal programs.*
-

Workers' Compensation Regulation

The surcharge and assessments rates for workers' compensation regulation are not in compliance with state law.

The department calculates a surcharge rate on workers' compensation premiums and individual assessments on entities who self-insure, or insurance companies who no longer sell workers' compensation policies. The purpose of collecting the surcharge and assessments is to fund the cost of workers' compensation regulation at the department. Section 39-71-201, MCA, specifies the assessments to be three percent of the workers' compensation benefits and the surcharge rate to be three percent of the workers' compensation benefits divided by the total premiums.

The department adopted administrative rules to effectively reduce the rate below three percent because for several years revenues collected have exceeded the costs of workers' compensation regulation. The department billed approximately \$1.8 million less during the audit period than it should have billed according to state law.

Department officials indicated they adopted rules because collecting three percent as required in law would over-fund the operations of the program and because the department could violate Section 17-2-302, MCA, that limits the amount of cash balance that can be maintained in a charges for services fund. In addition, the department believes it has the authority under Section 39-71-203, MCA, to establish the rules that reduce the rates. Although the intent of the rules reducing the surcharges and assessments is logical, the department cannot charge less than what is required in law. If compliance with the rate law causes noncompliance with the law that limits cash balances, the department should propose legislation to resolve this conflict.

RECOMMENDATION #7

We recommend the department comply with state law related to surcharge and assessments calculations.

Pharmacy and Building Codes

The Board of Pharmacy and the Building Codes are charging fees and fines not allowed by law.

In October 2006 the Board of Pharmacy raised its registration fee for dangerous drugs from \$75 to \$150, despite Section 50-32-103(2), MCA, that limits the maximum fee for any registration to \$100 per year. As a result, in fiscal year 2007 the Board of Pharmacy has collected at least \$12,000 more than it had authority to charge. Department personnel indicated that in October of 2006 the Board of Pharmacy implemented many fee increases and were not aware of the limitation in law on this particular fee.

Through April 2007 the Building Codes Program fined and collected almost \$13,000 from entities for not purchasing electrical and mechanical permits prior to starting work on their building projects. Department personnel said the department began charging fines to cover the costs of educating the individuals and the extra visits to the work sites to bring the entities and projects into compliance with the building code standards. However, the department does not have authority in state law to charge fines.

RECOMMENDATION #8

We recommend the department:

- A. *Comply with state law related to Board of Pharmacy fees and Building Codes Program fines.*
 - B. *Refund the amounts collected by the Board of Pharmacy and Building Codes Program in excess of existing statutory authority.*
-

Accounting Issues

State law requires the department to input all necessary transactions before the end of the fiscal year; to present the receipt, use, and disposition of all money and property, for

which it is accountable, in accordance with generally accepted accounting principles. The Department of Administration (DOA) establishes state policy to implement this law.

The following report sections discuss instances where the department is not in compliance with state accounting policy.

Revenue Misclassifications

Revenues are not classified properly on the state's accounting records.

State policy includes definitions for revenue classifications that is currently being updated by DOA. We believe the following three types of revenue are recorded in the incorrect revenue class using both the classifications in prior policy and the new draft classifications in state policy. The misstatements resulting from these misclassifications are identified in Table 4 on page 18.

- ◆ State policy states that charges for services revenue is based on exchange or exchange-like transactions, generally meaning that in return for payment the other party receives a service or good.

Workers' compensation assessments and surcharges are primarily paid by entities who self-insure against workers' compensation losses and employers who purchase workers' compensation insurance. The assessments and surcharges are used by the department to pay the cost of regulating workers' compensation. This revenue should not be classified as charges for services because the entities paying the assessment or surcharge are not receiving a good or service in exchange for the specific payment. This revenue should be classified as a tax. State policy defines a tax as a forced or compulsory payment, imposed by the state on its citizens and other taxpayers to obtain resources needed to provide services.

For safety purposes, the department regulates the construction and remodeling of buildings through the issuance of building, mechanical, plumbing, and electrical permits. This revenue is incorrectly classified as charges for services because the entities are not purchasing a good or service from the department. This revenue should be classified as licenses and permits as defined in state policy because the state is granting a right or privilege to a business to engage in a regulated activity.

- ◆ The department recorded federal revenue for the Workforce Investment Act as federal revenue. However, when the revenue was moved within the department it was incorrectly recorded as grants, contracts and abandonment's revenue. This revenue should have been recorded as federal revenue. State policy clearly defines federal revenue as all revenue from federal sources, including grants, and contracts.

After these issues were brought to the departments attention, the fiscal year 2007 activity was corrected for Building Codes Permits and Workforce Investment Act funds. The department should classify revenue based on definitions in state policy.

Table 4
Revenue Misclassifications

Type of Revenue	Fiscal Year 2006 Amount	Fiscal Year 2007 Amount	Revenue Class Overstated	Revenue Class Understated
Workers' Compensation Assessment & Surcharge	\$5,015,412	\$7,287,284	Charges for Services	Taxes
Building Codes Permits	\$5,265,040	\$0	Charges for Services	Licenses and Permits
Workforce Investment Act	\$785,020	\$0	Grants, Contracts, and abandonment	Federal

Source: Compiled by the Legislative Audit Division from accounting records.

RECOMMENDATION #9

We recommend the department classify revenue based on state accounting policy.

Workers' Compensation Surcharge Revenue

Improper revenue recognition for workers' compensation revenue.

Quarterly workers' compensation surcharges are due from insurance companies by the 20th of the month following the end of the quarter. For fiscal year 2006, the department received the 4th quarter surcharges in July and August of 2006. For all but one company, the surcharge revenue was recorded as current year revenue for fiscal year 2007. The department should have recorded an accrual as of June 30 for the surcharges that were due July 20 for the quarter ended June 30 because the revenue met the revenue recognition criteria in state policy.

As a result, fiscal year 2006 revenues and accounts receivables in the state special revenue fund are understated by approximately \$300,000, and fiscal year 2007 revenues and cash

are overstated by the same amount. Department personnel indicated that several years ago, they asked DOA personnel for their assistance and were instructed to record the revenue when it was received. However, in fiscal year 2005, DOA issued new policy related to revenue recognition that changed when this revenue should be recognized. The department should have changed its procedures when the new policy was issued.

RECOMMENDATION #10

We recommend the department record surcharge revenue when it meets the recognition criteria as required by state policy.

Subrecipient monitoring

Federal regulations require the department to monitor federal subgrant expenditures to assure compliance with federal regulations. Below are issues we found related to this federal requirement.

Workforce Services Division

The department did not identify noncompliance with federal cash management regulations on a timely basis through its subrecipients' monitoring system.

The department subgrants funds to the Department of Commerce (Commerce) and the Office of the Commissioner of Higher Education (CHE). Federal regulations require grantees to monitor grant and subgrant expenditures to assure compliance with federal regulations, including compliance with federal cash management regulations. Federal regulations require the grantee and subgrantee to minimize the time elapsing between the receipt of funds and disbursement by the grantee or subgrantee. The department interprets a week as a reasonable time between receipt and funds being spent.

In fiscal years 2006 and 2007 Commerce was not in compliance with federal cash management requirements for the Workforce Investment Act (WIA). In fiscal year 2007 neither Commerce or CHE were in compliance with federal cash management requirements for the Workforce Innovation in Regional Economic Development (WIRED) Initiative grant. Table 5 on the next page shows four examples we found where cash was not spent by Commerce or CHE within a week of when it was received from the department as required by federal regulations.

Table 5
Excess Federal Cash

State Agency	Federal Award	Excess Cash Balance	Minimum Number of Weeks Cash was Held
Commerce	WIRED	\$551,298	17
CHE	WIRED	18,529	5
Commerce	WIA	278,241	13
Commerce	WIA	64,463	65

Source: Compiled by the Legislative Audit Division from the Department of Commerce and the Office of the Commissioner of Higher Education records.

The department and its subrecipients (Commerce and CHE) received the WIRED grant in the spring of 2006. The department scheduled monitoring for Commerce and CHE in October of 2007. Department personnel said they would have identified the cash management issues when they monitored in October and taken appropriate action at that time. However, the subrecipients could have been out of compliance with cash management requirements for over a year and the department would not have known on a timely basis.

The department awarded the WIA grant to Commerce in the fall of 2005. The department monitored Commerce in October/November of 2006 but the monitoring failed to identify Commerce's noncompliance with cash management requirements. Department personnel stated this was an error and their monitoring should have identified this issue.

The department's current procedures are to monitor its subrecipients after the close of the fiscal year. Based on the instances identified above, these procedures are not adequate to assure compliance with federal requirements. The department should implement monitoring procedures sufficient to ensure its subrecipients comply with federal cash management regulations throughout the grant period.

RECOMMENDATION #11

We recommend the department improve its subrecipient monitoring to ensure compliance with federal cash management regulations.

Office of Community Services

The Office of Community Services does not monitor subrecipient of federal funds as required by federal regulations.

The Office of Community Services (OCS) does not monitor federal funds subgranted to the Office of Public Instruction (OPI) as required by federal regulations. OPI is the only subrecipient of this grant and received \$440,451 in fiscal year 2006 and \$259,905 in fiscal year 2007.

OCS personnel indicated they have not monitored OPI for at least four years because OPI applies directly for the funds from the federal government. State law requires all funds flow through the department to be disbursed to the entities chosen by the federal government. However, under federal regulations, the OCS qualifies as a pass-through entity because they are a non-federal entity that provides a federal award to a subrecipient to carry out a federal program. Federal regulations require that pass-through entities monitor subrecipients.

In addition, we found OCS does not submit OPI's application to the federal government as required by state law. An OCS official said she was not aware of the requirement in state law. Reviewing and submitting OPI's applications as required by state law is one way OCS could monitor its subrecipients as required by federal regulations.

RECOMMENDATION #12

We recommend the department submit applications in compliance with state law and monitor its subrecipients as required by federal regulations.

Noncompliance with State Laws

The department is not in compliance with several state laws.

We noted the following instances discussed in the table where the department is not in compliance with state law.

Section of MCA	Department's Noncompliance
Section 39-71-201(5b), MCA-Requires workers' compensation assessments based on 3% for inactive Plan 1 members.	In fiscal year 2006 the department charged eight inactive entities a minimum of \$500 assessments which were greater than the three percent assessments provided by law.
Section 2-15-1705(5), MCA-Requires Board of Personnel Appeals to appoint substitute members.	Since 1997 the Governor has appointed the substitute members.
Sections 37-18-302 and 37-19-403(2), MCA-Requires certain fees for veterinarians and funeral services be commensurate with costs.	The department does not have cost justification for the fees because they adhere to Section 39-1-134, MCA, that require for each board the overall fees be commensurate with costs.
Section 50-73-409, MCA-Requires three copies of the statement of condition be posted for mine inspections where a local union has jurisdiction.	The department does not post three copies of the statement of condition because they believe three copies are redundant since at all of the mines there is just one central location for this type of notice.
Section 37-4-501, MCA-Requires the Board of Dentistry to prescribe a form for dentists to use when they employ a business to make and/or repair prosthetic or surgical orthodontic applications.	The board has not created or prescribed any such work forms and department personnel did not know why the board has not complied. After this issue was brought to the departments a form was developed.
Section 37-16-202(4), MCA-Requires the Board of Hearing Aid Dispensers to carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids.	The board does not perform the inspections.
Sections 37-4-327(2), 37-7-324, & 37-16-408, MCA-Requires that fines and penalties for the Board of Dentistry, Board of Pharmacy, and Board of Hearing Aid Dispensers be deposited in the State Special Revenue Fund.	All fines and penalties received during the audit period (totaling \$2,200) for these boards were deposited in the General Fund.

Source: Compiled by the Legislative Audit Division from department records.

The department should comply with laws discussed in Table 6. In some instances, the department should consider whether legislation should be proposed to amend the laws.

RECOMMENDATION #13

We recommend the department comply with state laws discussed in Table 6.

Independent Auditor's Report & Department Financial Schedules

Scott A. Seacat, Legislative Auditor
Tori Hunthausen,
Chief Deputy Legislative Auditor



Deputy Legislative Auditors:
James Gillett
Angie Grove

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances & Property Held in Trust, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Labor and Industry for each of the fiscal years ended June 30, 2007, and 2006. The information contained in these financial schedules is the responsibility of the department's management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the financial schedules are presented on a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the department's assets, liabilities, and cash flows.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances/property held in trust of the Department of Labor and Industry for each of the fiscal years ended June 30, 2007, and 2006, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

/s/ James Gillett

James Gillett, CPA

Deputy Legislative Auditor

August 23, 2007

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

FUND BALANCE: July 1, 2006	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Private Purpose Trust Fund
PROPERTY HELD IN TRUST: July 1, 2006	\$ (102,454)	\$ 24,617,847	\$ 24,499	\$ 230,305,362	\$ 161,438	\$ 0	\$ 5,169,000
						\$ 14,467	
ADDITIONS							
Budgeted Revenues & Transfers-In	60,148	41,939,584	31,810,938	103,484,332	6,100,898		
Nonbudgeted Revenues & Transfers-In	566	600,851	4,472	276			
Prior Year Revenues & Transfers-In Adjustments	1,621,599	(115,589)	81,485	19,141	276		
Direct Entries to Fund Balance		(370,656)	(241,964)	(677)			
Additions to Property Held in Trust						116,342	
Total Additions	1,682,313	42,054,190	31,654,931	103,503,072	6,101,174	116,342	0
REDUCTIONS							
Budgeted Expenditures & Transfers-Out	1,730,606	35,951,845	31,592,283	75,217,411	6,030,929		
Nonbudgeted Expenditures & Transfers-Out		582,944		(898,530)	29,328		
Prior Year Expenditures & Transfers-Out Adjustments	4,308	20,990	63,879	(4,265)	21,075		
Reductions in Property Held in Trust						91,014	
Total Reductions	1,734,914	36,555,779	31,656,162	74,314,616	6,081,332	91,014	0
FUND BALANCE: June 30, 2007	\$ (155,055)	\$ 30,116,258	\$ 23,268	\$ 259,493,818	\$ 181,280	\$ 0	\$ 5,169,000
PROPERTY HELD IN TRUST: June 30, 2007						\$ 39,795	

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
 SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
 FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Private Purpose Trust Fund
FUND BALANCE: July 1, 2005	\$ (30,566)	\$ 24,173,330	\$ 4,969	\$ 206,417,964	\$ 264,673	\$ 0	\$ 4,642,000
PROPERTY HELD IN TRUST: July 1, 2005						\$ 7,051	
ADDITIONS							
Budgeted Revenues & Transfers-In	43,835	36,734,774	31,962,644	97,959,725	5,638,294		527,000
Nonbudgeted Revenues & Transfers-In	416	700,640	3,876	410			
Prior Year Revenues & Transfers-In Adjustments		(1,040,457)	(46,944)	(2,783)	356		
Cash Transfers In/Out							
Direct Entries to Fund Balance	1,537,723	(94,843)	(9,341)	(43,913)	(40)		
Additions to Property Held in Trust						138,592	
Total Additions	<u>1,581,974</u>	<u>36,300,114</u>	<u>31,910,235</u>	<u>97,913,439</u>	<u>5,638,610</u>	<u>138,592</u>	<u>527,000</u>
REDUCTIONS							
Budgeted Expenditures & Transfers-Out	1,653,863	35,191,958	31,861,793	71,515,692	5,648,665		
Nonbudgeted Expenditures & Transfers-Out		630,030		2,322,577	89,011		
Prior Year Expenditures & Transfers-Out Adjustments	(1)	33,609	28,912	187,772	4,169		
Reductions in Property Held in Trust						131,176	
Total Reductions	<u>1,653,862</u>	<u>35,855,597</u>	<u>31,890,705</u>	<u>74,026,041</u>	<u>5,741,845</u>	<u>131,176</u>	
FUND BALANCE: June 30, 2006	\$ (102,454)	\$ 24,617,847	\$ 24,499	\$ 230,305,362	\$ 161,438	\$ 0	\$ 5,169,000
PROPERTY HELD IN TRUST: June 30, 2006						\$ 14,467	

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
 SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
 FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS						
Licenses and Permits		\$ 13,415,055				\$ 13,415,055
Taxes	\$ 566	11,035	4,474			16,075
Charges for Services		9,871,398		81,244	4,874,181	14,826,823
Investment Earnings		563,594		11,726,340		12,289,934
Fines, Forfeits and Settlements	60,148	4,189,911	597,533	100		4,847,692
Sale of Documents, Merchandise and Property		50,286		5,300		55,586
Rentals, Leases and Royalties		45,855				45,855
Contributions and Premiums		9,240,318		83,661,425		92,901,743
Miscellaneous				1,129,955		1,129,955
Grants, Contracts, Donations and Abandonments		4,943,658	(786,774)			4,156,884
Other Financing Sources		93,736	1,066,119			1,159,855
Federal			31,015,543	6,899,385		37,914,928
Federal Indirect Cost Recoveries					1,226,993	1,226,993
Total Revenues & Transfers-In	60,714	42,424,846	31,896,895	103,503,749	6,101,174	183,987,378
Less: Nonbudgeted Revenues & Transfers-In	566	600,851	4,472	276		606,165
Prior Year Revenues & Transfers-In Adjustments		(115,589)	81,485	19,141	276	(14,687)
Actual Budgeted Revenues & Transfers-In	60,148	41,939,584	31,810,938	103,484,332	6,100,898	183,395,900
Estimated Revenues & Transfers-In	49,251	43,478,708	31,881,124	103,246,781	5,590,357	184,246,221
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ 10,897	\$ (1,539,124)	\$ (70,186)	\$ 237,551	\$ 510,541	\$ (850,321)
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS						
Licenses and Permits		\$ (671,408)				\$ (671,408)
Taxes	\$ (131)	(6,265)				(6,396)
Charges for Services		(2,798,462)		78,244	510,480	(2,209,738)
Investment Earnings	(20)	135,054		(452,040)		(317,006)
Fines, Forfeits and Settlements	11,048	2,225,963	171,493	(686)		2,407,818
Sale of Documents, Merchandise and Property		31,040		300		31,340
Rentals, Leases and Royalties		(45)				(45)
Contributions and Premiums		(60,675)		142,393		81,718
Miscellaneous				254,955		254,955
Grants, Contracts, Donations and Abandonments		(426,708)				(426,708)
Other Financing Sources		32,382	106,119		(100,000)	38,501
Federal			(347,798)	214,385		(133,413)
Federal Indirect Cost Recoveries					100,061	100,061
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ 10,897	\$ (1,539,124)	\$ (70,186)	\$ 237,551	\$ 510,541	\$ (850,321)

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Enterprise Fund	Internal Service Fund	Private Purpose Trust Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS							
Licenses and Permits		\$ 5,756,387				\$	\$ 5,756,387
Taxes	\$ 416	10,248	3,876				14,540
Charges for Services		12,828,926		\$ 128,462	\$ 4,474,569		17,431,957
Investment Earnings	7	397,484		10,341,155			10,738,646
Fines, Forfeits and Settlements	43,828	3,128,476	542,563	4,400			3,719,267
Sale of Documents, Merchandise and Property		12,494		2,740			15,234
Rentals, Leases and Royalties		35,181					35,181
Contributions and Premiums		8,741,350		76,754,170			85,495,520
Miscellaneous		24,276		3,493,293			3,517,569
Grants, Contracts, Donations and Abandonments		5,351,739	790,708			\$ 527,000	6,669,447
Other Financing Sources		108,396	557,800		300		666,496
Federal			30,024,629	7,233,132			37,257,761
Federal Indirect Cost Recoveries					1,163,781		1,163,781
Total Revenues & Transfers-In	44,251	36,394,957	31,919,576	97,957,352	5,638,650	527,000	172,481,786
Less: Nonbudgeted Revenues & Transfers-In	416	700,640	3,876	410		527,000	1,232,342
Prior Year Revenues & Transfers-In Adjustments		(1,040,457)	(46,944)	(2,783)	356		(1,089,828)
Actual Budgeted Revenues & Transfers-In	43,835	36,734,774	31,962,644	97,959,725	5,638,294	0	172,339,272
Estimated Revenues & Transfers-In	44,202	35,248,912	34,408,807	95,531,421	5,339,870		170,573,212
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ (367)	\$ 1,485,862	\$ (2,446,163)	\$ 2,428,304	\$ 298,424	\$ 0	\$ 1,766,060
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS							
Licenses and Permits		\$ (596,489)				\$	\$ (596,489)
Taxes	\$ (131)	(18,265)					(18,396)
Charges for Services		1,514,760		\$ 56,357	\$ 261,370		1,832,487
Investment Earnings	(3)	32,864		(27,064)			5,797
Fines, Forfeits and Settlements	(233)	1,182,975	(47,554)	3,214			1,138,402
Sale of Documents, Merchandise and Property		(1,648)		(129,662)			(131,310)
Rentals, Leases and Royalties		507					507
Contributions and Premiums		(45,884)		(250,966)			(296,850)
Miscellaneous		32		2,743,293			2,743,325
Grants, Contracts, Donations and Abandonments		(590,635)	(213,438)				(804,073)
Other Financing Sources		7,645	7,801				15,446
Federal			(2,192,972)	33,132			(2,159,840)
Federal Indirect Cost Recoveries					37,054		37,054
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ (367)	\$ 1,485,862	\$ (2,446,163)	\$ 2,428,304	\$ 298,424	\$ 0	\$ 1,766,060

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	Business Standards Division	Commissioner's Office Centralized Services Division	Employment Relations Division	Office of Community Services	Unemployment Insurance Division	Workforce Services Division	Workers' Compensation Court	Total
Personal Services								
Salaries	\$ 5,615,217	\$ 3,074,245	\$ 4,833,673	\$ 176,095	\$ 5,314,426	\$ 12,570,871	\$ 310,605	\$ 31,895,132
Other Compensation	97,275		4,750	475	5,500	1,471		109,471
Employee Benefits	1,913,776	858,687	1,565,897	58,422	1,823,587	4,476,883	96,431	10,793,683
Personal Services-Other	(6,842)	22,367				(75)		15,450
Total	7,619,426	3,955,399	6,404,320	234,992	7,143,513	17,049,150	407,036	42,813,736
Operating Expenses								
Other Services	1,119,400	330,106	985,036	74,152	1,761,515	1,339,654	21,574	5,631,437
Supplies & Materials	451,410	127,077	356,401	57,718	193,288	798,705	5,296	1,989,895
Communications	406,692	61,824	256,567	9,285	347,577	371,797	6,507	1,460,249
Travel	520,584	33,934	212,968	48,340	113,790	397,178	9,738	1,336,532
Rent	357,537	216,271	494,016	14,737	263,967	929,817	25,499	2,301,844
Utilities	4,470		8,057		17,816	137,185	3,246	170,774
Repair & Maintenance	125,226	21,530	37,845	672	52,669	335,920	2,015	575,877
Other Expenses	3,835,432	328,582	614,920	68,729	(565,889)	1,378,459	30,641	5,690,874
Goods Purchased For Resale	10,086							10,086
Total	6,830,837	1,119,324	2,965,810	273,633	2,184,733	5,688,715	104,516	19,167,568
Equipment & Intangible Assets								
Equipment	164,587	8,733	58,452		14,398	88,638		334,808
Intangible Assets			9,005					9,005
Total	164,587	8,733	67,457		14,398	88,638		343,813
Grants								
From State Sources	6,420					347,610		354,030
From Federal Sources				1,950,876		5,184,664		7,135,540
Total	6,420			1,950,876		5,532,274		7,489,570
Benefits & Claims								
To Individuals			1,880,921		73,504,939			75,385,860
From State Sources			134,300					134,300
Insurance Payments			229,166					229,166
Total			2,244,387		73,504,939			75,749,326
Transfers								
Accounting Entity Transfers			43,862	701,813	1,066,119	2,228,268		4,040,062
Mandatory Transfers					563,477	171,476		734,953
Total			43,862	701,813	1,629,596	2,399,744		4,775,015
Debt Service								
Capital Leases					3,775			3,775
Total					3,775			3,775
Total Expenditures & Transfers-Out	\$ 14,621,270	\$ 5,083,356	\$ 11,725,836	\$ 3,161,314	\$ 84,480,954	\$ 30,758,521	\$ 511,552	\$ 150,342,803
EXPENDITURES & TRANSFERS-OUT BY FUND								
General Fund		\$ 232,779	\$ 924,101	\$ 62,120		\$ 515,914		\$ 1,734,914
State Special Revenue Fund	\$ 12,280,801	658,549	9,214,912	181,352	\$ 718,888	12,989,725	\$ 511,552	\$ 36,555,779
Federal Special Revenue Fund		451,165	721,158	2,917,842	10,318,340	17,247,657		31,656,162
Enterprise Fund			865,665		73,443,726	5,225		74,314,616
Internal Service Fund	2,340,469	3,740,863						6,081,332
Total Expenditures & Transfers-Out	14,621,270	5,083,356	11,725,836	3,161,314	84,480,954	30,758,521	511,552	150,342,803
Less: Nonbudgeted Expenditures & Transfers-Out	2,140	27,254	466,215	150,975	(1,127,621)	194,779		(286,258)
Prior Year Expenditures & Transfers-Out Adjustments	31,519	172	11,020	405	(11,211)	76,542	(2,461)	105,986
Actual Budgeted Expenditures & Transfers-Out	14,587,611	5,055,930	11,248,601	3,009,934	85,619,786	30,487,200	514,013	150,523,075
Budget Authority	15,414,689	5,813,771	12,379,038	3,174,878	103,120,291	54,181,177	584,210	194,668,054
Unspent Budget Authority	\$ 827,078	\$ 757,841	\$ 1,130,437	\$ 164,944	\$ 17,500,505	\$ 23,693,977	\$ 70,197	\$ 44,144,979
UNSPENT BUDGET AUTHORITY BY FUND								
General Fund		\$ 4,111	\$ 5			\$ 6,342		\$ 10,458
State Special Revenue Fund	\$ 620,650	322,815	877,768	\$ 140,934	\$ 2,574	1,330,682	\$ 70,197	\$ 3,365,620
Federal Special Revenue Fund		197,753	13,588	24,010	6,537,472	22,215,941		28,988,764
Enterprise Fund			239,076		10,960,459	141,012		11,340,547
Internal Service Fund	206,428	233,162						439,590
Unspent Budget Authority	\$ 827,078	\$ 757,841	\$ 1,130,437	\$ 164,944	\$ 17,500,505	\$ 23,693,977	\$ 70,197	\$ 44,144,979

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF LABOR & INDUSTRY
 SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
 FOR THE FISCAL YEAR ENDED JUNE 30, 2006

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	Business Standards Division	Commissioner's Office Centralized Services Division	Employment Relations Division	Office of Community Services	Unemployment Insurance Division	Workforce Services Division	Workers' Compensation Court	Total
Personal Services								
Salaries	\$ 5,450,838	\$ 2,904,212	\$ 4,682,707	\$ 140,107	\$ 5,080,656	\$ 11,587,492	\$ 339,889	\$ 30,185,901
Other Compensation	98,975		6,275	342	6,000	5,023		116,615
Employee Benefits	1,746,378	797,071	1,455,573	48,649	1,695,567	3,965,399	88,962	9,797,599
Personal Services-Other	261,966	(166,070)				(1,938)		93,958
Total	7,558,157	3,535,213	6,144,555	189,098	6,782,223	15,555,976	428,851	40,194,073
Operating Expenses								
Other Services	1,349,036	304,254	1,127,025	36,333	1,402,399	1,337,829	29,824	5,586,700
Supplies & Materials	527,538	136,583	471,375	41,978	251,621	1,150,860	33,312	2,613,267
Communications	458,772	71,343	353,741	5,564	360,616	384,962	7,400	1,642,398
Travel	548,689	42,983	221,971	57,824	111,599	336,904	6,566	1,326,536
Rent	352,013	224,465	464,752	14,059	236,025	816,147	28,695	2,136,156
Utilities	4,350		6,836		30,171	141,798	3,387	186,542
Repair & Maintenance	92,271	27,044	26,971	672	84,611	366,853	2,339	600,761
Other Expenses	3,563,718	357,015	602,871	39,281	2,709,198	1,285,671	31,292	8,589,046
Goods Purchased For Resale	6,907							6,907
Total	6,903,294	1,163,687	3,275,542	195,711	5,186,240	5,821,024	142,815	22,688,313
Equipment & Intangible Assets								
Equipment	266,196	(8,733)	335,608		184,879	326,799		1,104,749
Intangible Assets			31,191					31,191
Total	266,196	(8,733)	366,799		184,879	326,799		1,135,940
Grants								
From State Sources	21,001					430,339		451,340
From Federal Sources				2,599,113		8,381,321		10,980,434
Total	21,001			2,599,113		8,811,660		11,431,774
Benefits & Claims								
To Individuals			1,387,947		70,459,358			71,847,305
From State Sources			148,700					148,700
Insurance Payments			311,661					311,661
Total			1,848,308		70,459,358			72,307,666
Transfers								
Accounting Entity Transfers	54,880		55,392		557,800			668,072
Mandatory Transfers					567,840	170,597		738,437
Total	54,880		55,392		1,125,640	170,597		1,406,509
Debt Service								
Capital Leases					3,775			3,775
Total					3,775			3,775
Total Expenditures & Transfers-Out	\$ 14,803,528	\$ 4,690,167	\$ 11,690,596	\$ 2,983,922	\$ 83,742,115	\$ 30,686,056	\$ 571,666	\$ 149,168,050
EXPENDITURES & TRANSFERS-OUT BY FUND								
General Fund		\$ 199,228	\$ 902,488	\$ 38,078		\$ 514,068		\$ 1,653,862
State Special Revenue Fund	\$ 12,349,815	760,835	9,217,598	62,321	720,400	12,172,962	571,666	35,855,597
Federal Special Revenue Fund		441,972	777,674	2,883,523	9,803,367	17,984,169		31,890,705
Enterprise Fund			792,836		73,218,348	14,857		74,026,041
Internal Service Fund	2,453,713	3,288,132						5,741,845
Total Expenditures & Transfers-Out	14,803,528	4,690,167	11,690,596	2,983,922	83,742,115	30,686,056	571,666	149,168,050
Less: Nonbudgeted Expenditures & Transfers-Out	299,274	(155,383)	416,984	62,321	2,221,116	197,306		3,041,618
Prior Year Expenditures & Transfers-Out Adjustments	4,875	1,170	205,176		73,984	(30,938)	194	254,461
Actual Budgeted Expenditures & Transfers-Out	14,499,379	4,844,380	11,068,436	2,921,601	81,447,015	30,519,688	571,472	145,871,971
Budget Authority	15,311,793	5,842,988	11,225,586	2,996,677	103,425,815	54,018,669	573,793	193,395,321
Unspent Budget Authority	\$ 812,414	\$ 998,608	\$ 157,150	\$ 75,076	\$ 21,978,800	\$ 23,498,981	\$ 2,321	\$ 47,523,350
UNSPENT BUDGET AUTHORITY BY FUND								
General Fund		\$ 1	\$ 12			\$ 18,172		\$ 18,185
State Special Revenue Fund	\$ 643,689	305,412	32,423		\$ 4,189	1,465,860	2,321	2,453,894
Federal Special Revenue Fund		634,255	3,125	\$ 75,076	7,457,977	21,887,390		30,057,823
Enterprise Fund			121,590		14,516,634	127,559		14,765,783
Internal Service Fund	168,725	58,940						227,665
Unspent Budget Authority	\$ 812,414	\$ 998,608	\$ 157,150	\$ 75,076	\$ 21,978,800	\$ 23,498,981	\$ 2,321	\$ 47,523,350

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

Department of Labor and Industry
Notes to the Financial Schedules
For the Two Fiscal Years Ended June 30, 2007

1. Summary of Significant Accounting Policies

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, Federal Special Revenue). In applying the modified accrual basis, the department records:

Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.

Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

The department uses accrual basis accounting for its Proprietary (Enterprise and Internal Service) and Fiduciary (Private-Purpose Trust, Agency) fund categories. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period when realizable, measurable, and earned, and records expenses in the period incurred when measurable.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

Governmental Fund Category

The department uses the following funds:

- ◆ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.

- ♦ **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that are legally restricted to expenditures for specific state program purposes. Department State Special Revenue Funds include professional and occupational Licensing Boards, Weights and Measures, Building Codes, Uninsured Employers, Workers' Compensation Regulation, Employment Security, and contracts from PHHS.
- ♦ **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Department Federal Special Revenue Funds include Employment Services, Workforce Investment Act, and Unemployment Insurance Administrative Funds.

Proprietary Fund Category

- ♦ **Internal Service Fund** – to account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursement basis. Department Internal Service Funds include funds to accumulate and distribute costs. These include the Commissioner's Office, Centralized Services-Direct Charge Fund, Business Standards Division Administrative Services Fund, and the Business Services Division Hearing Fund.
- ♦ **Enterprise Fund** – to account for operations (a) financed and operated in a manner similar to private business enterprises, where the Legislature intends that the department finance or recover costs primarily through user charges; (b) where the Legislature has decided that periodic determination of revenues earned, expenses incurred or net income is appropriate; (c) where the activity is financed solely by a pledge of the net revenues from fees and charges of the activity; or (d) when laws or regulations require that the activities' cost of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues. The department's Enterprise Funds include the Subsequent Injury- Trust Fund and the Unemployment Insurance (UI) Fund. The June 30, 2007, UI fund balance is \$261,617,692. The fund balance includes \$254,980,303 in cash held by the United States Treasury.

Fiduciary Fund Category

- ♦ **Private-Purpose Trust Fund** – to account for activity of any trust arrangement not properly reported in a pension fund or an investment trust fund where the principal and income benefit individuals, private organizations, or other governments. Department private-purpose trust fund is the Workers' Compensation Plan Securities Fund.
- ♦ **Agency Fund** – to account for resources held by the state in a custodial capacity. Agency funds may be used on a limited basis for internal (to the State) clearing account activity but these must have a zero balance at fiscal year-end. The department's agency fund is the Wage Collection Fund.

2. General Fund Balance

The negative fund balance in the General Fund does not indicate overspent appropriation authority. The department has authority to pay obligations from the statewide General

Fund within its appropriation limits. The department expends cash or other assets from the statewide fund when it pays General Fund obligations. The department's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending General Fund balances for each of the fiscal years ended June 30, 2006, and 2007.

3. Federal Special Revenue Fund Revenues

State and federal laws require Unemployment Insurance (UI) fines and penalties revenue and UI Reed Act transfers to be recorded in the Federal Special Revenue Fund. Approximately \$785,020 of Workforce Investment Act revenue is classified as Grants, Contracts, Donations, and Abandonments revenue on the fiscal year 2006 Schedule of Revenues and Transfer-In. This activity is reported as federal revenue on the fiscal year 2007 Schedule of Revenues and Transfers-In.

4. Building Codes Program Revenue

The Department of Labor and Industry recorded Building Codes Program revenue as Charges for Services in fiscal year 2006 and as Licenses and Permits in fiscal year 2007.

In fiscal year 2007 the department recorded a revenue estimate for the Building Codes Program in the Charges for Services category amounting to \$4.5 million in addition to a revenue estimate in the Licenses and Permits category for the same revenue.

DEPARTMENT OF
LABOR AND INDUSTRY

DEPARTMENT RESPONSE



Governor Brian Schweitzer

Montana

Department of Labor and Industry
Centralized Services Division

B-3

October 09, 2007

Scott Seacat
Legislative Auditor
PO Box 201705
Helena, MT 59620-1705

RECEIVED

OCT 10 2007

LEGISLATIVE AUDIT DIV.

Dear Mr. Seacat:

Enclosed please find the Department of Labor and Industry's written response to the final report on the audit for the two fiscal years ending June 30, 2007.

Sincerely,

A handwritten signature in cursive script that reads "Tammy LaVigne".

Tammy LaVigne Administrator
Centralized Services Division
Department of Labor and Industry

cc: Keith Kelly, Commissioner

Encl.

Financial Compliance Audit
For the Fiscal Year Ended June 30, 2007
Department of Labor and Industry
October 09, 2007

Recommendation #1:

We recommend the department implement adequate controls in its Unemployment Insurance tax collection and deposit process.

Concur. The Department has implemented additional cash controls relevant to the Unemployment Insurance tax collection and deposit process.

Recommendation #2:

We recommend the department implement adequate controls for its deposit and reconciliation process at Business Standards Division

Concur. Central Cashiering for the Bureau of Business and Measurement Standards has been implemented effective September 1, 2007. The goal is to have Central Cashier implemented for the other two licensing bureaus by the end of the calendar year.

Recommendation #3:

We recommend the department implement computer access controls to limit licensing printing capability based on board assignments.

Concur. This will be turned over to the Bureaus' Change Control Committee and they will develop a Technical Investigation Request (TIR) to be submitted to Northrup Grumann. The TIR will be finalized and submitted to Northrup Grumann by the end of the calendar year. Northrup Grumann's completion of the TIR will be dependent on their work schedule.

Recommendation #4:

We recommend the department establish controls for central purchases and for Workforce Investment Act contracts to ensure compliance with federal regulations related to suspension and debarment.

Concur. The Department has implemented reviewing the federal list of disbarred/suspended vendors when making a purchase or contract that involves federal funds

Recommendation #5:

We recommend the department establish written control procedures related to the Unemployment Insurance rate setting process to ensure compliance with state and federal law regarding cut-off points.

Concur. On August 13, 2007, the department corrected the issue that led to the establishment of 21 incorrect tax rates. Procedures are being written, to include use of a spreadsheet that will easily identify the proper rate class assignment, so that the issue does not arise in the future.

Recommendation #6:

We recommend the department:

- A. Continue to enhance compliance with state law related to excess annual leave.**

B. Charge only allowable leave costs to federal programs.

Concur. The Department is currently in compliance with Section 2-18-617, MCA Accumulation of Leave. The questioned costs charged to federal programs have been moved to a state special revenue account.

Recommendation #7:

We recommend the department comply with state law related to surcharge and assessments calculations.

Concur. The Department will seek legislation to resolve the conflict between section 39-71-201, MCA and the department's administrative rules.

Recommendation #8:

We recommend the department:

- A. Comply with state law related to Board of Pharmacy fees and Building Code Fines.**
- B. Refund the amounts collected by the Board of Pharmacy and Building Codes Program in excess of existing statutory authority.**

Concur. Board of Pharmacy. On June 27, 2007 the board refunded \$12,000 to those parties who paid the excess fee. In addition on May 14, 2007 the board noticed a rule which reduces the fee to \$100. Rule changes will be adopted by fiscal year end.

Concur. Building Codes Program -The Building Codes Program will be working with Central Services to refund the \$ 13,000 collected in excess of existing statutory authority and complete all refunds by calendar year end.

Recommendation #9:

We recommend the department classify revenue based on state accounting policy.

Concur. The Department has established new revenue codes for Fiscal Year 2008 and is complying with the corrected classifications of revenue based upon state accounting policy.

Recommendation #10:

We recommend the department record surcharge revenue when it meets the recognition criteria as required by state policy.

Concur. The Department recorded the portion of the fiscal year 2007 surcharge receipts not yet received as fiscal year 2007 revenue; and will continue that process for all future fiscal years.

Recommendation #11:

We recommend the department improve its subrecipient monitoring to ensure compliance with federal cash management regulations.

Financial Compliance Audit
For the Fiscal Year Ended June 30, 2007
Department of Labor and Industry
October 09, 2007

B-6

Concur. The Department will review the monitoring policy and modify as necessary to ensure the subrecipient is compliant with federal cash management regulations.

Recommendation #12:

We recommend the department submit applications in compliance with state law and monitor its subrecipient as required by federal regulations.

Concur. The Office of Community Service will monitor the funds as required by federal regulations. In addition, the Executive Director of the Office of Community Service will submit the Office of Public Instructions grant to CNCS as required by state law.

Recommendation #13:

We recommend the department comply with state laws discussed in table 6.

Concur.

- A. The Department has implemented a review process to assure that the inactive entities are charged according to state law.
- B. The Department will seek legislation to clarify that the Governor has the authority to appoint substitute members.
- C. Board of Veterinarians (37-18-302, MCA) – There is not a Juris Prudence examination fee. The Board at their September 5th meeting voted to request legislation for the 2009 Legislative Session that would strike the last sentence in this section.
- D. Board of Funeral Services (37-19-403(2), MCA) – The Division will be asking the Board to repeal the inspection fee at their October 2007 meeting.
- E. The department will seek legislation to update what the department believes is archaic and outdated notice provisions. Currently, the Department safety inspectors hold a closing conference that is attended by representatives of the mine operator and any local union that has jurisdiction over the mine inspected. The closing conference is attended by 3 to 12 employees of the mine. In addition to posting the statement of condition at some conspicuous location, each person who attends the closing conference is provided a copy of the statement.
- F. The Board of Dentistry has developed the required form.
- G. The Board of Hearing Aid Dispensers is working with the Legal Unit to set up inspections and will have a procedure in place by year end.
- H. Boards were not aware these fines should be going to the State Special Revenue Funds instead of the General Fund. They will begin depositing them in to each Board's SSR Funds immediately.