

Office of Attorney General  
BISMARCK, NORTH DAKOTA

# Audit Report

For the Two-year Period Ended  
June 30, 2012

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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May 10, 2013

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, 2012. 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 Michael Schmitcke, CPA. Jackie Castleberry and Alex Mehring were the staff auditors. 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 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, reading "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

## ***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?*

Yes.

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

Yes.

### *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?*

The Office of Attorney General has implemented all 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, 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), Legal Billing System, Gaming System, and Licensing 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, 2012 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, 2012. 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:

- The central office in the State Capitol building.
- Crime Lab in east Bismarck.
- Bureau of Criminal Investigations in north Bismarck.
- North Dakota Lottery in north Bismarck.

Each location noted above was included in the audit scope except the North Dakota Lottery. The North Dakota Lottery receives a separate annual financial audit. See the latest financial audit of the North Dakota Lottery at [http://www.nd.gov/auditor/reports/125L\\_12.pdf](http://www.nd.gov/auditor/reports/125L_12.pdf).

## ***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 ending June 30, 2012, 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 totaled \$12,137,698 at June 30, 2012 which reflects a \$632,516 increase compared to the prior year. The increase was primarily related to the purchase of vehicles by the Bureau of Criminal Investigation Division using federal and general funds.

Revenues consisted primarily of gaming taxes, federal funds, and legal services. Other revenues during the audited period included licenses, permits, and fees; and fines and forfeitures. Total revenues were \$14,491,777 for the year ended June 30, 2012 as compared to \$17,046,396 for the year ended June 30, 2011.

The decrease in overall revenue was primarily related to the elimination of pull tab excise taxes by the Legislature but was partially offset by an increase in gaming activities.

The expenditures remained fairly constant for the Office of Attorney General, decreasing slightly. Total expenditures for the Office of Attorney General were \$21,887,179 for the year ended June 30, 2012 as compared to \$22,489,962 for the prior year.

The revenues and expenditures noted above do not include the activity of the North Dakota Lottery. The North Dakota Lottery has a separate annual financial statement audit. The latest audit can be reviewed at [http://www.nd.gov/auditor/reports/125L\\_12.pdf](http://www.nd.gov/auditor/reports/125L_12.pdf).

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

The operating expenses line item unexpended appropriation for the 2009-2011 biennium was due to the following:

- Several IT projects that were not completed during the biennium;
- Federal funds expected to be received for expenditures were spent slower than anticipated; fire-safer cigarettes and fire prevention/public safety revenues were not received until late in the biennium which delayed spending related to these projects;
- The Fire Marshal did not receive anticipated federal funding related to operating activities; and

- Employee turnover and difficulty filling those positions reduced operating types of expenditures such as professional development and professional services.

The grants line item unexpended appropriation for the 2009-2011 biennium was due to the Fire Marshal not receiving a budgeted federal grant, uncertainty regarding timing and amount of federal grant awards, and difficulty predicting when sub-grantees will request reimbursement based on their spend down of awards.

# Financial Statements

## Statement of Revenues and Expenditures

	<u>June 30, 2012</u>	<u>June 30, 2011</u>
<b><u>Revenues and Other Sources:</u></b>		
Gaming Tax	\$ 4,856,208	\$ 3,107,208
Revenue from Federal Government	2,986,403	3,282,403
Legal Services	1,453,385	1,288,802
Fines and Forfeitures	1,311,824	1,876,839
Licenses, Permits, and Fees	1,289,022	1,072,720
Pull Tab Excise Tax	912,293	4,051,866
Background Checks	525,665	493,878
Bingo Card Excise Tax	258,747	1,023,509
Fire Marshall	66,238	205,399
Miscellaneous Revenue	459,730	341,118
Transfers In	372,262	302,654
<b>Total Revenues and Other Sources</b>	<b>\$ 14,491,777</b>	<b>\$ 17,046,396</b>
<b><u>Expenditures and Other Uses:</u></b>		
Salaries and Benefits	\$ 14,181,977	\$ 13,888,564
Grants, Benefits, and Claims	1,440,274	1,411,715
IT Contractual Services and Repairs	866,086	632,118
Operating Fees and Services	828,933	749,452
Rent of Building Space	522,874	586,244
Travel	441,601	383,934
Fees – Professional Services	394,786	475,782
Building Construction	380,818	379,965
Equipment under \$5,000	360,687	248,387
Repairs	349,995	439,685
IT – Data Processing	298,497	308,116
Motor Vehicles	242,564	171,681
Supplies – IT Software	220,505	285,610
IT - Communications	185,966	174,662
Medical, Dental, and Optical	167,058	380,236
Equipment over \$5,000	149,603	623,008
Miscellaneous Expenditures	844,061	1,302,625
Transfers Out	10,894	48,178
<b>Total Expenditures and Other Uses</b>	<b>\$ 21,887,179</b>	<b>\$ 22,489,962</b>

## Statement of Appropriations

For The Fiscal Year Ended June 30, 2012

<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	\$ 29,506,046		\$ 29,506,046	\$ 13,620,184	\$ 15,885,862
Operating Expenses	16,418,016	\$ 80,000	16,498,016	4,405,001	12,093,015
Capital Assets	2,256,183	100,000	2,356,183	790,985	1,565,198
Technology Project Carryover		553,675	553,675	287,572	266,103
Grants	3,420,000		3,420,000	926,987	2,493,013
Litigation Fees	50,000		50,000	49,975	25
NICS Improvement Act – 2007	585,859		585,859	31,435	554,424
Medical Examinations	660,000		660,000	147,700	512,300
North Dakota Lottery	3,700,242		3,700,242	1,344,151	2,356,091
Arrest & Return of Fugitives	10,000	30,000	40,000	9,505	30,495
Gaming Commission	7,368		7,368	6,333	1,035
Federal Stimulus Funds - 2009	2,355,708		2,355,708	819,202	1,536,506
<b>Totals</b>	<u>\$ 58,969,422</u>	<u>\$ 763,675</u>	<u>\$ 59,733,097</u>	<u>\$ 22,439,030</u>	<u>\$ 37,294,067</u>
<b>Expenditures by Source:</b>					
General Fund	\$ 31,542,245	\$ 110,000	\$ 31,652,245	\$ 14,385,450	\$ 17,266,795
Other Funds	27,427,177	653,675	28,080,852	8,053,580	20,027,272
<b>Totals</b>	<u>\$ 58,969,422</u>	<u>\$ 763,675</u>	<u>\$ 59,733,097</u>	<u>\$ 22,439,030</u>	<u>\$ 37,294,067</u>

### Appropriation Adjustments:

The \$80,000 adjustment to the Operating Expenses line was approved by the Emergency Commission for expenses associated with multi-state arbitration hearings concerning funding due to the state from the Master Settlement Agreement with tobacco companies.

The \$100,000 adjustment to the Capital Assets line was approved by the Emergency Commission to accept additional federal grant funds to help establish, train, and equip investigative teams to identify and arrest sex offenders who are not in compliance with sex offender registration requirements and educate attorneys in the requisite elements needed to charge an offender.

The \$553,675 adjustment to the Technology Project Carryover line was approved by the Capital Construction Carryover Committee.

The \$30,000 adjustment to the Arrest and Return of Fugitives line was approved by the Emergency Commission to accept state contingency funds to reimburse local law enforcement for cost incurred for extradition of felons located outside of North Dakota.

**Expenditures Without Appropriations Of Specific Amounts:**

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$84,436 of expenditures for fiscal year 2012).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$80,565 of expenditures for fiscal year 2012).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-12-23 (\$10,929 of expenditures for fiscal year 2012).

Multijurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$459,969 of expenditures for fiscal year 2012).

North Dakota Sobriety Program Fund has a continuing appropriation authorized by NDCC section 54-12-29 (\$156,399 of expenditures for fiscal year 2012).

## 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>
Salaries and Benefits	\$ 25,958,281	\$ 1,241,110	\$ 27,199,391	\$ 25,678,228	\$ 1,521,163
Operating Expenses	14,750,431	(147,110)	14,603,321	9,273,516	5,329,805
Capital Assets	2,391,187	269,877	2,661,064	1,686,019	975,045
Technology Project Carryover		325,265	325,265	238,930	86,335
Grants	3,452,225		3,452,225	1,937,296	1,514,929
Litigation Fees	50,000	38,000	88,000	79,375	8,625
Medical Examinations	660,000		660,000	424,265	235,735
North Dakota Lottery	3,584,388		3,584,388	2,789,811	794,577
Arrest & Return of Fugitives	10,000		10,000	1,765	8,235
Gaming Commission	6,141		6,141	6,140	1
Federal Stimulus Funds - 2009	2,259,188		2,259,188	2,239,447	19,741
<b>Totals</b>	<u>\$ 53,121,841</u>	<u>\$ 1,727,142</u>	<u>\$ 54,848,983</u>	<u>\$ 44,354,792</u>	<u>\$ 10,494,191</u>
<b>Expenditures by Source:</b>					
General Fund	\$ 28,060,432	\$ 992,000	\$ 29,052,432	\$ 29,001,895	\$ 50,537
Other Funds	25,061,409	735,142	25,796,551	15,352,897	10,443,654
<b>Totals</b>	<u>\$ 53,121,841</u>	<u>\$ 1,727,142</u>	<u>\$ 54,848,983</u>	<u>\$ 44,354,792</u>	<u>\$ 10,494,191</u>

### Appropriation Adjustments:

The \$1,241,110 adjustment to the Salaries and Benefits line consisted of the following 2009 Legislative Session 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 \$147,110 adjustment to the Operating Expenses line consisted of the following 2009 Legislative Session adjustments:

- (\$201,110) decrease due to a correction as the \$201,110 increase due to House Bill 1575 noted above was originally mistakenly added to the Operating Expenses line.
- \$54,000 increase approved by the Emergency Commission to accept state contingency funds for anticipated reimbursement to city and county governments for prosecution witness fees.

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.

The \$38,000 adjustment to the Litigation Fees line was approved by the Emergency Commission to accept state contingency funds to cover anticipated litigation expenditures during the remainder of the biennium.

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

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$178,847 of expenditures for this biennium).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$115,677 of expenditures for this biennium).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-12-23 (\$15,676 of expenditures for this biennium).

Multijurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$665,671 of expenditures for this biennium).

North Dakota Sobriety Program Fund has a continuing appropriation authorized by NDCC section 54-12-29 (\$95,916 of expenditures for this biennium).

Insurance Recoveries have a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$18,683 of expenditures for this biennium).

## ***Internal Control***

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In our audit for the two-year period ended June 30, 2012, 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 System, Licensing System, and Gaming 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 internal control was adequate.

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 did not identify any significant deficiencies in internal control.



## *Compliance With Legislative Intent*

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In our audit for the two-year period ended June 30, 2012, 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:

- Proper collection and credit of Fire and Tornado Fund fees (2011 North Dakota Session Laws – Senate Bill 2003 and Senate Bill 2070).
- Proper collection and credit of Petroleum Release Compensation Fund fees (2011 North Dakota Session Laws – Senate Bill 2003 and Senate Bill 2070).
- Established a Domestic Violence Fatality Review Commission (2011 North Dakota Session Laws – Senate Bill 2247).
- Creation of an electronic record keeping system related to the sale of ephedrine, pseudoephedrine, and phenylpropanolamine (2011 North Dakota Session Laws – Senate Bill 2259).
- Proper concealed weapons license fee charged (2009 North Dakota Session Laws – Senate Bill 2415).
- Proper receipt and allocation of gaming taxes (North Dakota Century Code section 53-06.1-12).
- Proper credit to the state general fund for excess concealed weapons fees collected (North Dakota Century Code section 62.1-04-03).
- 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 (2009 North Dakota Session Laws chapter 3 and 2011 North Dakota Session Laws chapter 29).
- 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* 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.

## *Operations*

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This audit did not identify areas of the Office of Attorney General's operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

You may obtain audit reports on the internet at:

[www.nd.gov/auditor/](http://www.nd.gov/auditor/)

or by contacting the  
Division of State Audit

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