

Tobacco Prevention and  
Control Executive Committee  
BISMARCK, NORTH DAKOTA

**Audit Report**

For the Biennium Ended  
June 30, 2013

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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January 27, 2014

The Honorable Jack Dalrymple, Governor  
Members of the North Dakota Legislative Assembly  
Dr. Beth Hughes, 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, 2013. 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 Lindsey Ressler. Krista Lambrecht was the staff auditor. Cindi Pedersen, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-4743. 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*

Voters in North Dakota passed the Statewide Initiated Measure 3 in 2008 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 (NDCC) Section 23-42-02. A three-member executive committee is selected by the advisory committee from its membership pursuant to NDCC Section 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. Phillip 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 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 our finding addressing "inadequate controls surrounding grant management" (page 10), we determined internal controls were adequate.

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

Other than our work addressing "North Dakota cigarette tax significantly lower than average" (page 13), we determined there were no indications of lack of efficiency in financial operations and management of the agency.

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

All recommendations have been implemented from prior audits.

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 14 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.*

The Tobacco Prevention and Control Executive Committee hired an accountant and began performing their own accounting function. 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 June 30, 2013 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, 2013. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require 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, 2013, 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 primarily of tobacco settlement funds and interest earnings. Tobacco settlement funds are received pursuant to the tobacco settlement agreement adopted by the east central district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in the State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Total revenues were \$11,431,867 for the year ended June 30, 2013 as compared to \$11,428,556 for the year ended June 30, 2012.

Total expenditures for the Tobacco Prevention and Control Executive Committee were \$6,050,684 for the year ended June 30, 2013 as compared to \$5,711,508 for the prior year. The increase in total expenditures for the audited period reflects primarily an increase in fees for professional services and salaries and benefits. These increases are due to the entry into a new service contract in fiscal year 2013 and hiring of additional staff including temporary employees. All other expenditures remained fairly constant.

Tobacco settlement funds received pursuant to the tobacco settlement agreement exceed expenditures by \$5,381,183 for the year ended June 30, 2013 as compared to \$5,717,048 for the year ended June 30, 2012. Payments under this agreement will end in April 2017. Thereafter, future expenditures will reduce the remaining tobacco settlement fund balance.

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

The Tobacco Prevention and Control Executive Committee began performing two new functions during our audit period. Prior to this audit period, the Health Department completed the human resources and accounting functions through a purchase of service agreement. An accountant was hired by the Tobacco Prevention and Control Executive Committee and is responsible for performing the human resources and accounting functions.

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

The Tobacco Prevention and Control Executive Committee had an unexpended appropriation of \$1,163,701 for the biennium ended June 30, 2013. This remaining appropriation is a result of the following three events: the center was not fully staffed for the entire biennium; the contract for an evaluator came in below the amount budgeted; and less was spent on grants than budgeted.

# Financial Statements

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## Statement of Revenues and Expenditures

	<u>June 30, 2013</u>	<u>June 30, 2012</u>
<b><u>Revenues and Other Sources:</u></b>		
Tobacco Settlement Funds	\$11,402,609	\$11,392,521
Interest and Investment Earnings	24,988	36,035
Program Income	3,279	
Miscellaneous Revenue	991	
<b>Total Revenues and Other Sources</b>	<b><u>\$11,431,867</u></b>	<b><u>\$11,428,556</u></b>
<b><u>Expenditures and Other Uses:</u></b>		
Grants	\$4,193,658	\$4,213,448
Professional Services	1,119,094	779,165
Salaries and Benefits	550,476	391,730
IT Contractual Services and Repairs	48,106	164,449
Rentals/Leases Building	46,747	35,680
Travel	23,761	22,782
IT Communications	18,747	16,488
Office Supplies	7,323	12,916
IT Data Processing	6,250	7,027
Professional Development	5,885	4,065
Operating Fees and Services	5,833	4,702
Printing	5,746	635
IT Equipment under \$5,000	5,649	8,528
Repairs	5,057	4,863
Office Furniture under \$5000	3,045	35,646
Postage	2,565	2,290
Professional Supplies	901	1,755
Insurance	761	24
IT Software	660	4,645
Other Expenditures	420	670
<b>Total Expenditures and Other Uses</b>	<b><u>\$6,050,684</u></b>	<b><u>\$5,711,508</u></b>

## Statement of Appropriations

For The Biennium Ended June 30, 2013

<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	\$ 12,922,614		\$ 12,922,614	\$ 11,758,913	\$ 1,163,701
<b>Totals</b>	<u>\$ 12,922,614</u>	<u>\$ 0</u>	<u>\$ 12,922,614</u>	<u>\$ 11,758,913</u>	<u>\$ 1,163,701</u>
<b>Expenditures by Source:</b>					
Other Funds	\$ 12,922,614		\$ 12,922,614	\$ 11,758,913	\$ 1,163,701
<b>Totals</b>	<u>\$ 12,922,614</u>	<u>\$ 0</u>	<u>\$ 12,922,614</u>	<u>\$ 11,758,913</u>	<u>\$ 1,163,701</u>

### Expenditures Without Appropriations Of Specific Amounts:

The Statewide Conference Fund is non-appropriated in accordance with OMB Policy 211 (\$3,279 of expenditures for this biennium).

## ***Internal Control***

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In our audit for the biennium June 30, 2013, 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 revenues.
- Controls surrounding the processing of expenditures.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the tobacco prevention and control state aid 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 deficiency in internal control. We also noted another matter involving internal control that we have reported to management of Tobacco Prevention and Control Executive Committee in a management letter dated January 27, 2014.

### ***Inadequate Controls Surrounding Grant Management (Finding 13-1)***

#### **Condition:**

The Tobacco Prevention and Control Executive Committee is unable to determine if the amounts being reimbursed to grant recipients are proper and not excessive.

#### **Criteria:**

Studies prepared by federal and national organizations including the Government Accountability Office, the Department of Treasury and Finance, and the National State Auditor's Association focus attention on the importance of grant accountability by establishing guidelines that will result in efficient, effective, and accountable grant administration and performance monitoring for the better management of grants.

**Cause:**

The Tobacco Prevention and Control Executive Committee approved budgets that allowed grant recipients to use an audit approved formula or actual expenditures for various types of expenditures. There was no requirement that the audit approved formula must be properly supported in order to determine its accuracy. Also, grant recipients were allowed to use an audit approved formula when actual expenditures should have been used due to the nature of the expenditures.

**Effect or Potential Effect:**

The Tobacco Prevention and Control Executive Committee may be reimbursing grant recipients for more than their proportionate share of expenditures.

**Recommendation:**

We recommend the Tobacco Prevention and Control Executive Committee thoroughly review the various types of expenditures being reimbursed and determine whether an audit approved formula or actual expenditure method is appropriate for different grant recipients. In addition, all methods used and expenditures being reimbursed should be properly supported.

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

*The Tobacco Prevention and Control Executive Committee agrees with this recommendation. The Center for Tobacco Prevention and Control Policy staff is strengthening controls surrounding grants and we are working with our grantees to meet this recommendation.*

## *Compliance With Legislative Intent*

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In our audit for the biennium ended June 30, 2013, we identified and tested the Tobacco Prevention and Control 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 the amount 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 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.

## ***Operations***

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Our audit of the Tobacco Prevention and Control Executive Committee identified the following area of potential improvement to operations, as expressed by our operational objective:

- Determine if the committee has maximized efforts to decrease and deter smoking in North Dakota.

### ***North Dakota Cigarette Tax Significantly Lower than Average (Finding 13-2)***

#### **Condition:**

The cigarette tax in North Dakota is 44 cents per pack of cigarettes, per the Campaign for Tobacco Free Kids, which ranks North Dakota the 46<sup>th</sup> lowest cigarette tax in the country. This is significantly lower than the national average of \$1.53 per pack.

#### **Criteria:**

A study conducted by the Research Triangle Institute states “an increase in state cigarette tax to \$2.00 per pack in 2015 predicts a drop in smoking prevalence from 21.2% to 16.7%, decreasing the number of adult smokers in North Dakota in one year by 24,238. This decrease in prevalence would be expected to result in a projected savings of nearly \$560 million in personal health care costs from 2015 to 2020.”

#### **Cause:**

The North Dakota cigarette tax has been unchanged since 1993.

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

The State of North Dakota is not maximizing efforts in reducing the number of smokers and decreasing health care costs to the state.

#### ***Operational Improvement:***

*We recommend the Tobacco Prevention and Control Executive Committee request the Legislature to increase the cigarette tax to be in line with the national average.*

#### ***Tobacco Prevention and Control Executive Committee’s Response:***

*The Tobacco Prevention and Control Executive Committee agrees with this recommendation. The Tobacco Prevention and Control Executive Committee and the ND Center for Tobacco Prevention and Control Policy staff are working with various partners, including Local Public Health Units, to suggest a cigarette tax increase to be considered by the 2015 Legislative Assembly.*



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

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January 27, 2014

Dr. Beth Hughes  
Tobacco Prevention and Control Executive Committee Chair  
4023 State Street, Suite 65  
Bismarck, ND 58503-0638

Dear Dr. Hughes:

We have performed an audit of the Tobacco Prevention and Control Executive Committee for the biennium ended June 30, 2013, 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.

### **Management Controls**

Informal Recommendation 13-1: We 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.

### **Revenue**

Informal Recommendation 13-2: We recommend the Tobacco Prevention and Control Executive Committee consider investing funds in the Tobacco Prevention and Control Fund with

the Retirement and Investment Office, per section 23-42-04(1) of the North Dakota Century Code.

Management of the Tobacco Prevention and Control Executive Committee agreed with these recommendations.

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

Sincerely,

A handwritten signature in cursive script that reads "Lindsey Ressler".

Lindsey Ressler  
Auditor in-charge

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Office of the State Auditor  
600 East Boulevard Avenue – Department 117  
Bismarck, ND 58505-0060

(701) 328-2241