

Tobacco Prevention and  
Control Executive Committee  
BISMARCK, NORTH DAKOTA

**Audit Report**

For the Biennium Ended  
June 30, 2011

ROBERT R. PETERSON  
STATE AUDITOR



Office of the State Auditor  
Division of State Audit

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STATE OF NORTH DAKOTA  
**OFFICE OF THE STATE AUDITOR**  
STATE CAPITOL  
600 E. BOULEVARD AVENUE - DEPT. 117  
BISMARCK, NORTH DAKOTA 58505

## *Transmittal Letter*

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April 17, 2012

The Honorable Jack Dalrymple, Governor  
Members of the North Dakota Legislative Assembly  
Theresa Will, Tobacco Prevention and Control Executive Committee Chair  
Jeanne Prom, Center for Tobacco Prevention and Control Policy Executive Director

We are pleased to submit this audit of the Tobacco Prevention and Control Executive Committee for the biennium ended June 30, 2011. 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 Allison Bader. Paul Welk, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Ms. Prom and her 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*

In 2008, voters in North Dakota passed the Statewide Initiated Measure 3 which established a comprehensive tobacco use prevention and control program using Centers for Disease Control and Prevention best practices. A nine-member Tobacco Prevention and Control Advisory Committee is appointed by the Governor pursuant to North Dakota Century Code 23-42-02. A three-member executive committee is selected by the advisory committee from its membership pursuant to NDCC 23-42-03. The North Dakota Tobacco Prevention and Control Executive Committee administers the tobacco prevention and control trust fund for the implementation and administration of the comprehensive tobacco use prevention and control program. The tobacco prevention and control trust fund consists of tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.

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 responses 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 Tobacco Prevention and Control Executive Committee 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?*

Yes.

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

Other than our findings addressing the "lack of fraud risk assessment" (page 10) and "lack of controls surrounding local programming grants" (page 11), 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 prior audits. The Tobacco Prevention and Control Executive Committee was created in fiscal year 2009.

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 pages 15-16 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 Tobacco Prevention and Control Executive Committee'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), and Program Reporting System are high-risk information technology systems critical to the Tobacco Prevention and Control Executive Committee.

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

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## ***Audit Objectives***

The objectives of this audit of the Tobacco Prevention and Control Executive Committee for the biennium ended June 30, 2011 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the Tobacco Prevention and Control Executive Committee'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 Tobacco Prevention and Control Executive Committee and are they in compliance with these laws?
3. Are there areas of the Tobacco Prevention and Control Executive Committee's operations where we can help to improve efficiency or effectiveness?

## ***Audit Scope***

This audit of the Tobacco Prevention and Control Executive Committee is for the biennium ended June 30, 2011. 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Tobacco Prevention and Control Executive Committee's sole location is its Bismarck office which was included in the audit scope.

## ***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 Tobacco Prevention and Control Executive Committee'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 Tobacco Prevention and Control Executive Committee'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 biennium ended June 30, 2011, operations of the Tobacco Prevention and Control Executive Committee were supported by appropriations from the tobacco prevention and control trust fund.

### ***Financial Summary***

Revenues consisted of tobacco settlement funds and interest earnings. Tobacco settlement funds are received pursuant to the tobacco settlement agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Total revenues were \$11,241,692 for the year ended June 30, 2011 as compared to \$12,325,849 for the year ended June 30, 2010.

Total expenditures for the Tobacco Prevention and Control Executive Committee were \$4,584,528 for the year ended June 30, 2011 as compared to \$3,534,074 for the prior year. The increase in total expenditures for the audited period reflects primarily an increase in grants, professional services, and salaries and benefits. These increases are due to the development of the comprehensive tobacco use prevention and control program and creation of the Center for Tobacco Prevention and Control Policy, a division of the Executive Committee. All other expenditures remained fairly constant.

### ***Analysis of Significant Changes in Operations***

The Tobacco Prevention and Control Executive Committee was created subsequent to North Dakota voters passing the Statewide Initiated Measure 3 which established a comprehensive tobacco use prevention and control program. The Tobacco Prevention and Control Executive Committee administers strategic contribution tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement, referred to as the master settlement agreement, adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98.3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Phillip Morris, Inc. This section of the agreement indicates annual strategic contribution settlement payments will be made for the period April 15, 2008 through April 15, 2017. The amount of strategic contribution settlement funds administered by the Tobacco Prevention and Control Executive Committee during the biennium is appropriated by the legislature.

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

The Tobacco Prevention and Control Executive Committee had an unexpended appropriation of \$4,763,398 for the biennium ended June 30, 2011. This remaining appropriation reflects the organization of the Tobacco Prevention and Control Executive and Advisory Committees operations, hiring of staff, and development of grant programs during the biennium.

# Financial Statements

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## Statement of Revenues and Expenditures

	<u>June 30, 2011</u>	<u>June 30, 2010</u>
<b><u>Revenues and Other Sources:</u></b>		
Tobacco Settlement Fund	\$ 11,186,238	\$ 12,274,393
Interest Earnings	55,454	51,455
<b>Total Revenues and Other Sources</b>	<b><u>\$ 11,241,692</u></b>	<b><u>\$ 12,325,849</u></b>
<b><u>Expenditures and Other Uses:</u></b>		
Grants	\$ 3,647,709	\$ 3,293,804
Professional Services	436,179	25,613
Salaries and Benefits	298,368	108,801
IT Contractual Services and Repairs	107,923	6,215
Equipment Under \$5,000	22,170	27,041
Rentals/Leases Building	12,631	14,326
IT Communications	12,602	5,687
Supplies	14,544	11,108
Advertising and Fiscal Agent Services	8,872	5,229
Travel	7,277	10,190
Professional Development	5,214	653
IT Data Processing	4,273	5,602
Repairs	4,225	4,113
Printing	1,221	499
Postage	1,031	984
Other Expenditures	290	446
Equipment Over \$5,000		13,764
<b>Total Expenditures and Other Uses</b>	<b><u>\$ 4,584,528</u></b>	<b><u>\$ 3,534,074</u></b>

## Statement of Appropriations

For The Biennium Ended June 30, 2011

<b>Expenditures by Line Item:</b>	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Comprehensive Tobacco Control	\$ 12,882,000		\$ 12,882,000	\$ 8,118,602	\$ 4,763,398
<b>Totals</b>	<u>\$ 12,882,000</u>	<u>\$ 0</u>	<u>\$ 12,882,000</u>	<u>\$ 8,118,602</u>	<u>\$ 4,763,398</u>
<b>Expenditures by Source:</b>					
Other Funds	\$ 12,882,000		\$ 12,882,000	\$ 8,118,602	\$ 4,763,398
<b>Totals</b>	<u>\$ 12,882,000</u>	<u>\$ 0</u>	<u>\$ 12,882,000</u>	<u>\$ 8,118,602</u>	<u>\$ 4,763,398</u>

## ***Internal Control***

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In our audit for the biennium ended June 30, 2011, we identified the following areas of the Tobacco Prevention and Control Executive Committee's internal control as being the highest risk:

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

- Controls surrounding the processing of expenditures.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding tobacco prevention and control programming grants to local public health units.

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 deficiencies in internal control. We also noted other matters involving internal control that we have reported to management of Tobacco Prevention and Control Executive Committee in a management letter dated April 17, 2012.

### ***Lack of Fraud Risk Assessment (Finding 11-1)***

#### **Condition:**

The Tobacco Prevention and Control Executive Committee has not developed a fraud risk assessment to identify potential fraudulent activities and ensure fraudulent activities are mitigated through a properly designed system of internal control.

#### **Criteria:**

Office of Management and Budget Policy 216 states that all agencies need to complete a fraud risk assessment at least every biennium for each function and division.

#### **Cause:**

The Tobacco Prevention and Control Executive Committee was organized in fiscal year 2009 and has not fully evaluated and developed internal control related policies and procedures.

**Effect or Potential Effect:**

Fraud and fraudulent activities could occur and not be detected.

**Recommendation:**

We recommend the Tobacco Prevention and Control Executive Committee establish and perform a fraud risk assessment on a recurring basis. We also recommend the Tobacco Prevention and Control Executive Committee design and document the necessary control activities to ensure that each significant fraud exposure identified during the risk assessment process has been adequately mitigated.

**Tobacco Prevention and Control Executive Committee Response:**

*The Tobacco Prevention and Control Executive Committee agrees with this recommendation. The Center for Tobacco Prevention and Control Policy staff will prepare a fraud risk assessment and will review and continually update on a recurring basis. The fraud risk assessment will identify possible fraud and the controls that are in place to prevent the fraud. The fraud risk assessment will be presented to the Executive Committee for their input, comments, and approval on a recurring basis.*

**Lack of Controls Surrounding Local Programming Grants (Finding 11-2)****Condition:**

The Tobacco Prevention and Control Executive Committee provides tobacco prevention programming grants to local public health units. Controls surrounding local public health unit programming grants are not comprehensive.

Specifically, we noted the following conditions:

- Monitoring policies and procedures for site visits and transactional testing have not been developed and documented;
- Policies and procedures to obtain and resolve deficiencies through grantee corrective action plans have not been developed and documented;
- Assessment of grant application goals and objectives being achieved is not documented; and,
- Conflict of interest statements and steps to manage or eliminate conflicts of interest have not been communicated to grantees.

**Criteria:**

The publication *Internal Control – Integrated Framework* from the Committee of Sponsoring Organizations (COSO) of the Treadway Commission states that proper design and implementation of internal control policies and procedures for monitoring, conflict of interest, and evaluation methods are necessary to ensure objectives are effectively achieved.

Written policies and procedures represent management's decision of what should be done to effect control. Policy serves as a basis for proper procedures. Policies and procedures that are kept properly updated enable the Tobacco Prevention and Control community to operate more effectively and efficiently in carrying out individual duties and responsibilities.

**Cause:**

The Tobacco Prevention and Control Executive Committee and Center for Tobacco Prevention and Control Policy Division was created in fiscal year 2009 and continues to develop policies and monitoring procedures surrounding tobacco prevention and control grant programs.

**Effect or Potential Effect:**

Misappropriation of grant awards by local public health units could occur and be undetected. Approximately \$5.5 million in local public health unit programming grants were awarded during the biennium ended June 30, 2011.

**Recommendation:**

We recommend the Tobacco Prevention and Control Executive Committee strengthen controls surrounding tobacco prevention programming grants to:

- Develop and implement documented monitoring policies and procedures for site visits and transactional testing;
- Develop and implement documented policies and procedures for obtaining corrective action plans to resolve program award deficiencies;
- Perform a documented assessment of grantee program goals and objectives achieved; and,
- Communicate conflict of interest statements and steps to manage or eliminate conflicts of interest.

***Tobacco Prevention and Control Executive Committee Response:***

*The Tobacco Prevention and Control Executive Committee agrees with this recommendation. As noted in the Cause section of this report, above, this agency was created in fiscal year 2009, and the appropriation was available in fiscal year 2010. This was the first audit conducted.*

*We developed a site visit procedure manual, have performed a desk audit, and will expand the manual to include the recommendations provided by the auditors.*

*Grantees are required to submit quarterly reports documenting progress made in meeting goals and objectives. Staff review reports and follow with necessary action. The procedure is in place and we will implement the documentation.*

*A signed contract requirement addendum is required for all agreements. We will expand this document and the grant guidance to address the conflict of interest and steps to manage or eliminate it.*

## *Compliance With Legislative Intent*

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In our audit for the biennium ended June 30, 2011, we identified and tested Tobacco Prevention and Control Executive Committee's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Advisory and executive committee compensation does not exceed compensation allowed by the legislature (NDCC 23-42-02(5)).
- Proper voting procedures for conflicts of interest of advisory or executive committee (NDCC 23-42-06).
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations (2009 North Dakota Session Laws, chapter 15, Section 35).
- 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 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* require 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 no instances of noncompliance that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the legislative intent identified above.

While we did not find any items that were required to be reported in accordance with *Government Auditing Standards*, we noted certain inconsequential or insignificant instances of non-compliance that we have reported to management of the Tobacco Prevention and Control Executive Committee in a management letter dated April 17, 2012.

## *Operations*

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This audit did not identify areas of Tobacco Prevention and Control Executive Committee's operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

## *Management Letter*

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April 17, 2012

Ms. Theresa Will  
Tobacco Prevention and Control Executive Committee Chair  
4023 State Street, Suite 65  
Bismarck, ND 58503-0638

Dear Ms. Will:

We have performed an audit of the Tobacco Prevention and Control Executive Committee for the biennium ended June 30, 2011, and have issued a report thereon. As part of our audit, we gained an understanding of the Tobacco Prevention and Control Executive Committee'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.

### **ACCOUNTS PAYABLE/EXPENDITURES**

Informal Recommendation 11-1: We recommend the Tobacco Prevention and Control Executive Committee increase use of the purchase-card as a form of payment.

## LEGISLATIVE INTENT

Informal Recommendation 11-2: We recommend the Tobacco Prevention and Control Executive Committee obtain bonding coverage from the state bonding fund in accordance with NDCC 26.1-21-10.

## MANAGEMENT CONTROLS

Informal Recommendation 11-3: We recommend the Tobacco Prevention and Control Executive Committee develop a code of ethics / code of business conduct to include:

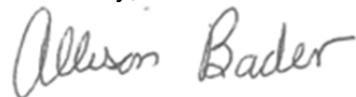
- Honest and ethical conduct, including ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- Full, fair, accurate, timely, and understandable disclosure in reports and documents;
- Compliance with applicable governmental laws, rules, and regulations;
- The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and,
- A description of what constitutes fraudulent behavior.

We also recommend the Tobacco Prevention and Control Executive Committee ensure employees acknowledge receipt of the code of ethics / code of business conduct on an annual basis.

Management of the Center for Tobacco Prevention and Control Policy 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,



Allison Bader  
Auditor in-charge

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