



NORTH DAKOTA OFFICE OF THE STATE AUDITOR

State Auditor Joshua C. Gallion

Office of the State Tax Commissioner

Audit Report for the Biennium Ended June 30, 2021

Client Code 127





WHAT WE LOOKED AT AND WHY

North Dakota state law requires that our team perform an audit once every two years. This includes a review of financial transactions and determining that expenditures are correct. Our audit reports any errors, internal control weaknesses or potential violations of law identified in significant or high-risk functions of the agency.

WHAT WE FOUND



Opportunity to Enhance Review of Eligibility for Homestead and Disabled Veterans Tax Credits

The Tax Commissioner has an opportunity to enhance monitoring procedures to confirm eligibility determined by counties for two types of property tax credits.

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HAVE QUESTIONS? ASK US.

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Introduction

Office of the State Tax Commissioner

March 30, 2022

We are pleased to submit this audit of the Office of the State Tax Commissioner for the biennium ended June 30, 2021. 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.

The primary consideration in determining the contents of these audits is to produce informative audits to improve government. Statutory audit requirements are an important part of these audits and are addressed by our standard audit objective. Whenever possible, additional audit objectives are included to increase responsiveness and effectiveness of state government.

Lindsey Slappy 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 the Office of the State Tax Commissioner staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

/s/

JOSHUA C. GALLION
NORTH DAKOTA STATE AUDITOR

TERMS USED IN REPORT

Appropriation: An amount authorized by the North Dakota Legislative Assembly to be spent for a specific purpose.

Blanket Bond Coverage: Insurance to state agencies for any default or wrongful act on the part of any public employee or public official.

ConnectND: The accounting system for North Dakota.

Default: Failures to do something required by duty or law.

Disabled Veteran Tax Credit: A tax credit available to certain disabled veterans and spouses that meet eligibility requirements set in century code. The State of North Dakota pays a portion of the eligible individual's property tax.

Emergency Commission: Group of elected officials that have the authority to transfer or expend money appropriated by the North Dakota Legislative Assembly. Additional information can be found in N.D.C.C. Chapter 54-16.

Standards for Internal Control in the Federal Government (Green Book): Sets the standards for an effective internal control system for federal agencies.

Homestead Property Tax Credit: A tax credit available to North Dakota residents based on age or disability and income as set in North Dakota Century Code. The State of North Dakota pays a portion of the eligible individual's property tax.

Internal Control: Policies and procedures that ensure reliable financial reporting, safeguard assets, promote accountability and efficiency, and prevent fraud.

Noncompliance: Failure to act in accordance with a wish or command.

North Dakota Century Code (N.D.C.C.): Collection of all the statutes passed by the North Dakota Legislative Assembly.

Performance Audit: Engagements that provide objective analysis, findings, and conclusions to assist management and those charged with governance and oversight to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability.

Session Laws: Published after each regular and special legislative session and contain the laws enacted during that session.

Audit Results

PRIMARY OBJECTIVE

Are there any errors, internal control weaknesses, or potential violations of law for significant or high-risk functions of the agency?

FINDING
2021-01

Opportunity to Enhance Review of Eligibility for Homestead and Disabled Veterans Tax Credits

CONCLUSION

The Office of the State Tax Commissioner has an opportunity to expand their review of county certifications for individual's receiving property tax credits to include eligibility determined at the county. This eliminates the potential for fraudulent claims to receive funding for ineligible individuals.

BACKGROUND

The Office of the State Tax Commissioner received an appropriation to provide funding to counties for two different property tax credits.

These two tax credits are:

Homestead property tax credit

- Available to people 65 years of age or older, or an individual with a permanent or total disability.
- Individuals are required to meet income limitations (N.D.C.C. 57-02-08.1).

Disabled veterans tax credit

- Available to veterans of the United States Armed Forces with a disability rating of 50% or greater (N.D.C.C. 57-02-08.8 section 1) or an unremarried surviving spouse (N.D.C.C. 57-02-08.8 section 3).

North Dakotans apply to their county of residence and include any necessary supporting documents. Each county auditor determines eligibility of the applicant. A certification listing with each eligible individual is provided to the Office of the State Tax Commissioner by the first of March every year as required by North Dakota Law (N.D.C.C. 57-02-08.2 Section 1 & N.D.C.C. 57-02-08.8 Section 8).

The Office of the Tax Commissioner reviews the accuracy of the calculation of the property tax credit on the certification listings prior to issuing a check to each county. The department is not currently performing additional monitoring procedures of county certifications to ensure that the counties are accurately determining eligibility.



The office has an **opportunity to enhance monitoring procedures** to confirm eligibility determined by counties for two types of property tax credits.

Separate evaluations may involve the review of control design and direct testing of internal control. These evaluations provide greater objectivity when performed by reviewers who do not have responsibility for the activities being evaluated (Green Book para. 16.07).

In the 2021 biennium (July 1, 2019 to June 30, 2021), the Office of the Tax Commissioner paid \$27.6 million of general funds for reimbursement to North Dakota Counties for these tax credits.

RECOMMENDATION

We recommend the Office of the State Tax Commissioner enhance monitoring procedures to include review of individuals' eligibility determined by the county for the homestead property tax and disabled veterans tax credit.

OFFICE OF THE STATE TAX COMMISSIONER

RESPONSE

The Office of State Tax Commissioner understands this recommendation to strengthen our internal controls. The agency will review the its statutory authority under:

- N.D.C.C. § 57-02-08.2 relating to the homestead credit certification
- N.D.C.C. § 57-02-08.1(f) relating to confidentiality of eligibility records filed with county, and
- N.D.C.C. § 57-01-15 which gives the tax commissioner the authority to use tax information filed with this agency to determine compliance with state tax laws administered by Tax Commissioner.

Audit Procedures

Primary Objective

INTERNAL CONTROL

We obtained an understanding of internal control through inquiries, observations, and inspection of documentation and electronic data records. We planned our audit work to assess the design, implementation, and effectiveness of those internal controls that were significant to our audit objectives.

The specific internal control testing completed for this audit objective is identified below:

- Segregated preparation and approval of expenditures is tested statewide in the State of North Dakota Annual Financial Report.
- Award letters are provided by the Office of the State Tax Commissioner to qualifying businesses for tax credits related to the 21st Century Manufacturing Workforce Incentive.

There were no controls in place for the monitoring of payments made to counties for the disabled veterans tax credit and homestead property tax credit. This deficiency was identified in finding 2021-1. No additional internal control deficiencies were identified.

SCOPE

This audit of the Office of the State Tax Commissioner is for the biennium ended June 30, 2021.

The Office of State Tax Commissioner has operations in the following locations. Each location was included in the audit scope:

- The central office in the State Capitol.
- Remote offices in Dickinson, Fargo, Grand Forks, Minot, and Williston.

METHODOLOGY

To meet this objective, we:

- Interviewed appropriate agency personnel.
- Observed the Department's processes and procedures.
- Used non-statistical sampling and projected the results to the population as appropriate.
- Analyzed financial data in ConnectND to determine areas of risk.
- Analyzed expenditures, including an analysis by class, to determine the Office of the State Tax Commissioner did not expend more than appropriated (N.D.C.C. 54-16-03).
- Reviewed non-appropriated fund activity to ensure the Office of the State Tax Commissioner had legislative approval for non-appropriated expenditures (N.D.C.C. 54-44.1-09).
- Reviewed adequacy of blanket bond coverage by comparing coverage to state bonding guidelines (N.D.C.C. 26.1-21-08, N.D.C.C. 26.1-21-10(1)).
- Tested compliance with wind generation tax allocation (N.D.C.C. 57-33.2-18).
- Selected a random sample of businesses receiving the tax credit claimed in relation to the 21st century manufacturing workforce incentive and verified compliance (N.D.C.C. 57-38).
- Reviewed required transfer from motor vehicle fuel tax revenue to the general fund of \$1,991,024 (2019 Session Laws Senate Bill 2006 section 4).
- Reviewed the process used by the Office of the State Tax Commissioner to audit the certifications provided by county auditors related to the Homestead credit (N.D.C.C. 57-02-08.2) and Disabled Veterans tax credit (N.D.C.C. 57-02-08.8).

- Selected a random and judgmental sample of revenue collections to ensure that tax revenue collected was properly deposited using the correct coding.

AUTHORITY AND STANDARDS

This biennial audit of the Office of the State Tax Commissioner has been conducted by the Office of the State Auditor pursuant to authority within North Dakota Century Code Chapter 54-10.

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 standards used to evaluate internal control are published in the publication Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States (Green Book, GAO-14-704G).



Responses to LAFRC Audit Questions

1. WHAT TYPE OF OPINION WAS ISSUED ON THE FINANCIAL STATEMENTS?

Revenues, expenditures and appropriation information was not prepared by the Office of the State Tax Commissioner 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 unmodified 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 the finding of this report, we did not identify any deficiencies in internal control that were significant within the context of our audit objectives.

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.

No, a management letter was not issued.



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, management conflicts of interest, contingent liabilities, or significant unusual transactions identified.

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 the State Tax Commissioner's revenues, expenditures and appropriation information does 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), GenTax, Great Plains, and Mirror Image are high-risk information technology systems critical to the Office of the State Tax Commissioner.

Financials

Revenues and Expenditures

REVENUES AND OTHER SOURCES	JUNE 30, 2021	JUNE 30, 2020
Natural Resource Taxes (Net of Refunds)	\$ 1,637,777,841	\$ 2,074,413,846
Sales and Use Tax (Net of Refunds)	1,441,177,950	1,597,283,476
Income Taxes (Net of Refunds)	604,161,582	458,354,432
Business Taxes	29,786,855	26,869,295
Telecommunication Taxes (Net of Refunds)	6,848,513	7,241,593
Pre-paid Wireless Emergency 911 Fees (Net of Refunds)	1,250,511	1,259,920
Miscellaneous Revenue	196,339	230,754
Alcohol License Fees	101,800	98,925
Transfers In	2,199,377	196,071
Total Revenues and Other Sources	\$ 3,723,500,768	\$ 4,165,948,312

Source: ConnectND Financials

Continued on the following page

Financials

Revenues and Expenditures

EXPENDITURES AND OTHER USES	JUNE 30, 2021	JUNE 30, 2020
Salaries and Benefits	\$ 9,995,294	\$ 9,963,271
Homestead Tax Credit	8,228,913	8,387,079
Disabled Veterans Tax Credit	5,846,365	5,231,637
Information Technology	2,520,460	2,507,443
Postage	328,334	303,995
Professional Services	208,716	219,601
Equipment/Repairs	177,974	49,501
Supplies	117,516	64,420
Rent/Lease – Equipment/Building	89,717	83,061
Professional Development	68,045	78,310
Travel	32,361	50,543
Printing	31,313	34,408
Miscellaneous Expenditures	60,612	42,832
Transfer to General Fund	2,240,479	108,828
Total Expenditures and Other Uses	\$ 29,946,099	\$ 27,124,929

Source: ConnectND Financials

Appropriations

For the Biennium Ended June 30, 2021

EXPENDITURES BY LINE ITEM	FINAL APPROPRIATION	EXPENDITURES	UNEXPENDED APPROPRIATION
Salaries and Wages	\$ 22,867,956	\$ 19,958,565	\$ 2,909,391
Operating Expenses	7,158,601	6,656,645	501,956
Capital Assets	6,000	5,773	227
Homestead Tax Credit	17,110,000	16,615,992	494,008
Disabled Veteran Credit	11,140,200	11,078,002	62,198
Totals	\$ 58,282,757	\$ 54,314,977	\$ 3,967,780

EXPENDITURES BY SOURCE	FINAL APPROPRIATION	EXPENDITURES	UNEXPENDED APPROPRIATION
General	\$ 58,111,616	\$ 54,266,842	\$ 3,844,774
Other	171,141	48,135	123,006
Totals	\$ 58,282,757	\$ 54,314,977	\$ 3,967,780

Source: ConnectND Financials




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