

Public Service Commission

BISMARCK, NORTH DAKOTA

Review Report

For the Biennium Ended
June 30, 2017

Joshua C. Gallion
State Auditor



Office of the State Auditor
Division of State Audit

Office of the State Auditor

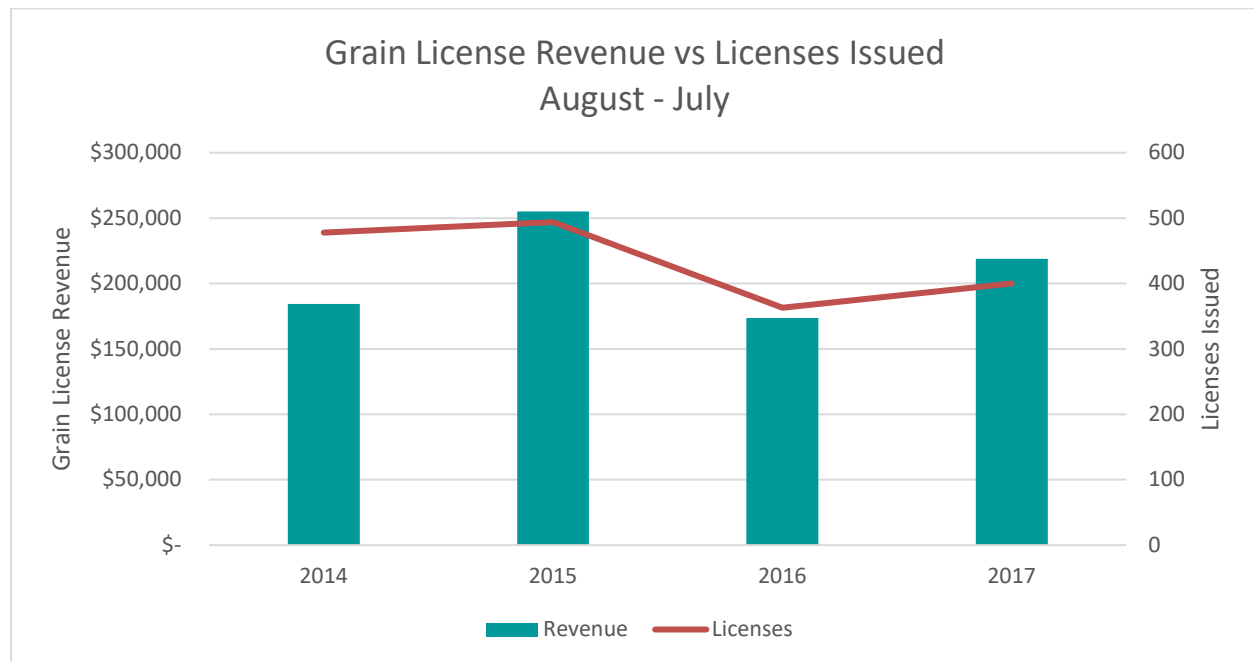
Public Service Commission

Report Highlights

Grain Licensing

The Public Service Commission is responsible for licensing public warehouses, facility-based grain buyers, and roving grain buyers by North Dakota Century Code (NDCC) sections 60-02 and 60-02.1. Prior to August 2015, public warehouse licenses were issued on an annual basis and each license was in effect from August 1st to July 31st. During the 2015 Legislative Session, Senate Bill 2301 amended NDCC 60-02-07 to stagger the expiration dates of public warehouses licensed seven years or more so that only half of these licenses expire on July 31st of each year. Beginning on August 1, 2015, all public warehouse licenses were renewed for either a one or two-year license and in 2016 the only public warehouse licenses that were renewed were those that were not yet on the two-year renewal schedule with the exception of the public warehouses that do not meet the seven-year requirement. This can be seen in the graph below by the increase in revenue during 2015 and the subsequent decrease in revenue and licenses in 2016.

It should also be noted that the number of licenses issued for 2016 and forward are not representative of total active licenses each year due to the above change.



Sources: Public Service Commission Grain Reconciliation Reports (2014-2016)
Public Service Commission License and Receiving Reconciliation Report (2017).

Internal Control, Legislative Intent, and Financial Transactions:

We did not note any instances of internal control weaknesses, noncompliance with legislative intent or errors in financial transactions required to be brought to the attention of those charged with governance.

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE MEMBERS

Senator Jerry Klein – Chairman
Representative Chet Pollert – Vice Chairman

Representatives

Bert Anderson
Patrick Hatlestad
Mary Johnson
Keith Kempenich
Gary Kreidt
Andrew G. Maragos
Mike Nathe
Marvin E. Nelson
Wayne A. Trottier

Senators

Dwight Cook
Judy Lee
Richard Marcellais

AUDITOR AND AGENCY PERSONNEL

State Auditor Personnel

Cindi Pedersen, CPA, CM, Audit Manager
Kristi Morlock, MBA, In-Charge
Ryan Bear, CISA, Auditor
Ian Ballantyne, Auditor

Primary Public Service Commission Contacts

Randy Christmann, Commissioner
Julie Fedorchak, Commissioner
Brian Kroshus, Commissioner
Jill Kringstad, CPA, Accounting Budget Specialist

Contents

<i>Transmittal Letter</i>	<i>1</i>
<i>Executive Summary</i>	<i>2</i>
<i>Introduction</i>	<i>2</i>
<i>Responses to LAFRC Audit Questions</i>	<i>2</i>
<i>LAFRC Audit Communications</i>	<i>3</i>
<i>Review Objectives, Scope, and Methodology</i>	<i>5</i>
<i>Financial Statements</i>	<i>7</i>
<i>Statement of Revenues and Expenditures</i>	<i>7</i>
<i>Statement of Appropriations</i>	<i>8</i>
<i>Internal Control</i>	<i>9</i>
<i>Compliance with Legislative Intent</i>	<i>10</i>
<i>Operations</i>	<i>12</i>
<i>Management Letter (Informal Recommendations)</i>	<i>13</i>



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

Transmittal Letter

June 11, 2018

Members of the North Dakota Legislative Assembly

The Honorable Randy Christmann, Chairman of the Public Service Commission

We are pleased to submit this review of the Public Service Commission for the biennium ended June 30, 2017. This review 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 audits and reviews.

In determining the contents of the reviews 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 or reviews. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

Cindi Pedersen, CPA, was the audit manager. Inquiries or comments relating to this review may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Commissioner Christmann and the Public Service Commission staff for the courtesy, cooperation, and assistance they provided to us during this review.

Respectfully submitted,

/S/

Joshua C. Gallion
State Auditor

Executive Summary

Introduction

The Public Service Commission is comprised of three Commissioners, who are elected on a statewide basis to staggered six-year terms.

The Commission was established before North Dakota became a state. Dakota Territory established a Board of Railroad Commissioners in 1885 to oversee railroads, sleeping car companies, express companies, and telephone companies. The state's constitution retained this Board and entrusted it with powers and duties to be prescribed by law. In 1940, the Board's name was changed to the Public Service Commission (PSC). The Legislature has significantly broadened the duties of the PSC. Today, the Commission has varying degrees of jurisdiction over electric and gas utilities, telecommunications companies, energy plant and transmission siting, railroads, grain elevators, auctioneers and auction clerks, weighing and measuring devices, pipeline safety, coal mine reclamation, and abandoned mine lands.

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 Public Service Commission 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 13 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, 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 Public Service Commission's financial statements do not include any significant accounting estimates.

9. *Identify any significant review adjustments.*

Significant review 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 review.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for reviews 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), Check Log (revenues), Accounting Docs (expenditures), and the Licensing and Renewal System (LARS),

which replaced the Grain system during the audit period, are high-risk information technology systems critical to the Public Service Commission.

Review Objectives, Scope, and Methodology

Review Objectives

The objectives of this review of the Public Service Commission for the biennium ended June 30, 2017 were to provide reliable, reviewed financial statements and to answer the following questions:

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

Review Scope

This review of the Public Service Commission is for the biennium ended June 30, 2017. We conducted our review following essentially the same procedures used in our biennial operational audits. Those procedures are designed to plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

A review was performed rather than an audit because the office was not independent during the review period. The current State Auditor was the accounting manager for the Public Service Commission during the first eighteen months of the review period. The office attempted to issue an audit contract for an audit of this period but was unable to obtain any proposals. Since state law requires the State Auditor to audit, review or contract for audits or reviews of state agencies once every two years, the State Auditor performed a review of the Public Service Commission to comply with state law.

The Public Service Commission's sole location is its Bismarck office which was included in the review scope.

Review 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 review and the audit of the state's Comprehensive Annual Financial Report.
- 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 Public Service Commission's processes and procedures.

In aggregate, there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of review evidence.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2017</u>	<u>June 30, 2016</u>
<u>Revenues and Other Sources:</u>		
Federal Revenue	\$ 3,374,851	\$ 3,893,715
Licenses, Permits, Fees, and Fines	2,678,120	2,002,582
Interest and Investment Earnings	20,155	15,363
Miscellaneous Revenue		5,006
Transfers In	275,000	275,000
Total Revenues and Other Sources	<u>\$ 6,348,126</u>	<u>\$ 6,191,666</u>
<u>Expenditures and Other Uses:</u>		
Salaries and Benefits	\$ 4,728,976	\$ 4,692,715
Professional Services	1,938,652	3,120,867
Refunds	979,506	2,783,031
Travel	267,525	335,436
Grain Insolvency Payments		280,000
Information Technology	95,264	103,108
Supplies	75,669	95,380
Equipment	73,078	18,234
Operating Fees and Services	67,450	67,779
Professional Development	46,745	56,147
Rent	37,747	40,503
Repairs	35,230	15,295
Miscellaneous Expenses	17,966	20,519
Transfers Out	375	7,550
Total Expenditures and Other Uses	<u>\$ 8,364,183</u>	<u>\$ 11,636,564</u>

Financial Statement Discussion:

- Professional Services expenditures decreased in fiscal year 2017 is due to the timing of construction work due to weather conditions and the program trend of moving from large projects to smaller projects.
- Refunds in fiscal year 2017 decreased due to the length of time that some cases take and the type of case that is being heard by the Commission. Also, interim refunds are now being issued and this has resulted in the final refund amounts being smaller and refunds to be issued prior to cases being closed.

Statement of Appropriations

For the Biennium Ended June 30, 2017

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	\$ 9,643,095	\$ 5,120	\$ 9,648,215	\$ 9,044,716	\$ 603,499
Operating Expenses	1,877,562		1,877,562	1,323,918	553,644
Capital Assets	26,400		26,400	25,915	485
Grants	20,000		20,000	7,925	12,075
AML Contractual Services	8,000,000		8,000,000	3,888,293	4,111,707
Rail Rate Complaint Case	900,000		900,000		900,000
Reclamation and Grain Litigation	725,624		725,624	154,210	571,414
Railroad Safety Program	523,345		523,345	436,194	87,151
Totals	<u>\$ 21,716,026</u>	<u>\$ 5,120</u>	<u>\$ 21,721,146</u>	<u>\$ 14,881,171</u>	<u>\$ 6,839,975</u>
Expenditures by Source:					
General Fund	\$ 7,415,451	\$ 5,120	\$ 7,420,571	\$ 6,735,856	\$ 684,715
Other Funds	14,300,575		14,300,575	8,145,315	6,155,260
Totals	<u>\$ 21,716,026</u>	<u>\$ 5,120</u>	<u>\$ 21,721,146</u>	<u>\$ 14,881,171</u>	<u>\$ 6,839,975</u>

Expenditures without Appropriations of Specific Amounts:

Statewide Conference Fund has a continuing appropriation authorized by OMB Policy 211 (\$3,800 of expenditures for this biennium).

Public Service Commission Valuation Fund has a continuing appropriation authorized by NDCC sections 49-02-02, 49-21-01.7, and 49-05-16 (\$1,564,754 of expenditures for this biennium).

Siting Process Recovery Fund has a continuing appropriation authorized by NDCC section 49-22-22 (\$3,271,022 of expenditures for this biennium).

Credit Sale Contract Indemnity Fund has a continuing appropriation authorized by NDCC section 60-10-02 (\$280,000 of expenditures for this biennium).

Internal Control

In our review for the biennium ended June 30, 2017, we identified the following areas of the Public Service Commission'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 Licensing and Renewal System.

The criteria used to evaluate internal control is 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). Agency management must establish and maintain effective internal control in accordance with policy of the Office of Management and Budget (OMB Policy 216) and, for programs receiving Federal funds, the Code of Federal Regulation as set forth by the Federal Government (2 CFR 200.303).

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 review 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 review. 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: misstatements in financial or performance information, violations of laws and regulations or 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 review for the biennium ended June 30, 2017, we identified and tested Public Service Commission's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Compliance with appropriations related to the Railroad Safety Pilot Program (2015 North Dakota Session Laws chapter 42, section 3).
- Proper use of the following legally restricted funds:
 - Siting Process Recovery Fund (NDCC 49-22-22(3)).
 - Credit Sale Contract Indemnity Fund (NDCC 60-10-02).
- Application of proper statutory rates relating to revenue.
 - Surface Coal Mining (NDCC 38-14.1-13).
 - Public Service Commission Valuation Fund (NDCC 49-02-02, 49-21-01.7, and 49-05-16).
 - Electric Utility Franchise Fee (NDCC 49-03-02).
 - Public Utility Franchise Fee (NDCC 49-05-04).
 - Public Utility Rate Adjustment Fee (NDCC 49-05-04.2 and 49-05-04.3).
 - Change in Tariff Rates (NDCC 49-05-05).
 - Application fees and refunds (NDCC 49-22-22(1) & (3)).
 - Auctioneer's License, Fee, and Annual Renewal (NDCC 51-05.1-01.1).
 - Public Warehouse License and Fees (NDCC 60-02-07).
 - Grain Buyer Annual License Fee (NDCC 60-02.1-07).
 - Testing Weighing and Measuring Devices (NDCC 64-02-10).
- Compliance with OMB's Purchasing Procedures Manual.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2015 North Dakota Session Laws, chapter 42).
- Compliance with Emergency Commission or Budget Section changes to appropriations (NDCC 54-16-03).
- Proper legislative authority for all funds and non-appropriated expenditures (NDCC 54-44.1-09).
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Proper authority for investments held at Bank of North Dakota (NDCC 54-27-16).
- Proper deposit of all investment interest
- Adequate blanket bond coverage of employees (NDCC 26.1-21-08).
- Compliance with fixed asset requirements including record-keeping, annual inventory, and use of surplus property.
- Compliance with payroll-related laws including statutory salaries for applicable elected 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 review 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 Public Service Commission in a management letter dated June 11, 2018.

Operations

This review did not identify areas of the Public Service Commission's operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

Management Letter (Informal Recommendations)

June 11, 2018

The Honorable Randy Christmann
Public Service Commission
State Capitol
600 E Boulevard Avenue – Dept 408
Bismarck, ND 58505

Dear Mr. Christmann:

We have performed a review of the Public Service Commission for the biennium ended June 30, 2017 and have issued a report thereon. As part of our review, we gained an understanding of the Public Service Commission's internal control structure to the extent we considered necessary to achieve our review objectives. We also performed tests of compliance as described in the same report.

Our review 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 review, 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 review 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 review we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following presents our informal recommendations.

Informal Recommendation 17-1: We recommend the Public Service Commission work with the OMB State Procurement Office to determine if alternate procurement or obtaining a state contract should be used for recurring payments.

Management of Public Service Commission agreed with the recommendation.

I encourage you to call me at 328-2241, if you have any questions about the implementation of recommendations included in your review report or this letter.

Sincerely,

Cindi Pedersen, CPA

Cindi Pedersen, CPA
Audit Manager

You may obtain audit reports on the internet at:

www.nd.gov/auditor

or by contacting the Office of the State Auditor at:

Email: ndsao@nd.gov

Phone: (701) 328-2241

Office of the State Auditor

600 East Boulevard Avenue – Department 117

Bismarck, ND 58505-0060