

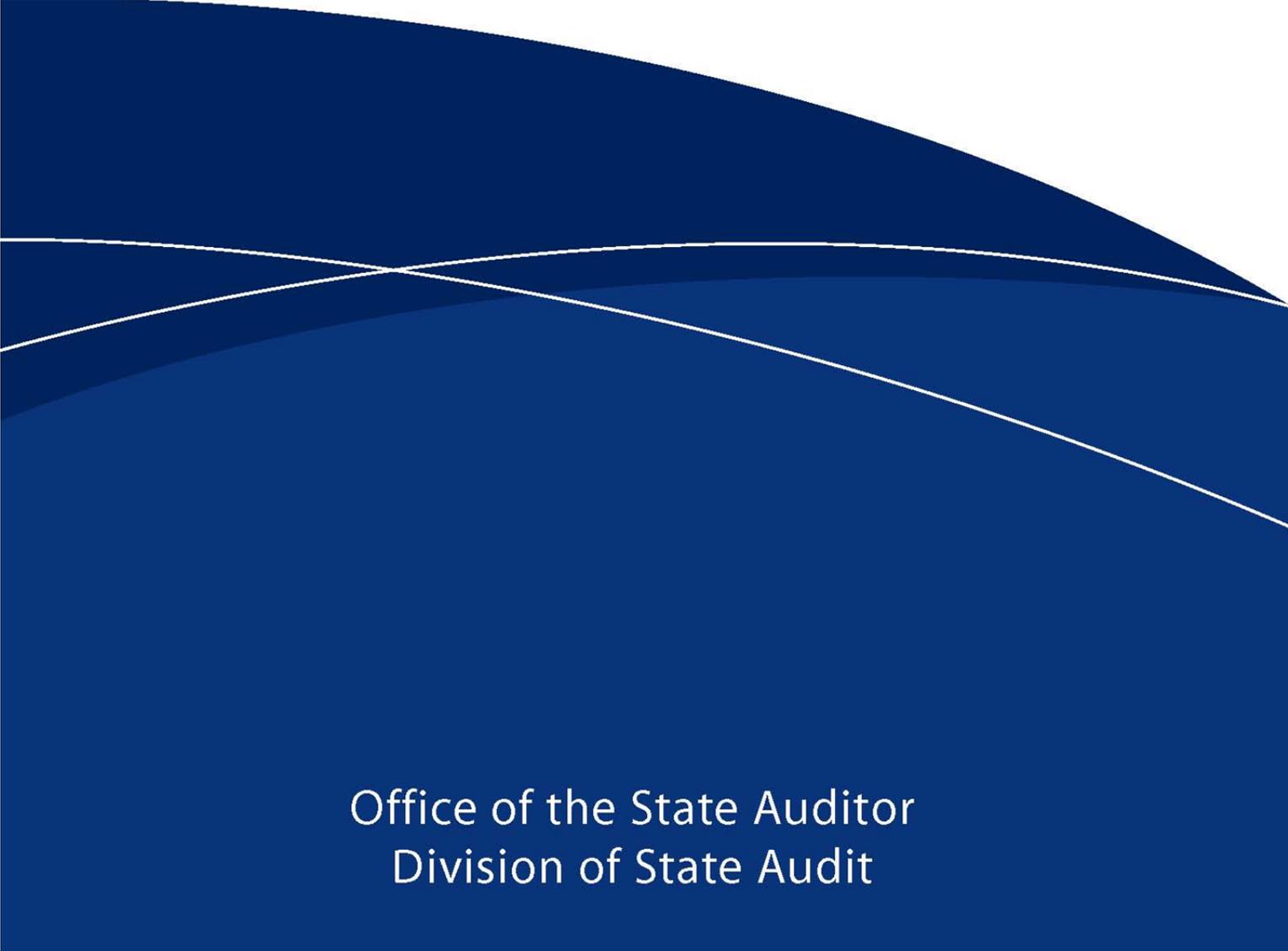
# Office of Attorney General

BISMARCK, NORTH DAKOTA

## **Audit Report**

For the Two-year Period Ended  
June 30, 2010

ROBERT R. PETERSON  
STATE AUDITOR



Office of the State Auditor  
Division of State Audit

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## *Transmittal Letter*

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May 2, 2011

The Honorable Jack Dalrymple, Governor  
Members of the North Dakota Legislative Assembly  
The Honorable Wayne Stenejhem, Attorney General, Office of Attorney General

We are pleased to submit this audit of the Office of Attorney General for the two-year period ended June 30, 2010. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The in-charge auditor for this audit was Delan Hellman. Fred Ehrhardt, CPA, was the audit supervisor. Inquiries or comments relating to this audit may be directed to the audit supervisor by calling (701) 328-3647. We wish to express our appreciation to Mr. Stenejhem and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bob Peterson".

Robert R. Peterson  
State Auditor

# *Executive Summary*

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## *Introduction*

The Attorney General is the chief legal counsel and advisor to state government in North Dakota. He represents and defends the interests of the state and the people of North Dakota in civil and criminal actions. He may take legal action to protect the rights of North Dakotans, defend the actions of state officials, and ensure public order.

The Attorney General is a member of numerous boards and commissions, including the Board of University and School Lands, Industrial Commission (which oversees all state-owned industries), Drug and Alcohol Commission, Judicial Council, and Pardon Advisory Board.

The Office is comprised of fourteen divisions: Attorney General Administration, Bureau of Criminal Investigation, Civil Litigation, Consumer Protection, Crime Lab, Criminal and Regulatory, Finance and Administrative, Fire Marshal, Gaming, Information Technology, Licensing, Lottery, Natural Resources and Indian Affairs, and State and Local Government.

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies. Those items and the Office of the State Auditor's response are noted below.

## *Responses to LAFRC Audit Questions*

### *1. What type of opinion was issued on the financial statements?*

Financial statements were not prepared by the Office of Attorney General in accordance with generally accepted accounting principles so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unqualified opinion was issued.

### *2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?*

Other than our finding addressing "Concealed Weapons License Fees Credited to Wrong Fund" (page 16), the Office of Attorney General was in compliance with significant statutes, laws, rules, and regulations under which it was created and is functioning.

### *3. Was internal control adequate and functioning effectively?*

Other than our finding addressing the "Lack of Controls over Gaming Tax Return Revenue" (page 13), we determined internal control was adequate.

### *4. Were there any indications of lack of efficiency in financial operations and management of the agency?*

No.

5. *Has action been taken on findings and recommendations included in prior audit reports?*

There were no recommendations included in the prior audit report.

6. *Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.*

Yes, a management letter was issued and is included on page 18 of this report, along with management's response.

### **LAFRC Audit Communications**

7. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

8. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The Office of Attorney General's financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

10. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

11. *Identify any serious difficulties encountered in performing the audit.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

13. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

*14. Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance, Human Resource Management System (HRMS), Alcohol/Tobacco/Gaming Licensing Information System, Gaming Tax Information System, and Legal Billing Information System are high-risk information technology systems critical to the Office of Attorney General.

# ***Audit Objectives, Scope, and Methodology***

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## ***Audit Objectives***

The objectives of this audit of the Office of Attorney General for the two-year period ended June 30, 2010 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the Office of Attorney General's operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the Office of Attorney General and are they in compliance with these laws?
3. Are there areas of the Office of Attorney General's operations where we can help to improve efficiency or effectiveness?

## ***Audit Scope***

This audit of the Office of Attorney General is for the two-year period ended June 30, 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Office of Attorney General has operations in the following locations. Each location was included in the audit scope:

- The central office in the Capitol Building.
- Crime Lab in east Bismarck.
- Bureau of Criminal Investigations in north Bismarck.

## ***Audit Methodology***

To meet the objectives outlined above, we:

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and developed a discussion and analysis of the financial statements.
- Performed detailed analytical procedures including computer-assisted auditing techniques. These procedures were used to identify high-risk transactions and potential problem areas for additional testing.
- Tested internal control and compliance with laws and regulations which included selecting representative samples to determine if controls were operating effectively and to determine if laws were being followed consistently. Non-statistical sampling was used and the results were projected to the population. Where applicable, populations were stratified to

ensure that particular groups within a population were adequately represented in the sample, and to improve efficiency by gaining greater control on the composition of the sample.

- Interviewed appropriate agency personnel.
- Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
- Observed Office of Attorney General's processes and procedures.

In aggregate there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of audit evidence.

## ***Discussion and Analysis***

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The accompanying financial statements have been prepared to present the Office of Attorney General's revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

For the two-year period ended June 30, 2010, operations of the Office of Attorney General were primarily supported by appropriations from the state's general fund. This is supplemented by federal funding and fees credited to the agency's operating fund.

### ***Financial Summary***

Capital Assets consist of the crime lab building, equipment, and intangible assets. Capital Assets were \$10,962,785 and accumulated depreciation were \$4,888,427 at June 30, 2010. Capital assets increased by \$999,182 and accumulated depreciation increased by \$1,163,832 for fiscal year 2010 over the prior year due to inclusion of intangible assets in fiscal year 2010.

Revenues consisted primarily of lottery proceeds, pull tab and gaming taxes, federal funds, and legal services. Other revenues during the audited period included bingo card excise taxes, lawsuit settlement fees, background checks, and other miscellaneous revenue. These all remained fairly constant for the Office of Attorney General, decreasing slightly. Total revenues were \$37,872,760 for the year ended June 30, 2010 as compared to \$41,180,434 for the year ended June 30, 2009.

The increase in revenue from the federal government is due to receiving American Recovery and Reinvestment Act (ARRA) money in fiscal year 2010. The decrease in fines-forfeitures-escheat revenue is due to a few large legal settlements received in fiscal year 2009. In addition, pull tab excise tax went down due to a 33.3% pull tab excise tax rate decrease that went into effect at the start of fiscal year 2010. The transfers in decreased due to a large transfer in fiscal year 2009 for the construction of the new Crime Lab facilities.

Total expenditures for the Office of Attorney General were \$36,152,694 for the year ended June 30, 2010 as compared to \$34,529,165 for the prior year. Salaries and benefits increased due to general equity, salary, and health insurance cost increases that went into effect in fiscal year 2010. The decrease in building construction expenditures was due to the completion of the new Crime Lab facilities during 2009. All other expenditures remained fairly constant.

### ***Analysis of Significant Variances - Budgeted and Actual Expenditures***

The excess of operating expenses line item appropriations and grants line item appropriations over actual expenditures for the biennium ended June 30, 2009 were due to over-estimated federal and other revenue.

The Computerized Registrations line item unexpended appropriation was due to legislative authority that was provided for computerized registrations in the event that federal funds would become available, which did not occur.

# Financial Statements

## Statement of Revenues and Expenditures

	<u>June 30, 2010</u>	<u>June 30, 2009</u>
<b><u>Revenues and Other Sources:</u></b>		
Lottery Proceeds	\$16,290,622	\$15,262,753
Pull Tab Excise Tax	4,420,191	6,195,900
Gaming Tax	3,025,363	3,201,838
Revenue from Federal Government	2,948,390	1,365,002
Legal Services	1,280,121	1,144,767
Bingo Card Excise Tax	942,114	953,896
Fines-Forfeitures-Escheat	928,299	1,957,579
Other License, Permits, and Fees	732,500	547,350
Background Checks	643,103	639,869
Fire Marshall	221,109	135,257
Interest Earnings	10,314	37,390
Miscellaneous Revenue	238,611	301,060
Transfers In	6,192,023	9,437,773
<b>Total Revenues and Other Sources</b>	<b><u>\$37,872,760</u></b>	<b><u>\$41,180,434</u></b>
<b><u>Expenditures and Other Uses:</u></b>		
Salaries and Benefits	\$13,349,431	\$11,469,336
Lottery Prizes	6,015,341	5,301,046
Fees - Professional Services	3,199,375	2,523,269
Grants, Benefits, and Claims	1,854,479	1,073,975
IT - Data Processing/Repairs/Software	1,533,511	1,302,642
Operating Fees and Services	1,091,108	1,116,485
Rent of Building Space	514,365	328,202
Equipment Over \$5000	487,300	826,548
Travel	411,793	387,585
Building Construction		1,880,748
Miscellaneous Expenditures	1,853,877	1,795,657
Transfers Out	5,842,114	6,523,672
<b>Total Expenditures and Other Uses</b>	<b><u>\$36,152,694</u></b>	<b><u>\$34,529,165</u></b>

## Statement of Appropriations

For The Fiscal Year Ended June 30, 2010

Expenditures by Line Item:	Original Appropriation	Adjustments	Final Appropriation	Expenditures	Unexpended Appropriation
Salaries and Benefits	\$ 25,958,281	\$ 1,241,110	\$ 27,199,391	\$ 12,327,088	\$ 14,872,303
Operating Expenses	14,750,431	(201,110)	14,549,321	4,125,508	10,423,813
Capital Assets	2,391,187	269,877	2,661,064	557,362	2,103,702
Technology Project					
Carryover		325,265	325,265	166,305	158,960
Grants	3,452,225		3,452,225	1,151,499	2,300,726
Litigation Fees	50,000		50,000	42,674	7,326
Medical					
Examinations	660,000		660,000	193,622	466,378
North Dakota					
Lottery	3,584,388		3,584,388	1,518,919	2,065,469
Arrest & Return of					
Fugitives	10,000		10,000		10,000
Gaming					
Commission	6,141		6,141	5,737	404
Federal Stimulus					
Funds - 2009	2,259,188		2,259,188	1,077,206	1,181,982
<b>Totals</b>	<u>\$ 53,121,841</u>	<u>\$ 1,635,142</u>	<u>\$ 54,756,983</u>	<u>\$ 21,165,920</u>	<u>\$ 33,591,063</u>
<b>Expenditures by Source:</b>					
General Fund	\$ 28,060,432	\$ 900,000	\$ 28,960,432	\$ 12,874,900	\$ 16,085,532
Other Funds	25,061,409	735,142	25,796,551	8,291,020	17,505,531
<b>Totals</b>	<u>\$ 53,121,841</u>	<u>\$ 1,635,142</u>	<u>\$ 54,756,983</u>	<u>\$ 21,165,920</u>	<u>\$ 33,591,063</u>

### Appropriation Adjustments:

The \$1,241,110 adjustment to the Salaries and Benefits line consisted of the following adjustments:

- \$201,110 increase due to House Bill 1575 Section 5 which appropriated \$185,946 of general funds and \$15,164 of other funds for peace officer's employed by the Bureau of Criminal Investigation retirement benefits.
- \$1,040,000 increase was a salary equity adjustment the Attorney General's office received, of which \$900,000 is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget in House Bill 1015 for special market equity adjustments for executive branch employees.

The (\$201,110) adjustment to the Operating Expenses line was a correction as the \$201,110 increase due to House Bill 1575 noted above was originally mistakenly added to the Operating Expenses line.

The \$269,877 adjustment to the Capital Assets line item was approved by the Emergency Commission for additional equipment at the Crime Laboratory.

The \$325,265 adjustment to the Technology Project Carryover line was approved by the Capital Construction Carryover Committee.

**Expenditures Without Appropriations Of Specific Amounts:**

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$93,367 of expenditures for fiscal year 2010).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$68,305 of expenditures for fiscal year 2010).

Lottery Operating Fund has a continuing appropriation authorized by NDCC section 53-12.1-09 (\$14,468,285 of expenditures for fiscal year 2010).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-12-23 (\$6,687 of expenditures for fiscal year 2010).

Insurance recoveries have a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$1,712 of expenditures for fiscal year 2010).

Multijurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$323,947 of expenditures for fiscal year 2010).

North Dakota Sobriety Program Fund has a continuing appropriation authorized by NDCC section 54-12-29 (\$24,470 of expenditures for fiscal year 2010).

**For The Biennium Ended June 30, 2009**

<b>Expenditures by Line Item:</b>	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Salaries and Benefits	\$ 22,427,935	\$ 267,964	\$ 22,695,899	\$ 21,184,403	\$ 1,511,496
Operating Expenses	10,596,526	191,102	10,787,628	7,753,862	3,033,766
Capital Assets	2,569,731	3,629,720	6,199,451	5,739,648	459,803
Grants	4,197,000		4,197,000	2,032,446	2,164,554
Litigation Fees	50,000	20,000	70,000	49,781	20,219
Medical Examinations	500,000		500,000	160,600	339,400
North Dakota Lottery	3,930,589		3,930,589	2,589,360	1,341,229
Arrest & Return of Fugitives	17,000	15,000	32,000	20,007	11,993
Gaming Commission	6,141		6,141	3,530	2,611
Computerized Registrations	1,046,080		1,046,080		1,046,080
<b>Totals</b>	<u>\$ 45,341,002</u>	<u>\$ 4,123,786</u>	<u>\$ 49,464,788</u>	<u>\$ 39,533,637</u>	<u>\$ 9,931,151</u>
<b>Expenditures by Source:</b>					
General Fund	\$ 24,432,081	\$ 419,215	\$ 24,851,296	\$ 24,770,666	\$ 80,630
Other Funds	20,901,921	3,711,571	24,613,492	14,762,971	9,850,521
<b>Totals</b>	<u>\$ 45,334,002</u>	<u>\$ 4,130,786</u>	<u>\$ 49,464,788</u>	<u>\$ 39,533,637</u>	<u>\$ 9,931,151</u>

**Appropriation Adjustments:**

The \$267,964 increase in the Salaries and Benefits line was due to an adjustment for \$218,464 as a result of the equity pool increase granted by Senate Bill 2189 for classified state employees. The remaining \$49,500 was appropriated by the Emergency Commission to allow the Office of Attorney General to receive federal funds from the Department of Transportation for temporary employees to train law enforcement on new breathalyzer machines.

The \$191,102 increase in the Operating Expenses line consisted of the following adjustments:

- \$25,000 was approved by the Emergency Commission for prosecution witness fees. An additional \$8,102 was approved by the emergency commission to allow the Office of Attorney General to spend additional money they were to receive from the Department of Transportation for the implementation of new breathalyzers.
- \$74,000 adjustment was made in accordance with House Bill 1023 Section 1 Subdivision 1 for the purpose of defraying their expenses, for the period beginning January 1, 2009 and ending June 30, 2009, for Operating Expenses.
- \$84,000 adjustment was approved by the Emergency Commission to accept state contingency funds to reimburse city and county governments for prosecution witness fees and expenses.

The \$3,629,720 increase in the Capital Assets line consisted of the following adjustments:

- \$3,147,322 was carryover from the previous biennium, approved in Senate Bill 2003 of the 2007 Legislative session for construction costs relating to the new Crime Laboratory building.
- \$142,398 was approved by the Emergency Commission to accept additional federal money to purchase breathalyzers.
- \$340,000 adjustment was made in accordance with House Bill 1023 Section 1 Subdivision 1 for the purpose of defraying their expenses, for the period beginning January 1, 2009 and ending June 30, 2009, for Capital Assets.

The \$20,000 increase in the Litigation Fees line was made in accordance with House Bill 1023 Section 1 Subdivision 1 for the purpose of defraying their expenses, for the period beginning January 1, 2009 and ending June 30, 2009, for Litigation Fees.

The \$15,000 increase in the Arrest and Return of Fugitives line was approved by the Emergency Commission to accept state contingency funds to reimburse city and county governments for expenses associated with Governor ordered extraditions of felons located outside the state.

#### **Expenditures Without Appropriations Of Specific Amounts:**

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$152,123 of expenditures for this biennium).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$186,647 of expenditures for this biennium).

Lottery Operating Fund has a continuing appropriation authorized by NDCC section 53-12.1-09 (\$38,131,721 of expenditures for this biennium).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-12-23 (\$10,310 of expenditures for this biennium).

Multijurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$498,248 of expenditures for this biennium).

North Dakota Sobriety Program Fund has a continuing appropriation authorized by NDCC section 54-12-29 (\$31,882 of expenditures for this biennium).

Insurance Recoveries have a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$522 of expenditures for this biennium).

## *Internal Control*

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In our audit for the two-year period ended June 30, 2010, we identified the following areas of the Office of Attorney General's internal control as being the highest risk:

### ***Internal Controls Subjected to Testing:***

- Controls surrounding the processing of revenues.
- Controls surrounding the processing of expenditures.
- Controls effecting the safeguarding of assets.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the Legal Billing information system.
- Controls surrounding the Alcohol/Tobacco/Gaming Licensing information system.
- Controls surrounding the Gaming Tax information system.

The criteria used to evaluate internal control is published in the publication *Internal Control – Integrated Framework* from the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.

We gained an understanding of internal control surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered necessary based on our assessment of audit risk. We concluded that internal control was not adequate noting a certain matter involving internal control and its operation that we consider to be a significant deficiency.

Auditors are required to report deficiencies in internal control that are significant within the context of the objectives of the audit. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect (1) misstatements in financial or performance information, (2) violations of laws and regulations, or (3) impairments of effectiveness or efficiency of operations, on a timely basis. Considering both qualitative and quantitative factors, we identified the following significant deficiency in internal control. We also noted other matters involving internal control that we have reported to management of the Office of Attorney General in a management letter dated May 2, 2011.

### ***Lack of Controls over Gaming Tax Return Revenue (Finding 10-1)***

#### **Condition:**

The Office of Attorney General does not have adequate controls in place to ensure all gaming tax return revenue received is properly deposited.

#### **Criteria:**

Pursuant to the Committee of Sponsoring Organizations (COSO) Control Activities -- Duties are to be divided, or separated, among different people to reduce the risk of error or inappropriate actions.

**Cause:**

The client was unaware of this weakness in controls.

**Effect or Potential Effect:**

Gaming tax return revenue could be misappropriated between receipt of revenue and deposit.

**Recommendation:**

We recommend the Office of Attorney General implement controls to ensure that all gaming tax return revenue is properly deposited.

**Office of Attorney General Response:**

*We agree with the recommendation. When this issue was discussed with office personnel, the Licensing staff members began opening the mail together the next day.*

## *Compliance With Legislative Intent*

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In our audit for the two-year period ended June 30, 2010, we identified and tested the Office of Attorney General's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- American Recovery and Reinvestment Act (ARRA) funds were tracked and spent according to the appropriated levels (2009 North Dakota Session Laws - House Bill 1003).
- Implementation of the different requirements of the lost, missing, or runaway children legislation (North Dakota Century Code section 12-60-25).
- Developed and distributed a missing person procedural policy (2009 North Dakota Session Laws - House Bill 1040).
- Collection of revenue and funding limits for the 24/7 Sobriety Program Fund (2009 North Dakota Session Laws - House Bill 1306).
- Proper credit to the state general fund for excess concealed weapons fees collected (North Dakota Century Code section 62.1-04-03 (3)).
- Proper use of Attorney General's Operating fund (North Dakota Century Code section 54-12-08).
- Proper use of the following legally restricted funds:
  - Asset Forfeiture Fund.
  - Attorney General Refund Fund.
  - Special Operations Team Reimbursement Fund.
  - Multijurisdictional Drug Task Force Fund.
  - Gaming and Excise Tax Allocation Fund.
  - North Dakota Sobriety Program Fund.
  - Reduce Cigarette Ignition Propensity Fund.
  - Fire Prevention and Public Safety Fund.
- Application of proper statutory rates relating to revenue.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2007 North Dakota Session Laws chapter 30 and 2009 North Dakota Session Laws chapter 3).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record keeping, surplus property, lease and financing arrangements in budget requests, and lease analysis requirements.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.

The criteria used to evaluate legislative intent are the laws as published in the *North Dakota Century Code* and the *North Dakota Session Laws*.

*Government Auditing Standards* requires auditors to report all instances of fraud and illegal acts unless they are inconsequential within the context of the audit objectives. Further, auditors are required to report significant violations of provisions of contracts or grant agreements, and significant abuse that has occurred or is likely to have occurred.

The results of our tests disclosed an instance of noncompliance that is required to be reported under *Government Auditing Standards*. This finding is described below. Other than this finding, we concluded there was compliance with the legislative intent identified above. We also noted certain inconsequential instances of noncompliance that we have reported to management of the Office of Attorney General in a management letter dated May 2, 2011.

### ***Concealed Weapons License Fees Credited to Wrong Fund (Finding 10-2)***

#### **Condition:**

The Office of Attorney General credited a larger portion of the concealed weapons license fee collections to their operating fund than the law allows. The Attorney General is required to credit a portion of the concealed weapons license fee to the Attorney General's operating fund until \$75,000 has been credited to the fund in a biennium. Any additional fees collected are to be deposited into the state general fund. During the 2007-2009 biennium, \$140,214 of concealed weapons license fees were credited to the operating fund, exceeding the limit by \$65,214.

#### **Criteria:**

North Dakota Century Code section 62.1-04-03 (3) states that any collections from concealed weapons license fees in excess of \$75,000 credited to the Attorney General's operating fund each biennium must be credited to the State general fund.

#### **Cause:**

The Office of Attorney General did not adequately monitor the deposit of concealed weapons license fee revenue to the proper fund.

#### **Effect or Potential Effect:**

The Office of Attorney General is not in compliance with North Dakota Century Code.

#### **Recommendation:**

No recommendation will be made since as of July 1, 2009 this law is no longer in effect.

#### **Office of Attorney General Response:**

*We agree with the recommendation. When this was discussed with office personnel it was corrected by moving operating fund monies to the general fund.*

## *Operations*

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This audit did not identify significant areas of the Office of Attorney General's operations to help improve efficiency or effectiveness that were required to be reported in accordance with Government Auditing Standards, however, we did note a less significant matter involving operations that we have reported to management of the Office of Attorney General in a management letter dated May 2, 2011.

# ***Management Letter (Informal Recommendations)***

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May 2, 2011

The Honorable Wayne Stenejhem  
Attorney General  
Office of the Attorney General  
600 E Boulevard Avenue  
Bismarck, ND 58505

Dear Mr. Stenejhem:

We have performed an audit of the Office of the Attorney General for the two-year period ended June 30, 2010, and have issued a report thereon. As part of our audit, we gained an understanding of the Office of the Attorney General's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following present our informal recommendations.

## **OPERATIONAL**

Informal Recommendation 10-1: We recommend the Office of Attorney General use their purchase card as a form of payment to all vendors accepting purchase cards.

## **CASH/REVENUE**

Informal Recommendation 10-2: We recommend the Office of Attorney General ensure someone independent of requesting federal draws reconcile deposits to receipts/requests and sign off on the reconciliation when completed.

Informal Recommendation 10-3: We recommend the Office of Attorney General strengthen controls surrounding their billing code listing to ensure the maximum amount is recouped and deposited in the Office of Attorney General's operating fund which could reduce general fund requirements.

#### **LEGISLATIVE INTENT**

Informal Recommendation 10-4: We recommend the Office of Attorney General implement legislative measures that impose a fee increase as of July 1st to comply with NDCC Section 1-02-42 (a-2).

Informal Recommendation 10-5: We recommend the Office of Attorney General follow State Procurement's purchasing procedures as outlined in NDCC 54-44.4 and maintain proper supporting documentation.

Management of the Office of the Attorney General agreed with these recommendations.

I encourage you to call myself or an audit manager at 328-2241 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,

A handwritten signature in cursive script that reads "Delan Hellman".

Delan Hellman  
Auditor in-charge

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