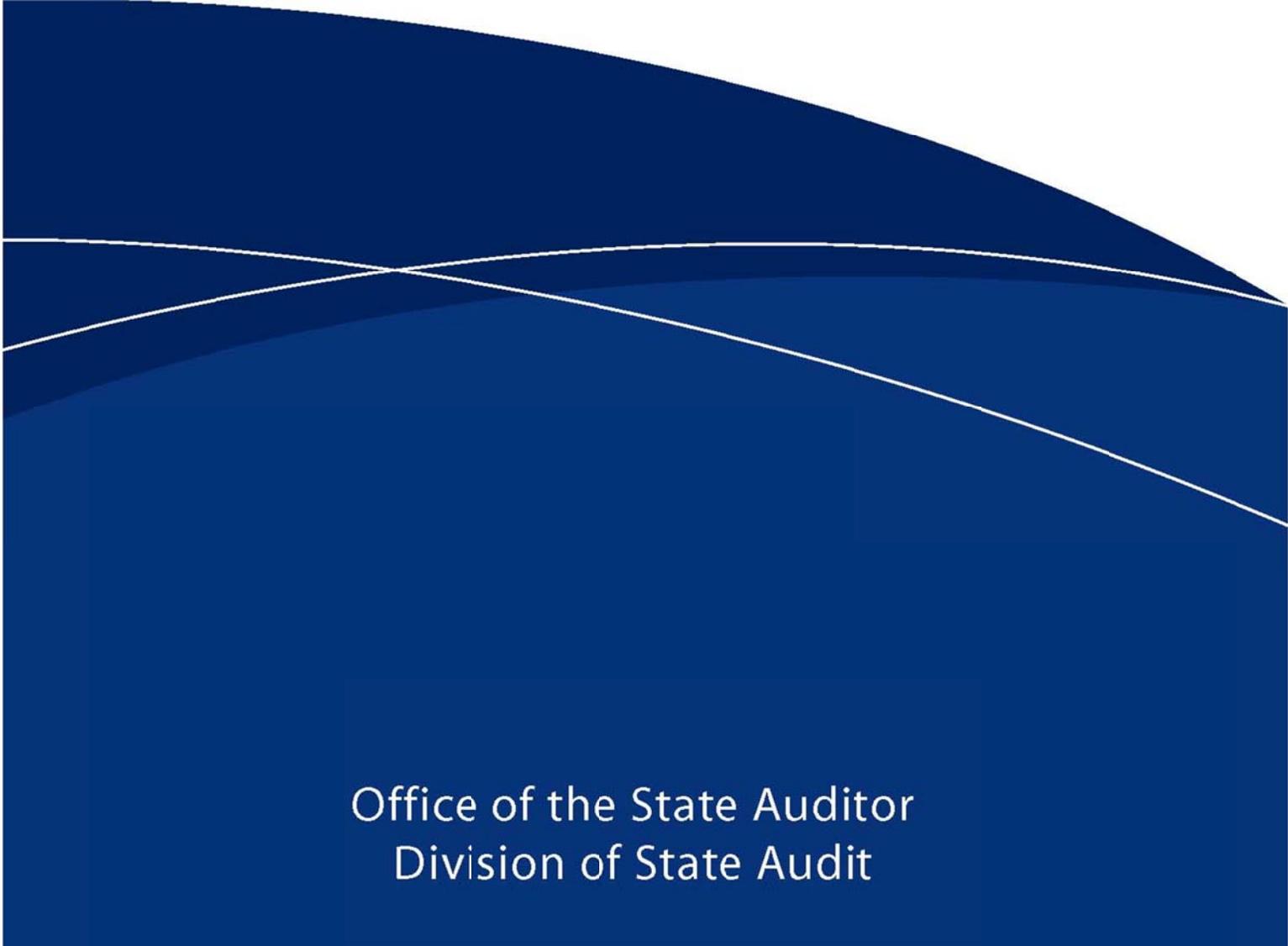




JUDICIAL BRANCH
BISMARCK, NORTH DAKOTA
Audit Report

For the Biennium Ended
June 30, 2009

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

**LEGISLATIVE AUDIT AND FISCAL REVIEW
COMMITTEE MEMBERS**

Senator Randel Christmann – Chairman
Representative RaeAnn G. Kelsch – Vice Chairman

Representatives

Rick Berg
Merle Boucher
Jeff Delzer
Patrick R. Hatlestad
Jerry Kelsh
Keith Kempenich
Gary Kreidt
Louis Pinkerton
Chet Pollert
Bob Skarphol
Blair Thoreson
Benjamin A. Vig
Lonny Winrich

Senators

Joan Heckaman
Jerry Klein
Judy Lee

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>Audit Objectives, Scope, and Methodology</i>	<i>4</i>
<i>Discussion and Analysis</i>	<i>6</i>
<i>Financial Summary</i>	<i>6</i>
<i>Analysis of Significant Variances Between Final Budgeted and Actual Expenditures</i>	<i>6</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>10</i>
<i>Unified Court Information System Control Weaknesses (Finding 09-1)</i>	<i>10</i>
<i>Compliance With Legislative Intent</i>	<i>11</i>
<i>Proper Fixed Asset Records (Finding 09-2)</i>	<i>13</i>
<i>Operations</i>	<i>14</i>
<i>Prior Recommendations Not Implemented</i>	<i>15</i>
<i>Management Letter (Informal Recommendations)</i>	<i>16</i>

STATE AUDITOR
ROBERT R. PETERSON



PHONE
(701) 328 - 2241
FAX
(701) 328 - 1406

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

Transmittal Letter

April 16, 2010

The Honorable John Hoeven, Governor
Members of the North Dakota Legislative Assembly
The Honorable Gerald W. VandeWalle, Chief Justice, Supreme Court

We are pleased to submit this audit of the Judicial Branch for the biennium ended June 30, 2009. 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 Angela Klubberud. Delan Hellman was the staff auditor. Fred Ehrhardt, CPA, was the audit supervisor and 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 Chief Justice VandeWalle and his 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

Introduction

The North Dakota Judicial Branch represents one of the three branches of state government. The Judicial Branch contains the North Dakota Supreme Court, District Courts, Clerks of Court, Judicial Conduct Commission, and several County Clerk of Court offices.

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 response 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 Judicial Branch 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?

Other than our finding addressing the "proper fixed asset records" (page 13), we determined the Judicial Branch was in compliance with significant statutes, laws, rules, and regulations under which it was created and is functioning.

3. Was internal control adequate and functioning effectively?

Other than our finding addressing the "unified court information system control weakness" (page 10), we determined internal control was adequate.

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 Judicial Branch has implemented all recommendations included in the prior audit report except for the "uniform court information system control weakness" and the "proper fixed asset records" finding (see page 15).

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 Judicial Branch'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 the Unified Court Information System (UCIS) are high-risk information technology systems critical to the Judicial Branch.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Judicial Branch for the biennium ended June 30, 2009 were to provide reliable, audited financial statements and to answer the following questions:

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

Audit Scope

This audit of the Judicial Branch is for the biennium ended June 30, 2009. 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 Judicial Branch has its central office, Supreme Court, and Law Library at the Capitol and 12 state-funded county clerks of court offices. Each location will be included in the audit scope:

- Central Office
- Supreme Court
- Law Library
- Stutsman County
- Cass County
- Ramsey County
- Walsh County
- Stark County
- Ward County
- Burleigh County
- Morton County
- Grand Forks County
- Richland County
- Williams County
- Rolette County

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 Judicial Branch'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 Judicial Branch'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, 2009, operations of the Judicial Branch 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

The Judicial Branch had \$7.5 million in capital assets as of June 30, 2009. The capital assets consist primarily of equipment and software.

Revenues and other sources consisted primarily of court imposed fees and fines, federal funds, and transfers from other agencies. Total revenues and other sources were \$1,782,574 for the year ended June 30, 2009, as compared to \$1,734,072 for the year ended June 30, 2008.

Total expenditures and other uses for the Judicial Branch were \$36,678,469 for the year ended June 30, 2009 as compared to \$30,774,367 for the prior year. The increase in IT expenditures is primarily due to the costs associated with the case management system replacement project.

The increase in Salaries and Benefits expenditures is primarily due to market equity increases authorized by Senate Bill 2189 of the 2007 Session Laws.

Analysis of Significant Variances Between Final Budgeted and Actual Expenditures

The excess of District Court - Mediations appropriations over actual expenditures were due to the over-estimation of the expenditures related to the implementation of the Family Mediation Project.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2009</u>	<u>June 30, 2008</u>
<u>Revenues and Other Sources:</u>		
Fees, Fines, Forfeits	\$ 758,455	\$ 670,794
Federal Revenue	299,961	138,896
Judicial Conduct Board	139,746	145,637
Interest and Investment Earnings	11,802	80,960
Miscellaneous Revenue	10,805	4,075
Transfers In	539,884	623,890
Total Revenues and Other Sources	\$ 1,782,574	\$ 1,734,072
<u>Expenditures and Other Uses:</u>		
Salaries and Benefits	\$ 25,597,056	\$ 24,005,535
Major Operating Expenses:		
Operating Fees and Services	2,869,463	2,680,306
IT Software	825,672	101,573
Travel	798,038	604,356
Professional Supplies	653,580	581,201
IT Contractual Services and Repairs	1,714,476	286,597
Grants, Benefits, and Claims	318,947	523,406
IT – Data Processing	419,232	366,772
Other Equipment	764,817	88,332
IT Equipment	764,535	148,551
Professional Development	255,781	266,192
Professional Services	487,392	177,621
Postage	229,282	227,165
Office Supplies	190,903	163,621
Printing	117,713	110,104
Repairs	116,694	87,190
IT – Communications	215,186	212,099
Other Operating Expenses	339,702	139,174
Transfers Out		4,572
Total Expenditures and Other Uses	\$ 36,678,469	\$ 30,774,367

Statement of Appropriations

For The Biennium Ended June 30, 2009

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Supreme Court					
Salaries and Wages	\$ 7,071,605		\$ 7,071,605	\$ 6,991,177	\$ 80,428
Operating Expenses	2,149,185	\$ (7,000)	2,142,185	1,828,975	313,210
Capital Assets	96,000		96,000	35,733	60,267
Judges Retirement	122,231	7,000	129,231	128,825	406
District Court					
Salaries and Wages	42,102,619	(650,000)	41,452,619	41,303,276	149,343
Operating Expenses	14,635,431	(429,250)	14,206,181	13,294,122	912,059
Capital Assets	458,583	1,100,000	1,558,583	1,460,238	98,345
Judges Retirement	605,749		605,749	512,418	93,331
Mediation	1,076,824		1,076,824	300,451	776,373
Alternative Dispute Resolution	20,000		20,000		20,000
UND-Central Legal Research	80,000		80,000	80,000	
Judicial Conduct Board					
Judicial Conduct Board	717,291		717,291	670,394	46,897
Totals	<u>\$ 69,135,518</u>	<u>\$ 20,750</u>	<u>\$ 69,156,268</u>	<u>\$ 66,605,609</u>	<u>\$ 2,550,659</u>
Expenditures by Source:					
General Fund	\$ 66,935,878		\$ 66,935,878	\$ 64,680,149	\$ 2,255,729
Other Funds	2,199,640	\$ 20,750	2,220,390	1,925,460	294,930
Totals	<u>\$ 69,135,518</u>	<u>\$ 20,750</u>	<u>\$ 69,156,268</u>	<u>\$ 66,605,609</u>	<u>\$ 2,550,659</u>

Appropriation Adjustments:

Per House Bill 1002, Section 5 of the 2007 Session Laws, the Judicial Branch has the authority to transfer between line items with Supreme Court approval. Therefore, the Judicial Branch has the authority to transfer between line items without the approval of the Emergency Commission.

Per House Bill 1002, Sections 3 and 4 of the 2007 Session Laws, the Judicial Branch is appropriated any funds received by the Supreme Court, District Courts, and Judicial Conduct Commission and Disciplinary Board, not otherwise appropriated, from special funds derived from federal funds and other income and pursuant to federal acts, private gifts, grants, and donations. Therefore, the Judicial Branch has authority to increase appropriation for these funds without the approval of the Emergency Commission.

Expenditures Without Appropriations Of Specific Amounts:

Court Facilities Improvement and Maintenance Fund has a continuing appropriation authorized by NDCC section 27-05.2-08 (\$847,227 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2009, we identified the following areas of the Judicial Branch'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 computer-based Unified Court Information System (UCIS).

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 other matters involving internal control that we have reported to management of the Judicial Branch in a management letter dated April 16, 2010.

Unified Court Information System Control Weaknesses (Finding 09-1)

Access controls over the Unified Court Information System (UCIS) are not adequate. Adjustments can be made to accounts on UCIS by any clerk of court for suspensions, payments from outside receipts, or voids. It was noted that prior to September 2008, individuals could void a receipt they entered without approval. A lack of internal controls increases the likelihood of errors or irregularities.

Good internal controls, as documented in the Committee of Sponsoring Organizations (COSO) of the Treadway Commission's *Internal Control – Integrated Framework*, include limiting access to computer systems to only individuals that need access for their job duties. Further, proper segregation of duties reduces the likelihood of errors or irregularities.

Recommendation:

We recommend the Judicial Branch assign an individual independent of making adjustments to perform a random reconciliation of adjustments made to accounts on UCIS to the corresponding court order or support.

Judicial Branch Response:

We are in agreement with the finding and recommendations. Following the 2007 legislative audit, the Court System implemented a process for random review of case files to be conducted during each county's annual management audit. Audit functions were carried out in 2010, however, since no areas of concern were identified, the audit findings were not documented. Management personnel have been provided with instructions for documenting audit findings and recommendations.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2009, we identified and tested the Judicial Branch's compliance with legislative intent for the following areas that we determined to be significant and of higher risk of noncompliance:

- Proper deposit of collections and use of the following legally restricted funds:
 - Court Facilities and Improvement Fund in accordance with NDCC 27-05.2.
 - Electronic Filing Administration Fund in accordance with NDCC 27-03-05.
 - Judicial Conduct Commission Fund in accordance with NDCC 27-23-12.
 - Judges Retirement Fund in accordance with NDCC 27-17-05.
 - Restitution Collection Assistance Fund in accordance with NDCC 12.1-32-08.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2007 North Dakota Session Laws chapter 2).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Proper use of outside bank accounts, petty cash funds, and proper authority for investments outside the Bank of North Dakota.
- 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 requires 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 an instance of noncompliance that is required to be reported under *Government Auditing Standards*. The finding is described on the following page. Other than this finding, we concluded there was compliance with the legislative intent identified above.

Proper Fixed Asset Records (Finding 09-2)

The Judicial Branch uses the PeopleSoft Asset Management System to maintain a list of their fixed assets. We noted there were no procedures in place to ensure this system is updated on a timely basis. Although a physical inventory was taken, the PeopleSoft Asset Management System was not updated to reflect fixed asset changes. Section 44-04-07 of the North Dakota Century Code (NDCC) states all agencies shall maintain a complete and current inventory record of all property of sufficient value. As a result, the Judicial Branch is not in compliance with NDCC.

Recommendation:

We recommend the Judicial Branch comply with Section 44-04-07 of the North Dakota Century Code and properly maintain an accurate record of assets.

Judicial Branch Response:

We are in agreement with the finding and recommendation. The inventory records have been updated and various old equipment items have been removed from the records. Fixed Assets records will continue to be reconciled with PeopleSoft.

Operations

This audit did not identify areas of the Judicial Branch's operations where we determined it was practical at this time to help to improve efficiency or effectiveness. However, we did note a certain matter involving operations that we have reported to management of the Judicial Branch in a management letter dated April 16, 2010.

Prior Recommendations Not Implemented

Prior recommendations have been implemented with the exception of the following:

Unified Court Information System Control Weakness (Finding 07-2)

Recommendation:

We recommend the Judicial Branch:

- a) Properly designate a knowledgeable individual to review access privileges of the Unified Court Information System on a regular basis and properly restrict access appropriate for individual employee duties.
- b) Document the proper procedures for handling adjustments in the “Cash Management in ND Courts” written policy manual.
- c) Ensure that procedures surrounding adjustments are being followed according to written guidelines by performing a monthly random reconciliation of adjustments made to accounts on UCIS to supporting documentation.

Status:

Partially Implemented – Recommendation was implemented except for performing a monthly random reconciliation of adjustments made to accounts on UCIS to supporting documentation. Recommendation is re-addressed at page 10.

Proper Fixed Assets Records and Inventory (Finding 07-4)

Recommendation:

We recommend the Judicial Branch maintain complete and current fixed asset records and take an annual fixed asset inventory in accordance with section 44-04-07 of the North Dakota Century Code.

Status:

Partially Implemented – An annual inventory was taken; however, the fixed asset records were not updated for changes to fixed assets. Recommendation is re-addressed at page 13.

Management Letter (Informal Recommendations)

April 16, 2010

The Honorable Gerald W. VandeWalle
Chief Justice
Supreme Court
600 E. Boulevard Avenue
Bismarck, ND 58505

Dear Chief Justice VandeWalle:

We have performed an audit of the Judicial Branch for the biennium ended June 30, 2009, and have issued a report thereon. As part of our audit, we gained an understanding of the Judicial Branch'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.

INTERNAL CONTROL

Informal Recommendation 09-1: We recommend the Judicial Branch document the proper procedures for handling suspensions and outside receipts in the "Cash Management in ND Courts" written policy manual.

Informal Recommendation 09-2: We recommend the Judicial Branch perform and maintain documentation of regular reviews of NDGOV User ID access.

Informal Recommendation 09-3: We recommend the Judicial Branch perform and maintain documentation of regular reviews of PeopleSoft user access to ensure only personnel authorized to make changes, record transactions, or approve transactions have access to the appropriate areas necessary to perform their assigned duties.

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 09-4: We recommend the Judicial Branch look for ways to increase their usage of the P-card as a form of payment. We further recommend, if necessary, they meet with officials from OMB to facilitate this process by raising P-card limits, determining which of their vendors they could be making P-card payments to, or changing the accounting on their P-cards so as to limit or eliminate the need to re-allocate P-card expenditures.

PERVASIVE CONTROLS

Informal Recommendation 09-5: We recommend the Judicial Branch require employees to acknowledge their receipt of the code of conduct on an annual basis.

Management of Judicial Branch 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,



Angela Klubberud
Auditor in-charge

You may obtain audit reports on the internet at:

www.nd.gov/auditor/

or by contacting the
Division of State Audit

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

(701) 328-2241