

Office of the
Attorney General
BISMARCK, NORTH DAKOTA

Audit Report

For the Two-year Period Ended
June 30, 2014

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

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Transmittal Letter

April 7, 2015

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

We are pleased to submit this audit of the Office of the Attorney General for the two-year period ended June 30, 2014. 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 Kristi Morlock. Megan Reis and Elizabeth Rogers 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. Stenehjem and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in black ink that reads "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

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 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?*

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?*

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 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 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

Audit Objectives

The objectives of this audit of the Office of Attorney General for the two-year period ended June 30, 2014 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, 2014. 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 Office of Attorney General has operations in the following locations:

- 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.htm>.

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

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 June 30, 2014, 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 \$13,553,836 at June 30, 2014 which reflects a \$1,308,146 increase compared to the prior year. The increase was primarily related to the purchase of vehicles by the Bureau of Criminal Investigation and equipment for the Crime Laboratory 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 \$21,162,487 for the year ended June 30, 2014 as compared to \$17,501,543 for the year ended June 30, 2013. The increase in overall revenue was primarily related to a Transfer from the Land and Minerals Trust fund for the creation of the Law Enforcement Grants appropriation line.

Total expenditures for the Office of Attorney General were \$29,705,784 for the year ended June 30, 2014 as compared to \$24,836,411 for the prior year. The increase in total expenditures for the audited period was primarily due to an increase in grants given out due to the new Law Enforcement Grants appropriation line. Salaries also increased due to additional funds received for oil-impacted counties. All other expenditures remained fairly constant.

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.htm>.

Analysis of Significant Variances - Budgeted and Actual Expenditures

The operating expenses line item unexpended appropriation for the 2011-2013 biennium was due to the following:

- Several IT projects that were not completed during the biennium; and
- The Bureau of Criminal Investigation and the Crime Laboratory did not receive anticipated federal funding related to operating activities.

The grants line item unexpended appropriation for the 2011-2013 biennium was due to 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, 2014</u>	<u>June 30, 2013</u>
<u>Revenues and Other Sources:</u>		
Gaming Tax	\$ 3,619,730	\$ 5,520,819
Revenue from Federal Government	2,481,850	2,840,932
Legal Services	1,896,766	1,328,492
Licenses and Fees	1,194,332	1,515,072
Fines and Forfeitures	729,248	4,418,641
Remote Alcohol Monitoring Fees	660,536	299,421
Background Checks	530,255	509,970
Fire Marshall	85,719	66,189
Miscellaneous Revenue	190,254	151,402
Transfers In	9,773,798	850,605
Total Revenues and Other Sources	\$ 21,162,487	\$ 17,501,543
<u>Expenditures and Other Uses:</u>		
Salaries and Benefits	\$ 16,762,508	\$ 15,079,414
Grants	2,956,947	1,288,538
Equipment over \$5,000	1,378,785	919,499
Operating Fees and Services	1,341,001	937,399
IT Contractual Services and Repairs	1,210,030	826,873
Supplies	882,110	764,456
Equipment under \$5,000	797,727	1,341,598
Repairs	714,578	390,958
Rent of Building Space	704,658	609,998
Travel	634,887	528,150
Fees – Professional Services	576,273	550,989
Building Construction	382,174	381,702
Lab Supplies	367,775	283,071
IT – Data Processing	331,153	301,667
Miscellaneous Expenditures	287,215	279,278
Professional Development	196,764	162,779
IT – Communications	181,035	190,043
Transfers Out	162	
Total Expenditures and Other Uses	\$ 29,705,784	\$ 24,836,411

Statement of Appropriations

For The Fiscal Year Ended June 30, 2014

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Salaries and Benefits	\$ 34,984,562	\$ 266,000	\$ 35,250,562	\$ 16,630,267	\$ 18,620,295
Accrued Leave Payments	1,057,247		1,057,247	49,501	1,007,746
Operating Expenses	26,994,056	(119,256)	26,874,800	6,231,226	20,643,574
Capital Assets Technology Project	2,363,077	299,620	2,662,697	1,423,920	1,238,777
Carryover		505,000	505,000	168,403	336,597
Grants	2,373,947		2,373,947	625,518	1,748,429
Law Enforcement Grants	9,600,000		9,600,000	2,664,988	6,935,012
Litigation Fees	50,000	152,500	202,500	79,594	122,906
Abortion Litigation Fees	400,000		400,000	186,858	213,142
Medical Examinations	660,000		660,000	194,490	465,510
North Dakota Lottery	4,133,821		4,133,821	1,524,529	2,609,292
Arrest & Return of Fugitives	10,000		10,000	3,690	6,310
Gaming Commission	7,368		7,368	396	6,972
Remote Alcohol Monitors	1,200,000		1,200,000	420,000	780,000
Totals	<u>\$ 83,834,078</u>	<u>\$ 1,103,864</u>	<u>\$ 84,937,942</u>	<u>\$ 30,203,379</u>	<u>\$ 54,734,563</u>
Expenditures by Source:					
General Fund	\$ 38,851,628	\$ 152,500	\$ 39,004,128	\$ 17,887,249	\$ 21,116,879
Other Funds	44,982,450	951,364	45,933,814	12,316,130	33,617,684
Totals	<u>\$ 83,834,078</u>	<u>\$ 1,103,864</u>	<u>\$ 84,937,942</u>	<u>\$ 30,203,379</u>	<u>\$ 54,734,563</u>

Appropriation Adjustments:

The \$266,000 increase to the Salaries and Benefits line was approved by the Emergency Commission to move \$200,000 from the Operating Expenses line to increase salaries in oil-impacted counties. The Emergency Commission also approved \$66,000 in additional federal funds for salaries.

The \$119,256 decrease to the Operating Expenses line was approved by the Emergency Commission to move \$200,000 to the Salaries and Benefits line. Also, \$80,744 was approved by the Emergency Commission to accept additional federal funds.

The \$299,620 increase to the Capital Assets line was approved by the Emergency Commission to accept additional federal funds for additional equipment at the Crime Laboratory.

The \$505,000 increase to the Technology Project Carryover line was approved by the Capital Construction Carryover Committee.

The \$152,500 adjustment to the Litigation Fees line was approved by the Emergency Commission to accept state contingency funds to cover anticipated litigation expenditures during the biennium.

Expenditures Without Appropriations Of Specific Amounts:

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$166,435 of expenditures in fiscal year 2014).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$11,208 of expenditures for fiscal year 2014).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-12-23 (\$7,354 of expenditures for fiscal year 2014).

Multi-Jurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$403,239 of expenditures for fiscal year 2014).

North Dakota Sobriety Program Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$438,697 of expenditures for fiscal year 2014).

Statement of Appropriations

For The Biennium Ended June 30, 2013

Expenditures by Line Item:	<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	\$ 28,160,094	\$ 1,345,952
Operating Expenses	16,418,016	\$ 214,200	16,632,216	10,370,351	6,261,865
Capital Assets	2,256,183	100,000	2,356,183	1,910,728	445,455
Technology Project Carryover		553,675	553,675	393,512	160,163
Grants	3,420,000		3,420,000	1,655,471	1,764,529
Litigation Fees	50,000	172,000	222,000	211,715	10,285
NCIS Improvement Act – 2007	585,859		585,859	101,184	484,675
Medical Examinations	660,000		660,000	395,600	264,400
North Dakota Lottery	3,700,242		3,700,242	2,705,489	994,753
Arrest & Return of Fugitives	10,000	30,000	40,000	17,595	22,405
Gaming Commission	7,368		7,368	6,822	546
Federal Stimulus Funds – 2009	2,355,708		2,355,708	1,853,194	502,514
Totals	<u>\$ 58,969,422</u>	<u>\$ 1,069,875</u>	<u>\$ 60,039,297</u>	<u>\$ 47,781,755</u>	<u>\$ 12,257,542</u>
Expenditures by Source:					
General Fund	\$ 31,542,245	\$ 416,200	\$ 31,958,445	\$ 31,890,279	\$ 68,166
Other Funds	27,427,177	653,675	28,080,852	15,891,476	12,189,376
Totals	<u>\$ 58,969,422</u>	<u>\$ 1,069,875</u>	<u>\$ 60,039,297</u>	<u>\$ 47,781,755</u>	<u>\$ 12,257,542</u>

Appropriation Adjustments:

The \$214,200 increase to the Operating Expenses line was approved by the Emergency Commission for expenses associated with multi-state arbitration hearing concerning funding due to the state from the Master Settlement Agreement with tobacco companies.

The \$100,000 increase 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 increase to the Technology Project Carryover line was approved by the Capital Construction Carryover Committee.

The \$172,000 increase to the Litigation Fees line was approved by the Emergency Commission to accept state contingency funds to cover anticipated litigation expenditures during the biennium.

The \$30,000 increase 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 costs 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 (\$266,289 of expenditures for this biennium).

Attorney General Refund Fund has a continuing appropriation authorized by NDCC section 54-12-18 (\$107,290 of expenditures for this biennium).

Special Operations Team Reimbursement Fund has a continuing appropriation authorized by NDCC section 54-23-23 (\$19,170 of expenditures for this biennium).

Multi-Jurisdictional Drug Task Force Fund has a continuing appropriation authorized by NDCC section 54-12-26 (\$931,492 of expenditures for this biennium).

North Dakota Sobriety Drug Task Force has a continuing appropriation authorized by NDCC section 54-12-29 (\$323,082 of expenditures for this biennium).

Internal Control

In our audit for the two-year period ended June 30, 2014, 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 surrounding the processing of payroll.
- 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

In our audit for the two-year period ended June 30, 2014, 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:

- Compliance with Attorney General Refund Fund Transfer Exemption (2013 North Dakota Session Laws – House Bill 1003).
- Compliance with appropriation to purchase secure continuous remote alcohol monitors for individuals in the 24-7 sobriety program (2013 North Dakota Session Laws – House Bill 1302).
- Proper concealed weapons license fee charged (2013 North Dakota Session Laws – House Bill 1327).
- Compliance with Law Enforcement Grants appropriation (2013 North Dakota Session Laws – House Bill 1358).
- Proper receipt and allocation of gaming taxes (North Dakota Century Code section 53-06.1-12).
- 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
 - Gaming and Excise Tax Allocation Fund
 - Insurance Regulatory Trust Fund
 - Multi-Jurisdictional Drug Task Force Fund
 - North Dakota Sobriety Program Fund
 - Reduce Cigarette Ignition Propensity Fund
 - Special Operations Team Reimbursement Fund
- Application of proper statutory rates relating to revenue.
- Proper fund authorization.
- Compliance with OMB's Purchasing Procedures Manual.
- Compliance with appropriations and related transfers (2011 North Dakota Session Laws chapter 29 and 2013 North Dakota Session Laws chapter 3).
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record-keeping, surplus property, annual inventory, lease and financing arrangements in budget requests, and lease analysis requirements.

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 Office of Attorney General in a management letter dated April 7, 2015.

Operations

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

Management Letter (Informal Recommendations)

April 7, 2015

Honorable Wayne Stenehjem
Attorney General
Office of Attorney General
600 E Boulevard Avenue
Bismarck, ND 58505

Dear Mr. Stenehjem:

We have performed an audit of the Office of Attorney General for the two-year period ended June 30, 2014, and have issued a report thereon. As part of our audit, we gained an understanding of the Office of 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 recommendation.

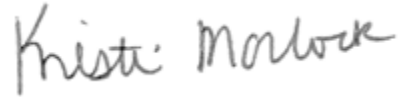
LEGISLATIVE INTENT

Informal Recommendation 14-1: We recommend the Office of the Attorney General deposit 7% of gaming tax revenue into the gaming and excise tax allocation fund in accordance with NDCC 53-06.1-12.

Management of the Office of Attorney General agreed with the recommendation.

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 "Kristi Morlock".

Kristi Morlock
Auditor in-charge

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or by contacting the
Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
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