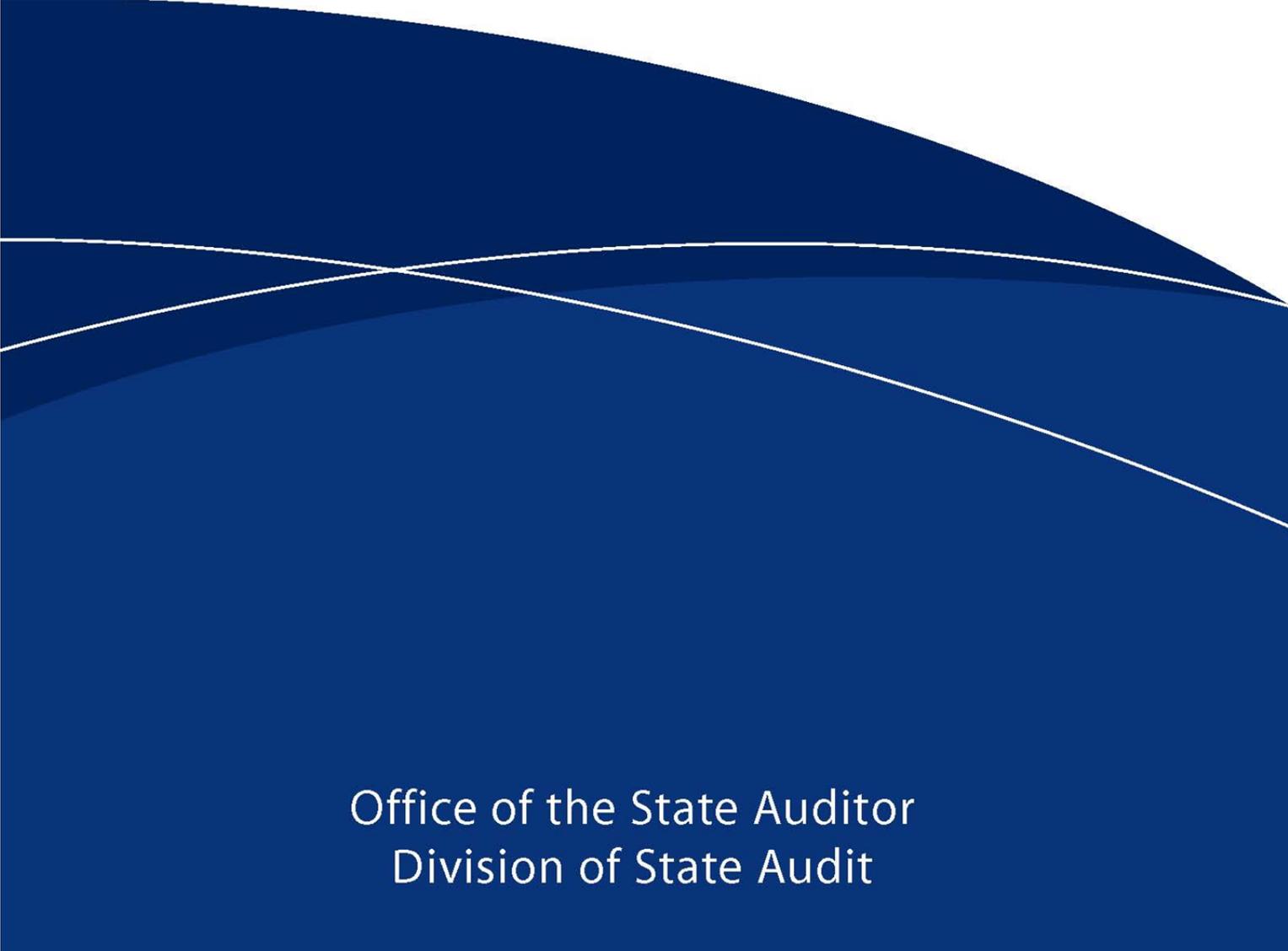


JUDICIAL BRANCH
BISMARCK, NORTH DAKOTA
Audit Report

For the Biennium Ended
June 30, 2011

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

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Transmittal Letter

February 24, 2012

The Honorable Jack Dalrymple, 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, 2011. 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. Jackie Castleberry was the staff auditor. 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 "maintain adequate fixed asset records" (page 11), 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?

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?

Except "maintain adequate fixed asset records" as shown on page 14, the Judicial Branch has implemented all recommendations included in the prior audit report.

6. Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.

Yes, a management letter was issued and is included on page 15 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), Odyssey Case Management System, and Jury Management System 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 period ended June 30, 2011 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, 2011. 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.

Each of the following locations was included in the audit scope:

- The Judicial Branch has operations in the Central Office, Supreme Court, and Law Library.
- The Judicial Branch also has operations in the following state funded counties: Stutsman, Cass, Ramsey, Walsh, Stark, Ward, Burleigh, Morton, Grand Forks, Richland, Williams, and Rolette.
- The Judicial Branch has chamber judges in the following counties: Eddy, Dickey, Barnes, Bottineau, Pierce, and Pembina/Cavalier.

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 period June 30, 2011, 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 \$3.9 million in capital assets, net of accumulated depreciation, as of June 30, 2011. The capital assets consist primarily of equipment and software.

Revenues consisted primarily of court imposed fees and fines, reimbursement from other agencies, and federal revenue. Total revenues were \$1,817,397 for the year ended June 30, 2011 as compared to \$1,610,229 for the year ended June 30, 2010.

Total expenditures for the Judicial Branch were \$41,812,923 for the year ended June 30, 2011 as compared to \$39,650,475 for the prior year. The decrease in IT Contractual Services and Repairs expenditures is primarily due to the completion of the case management system replacement project.

The increase in Salaries and Benefits expenditures is primarily due to legislative increases and the hiring of four new positions.

Analysis of Significant Variances - Budgeted and Actual Expenditures

The excess of District Court – Salaries and Wages appropriations over actual expenditures were due to budgeting for new positions for a 24 month period, however these positions weren't filled until January 2010, as well as vacant positions.

The excess of District Court – Operating Expenses appropriations over actual expenditures were due to expenditures budgeted for this biennium being paid in the previous biennium for the case management system replacement project. Also, this project came in under the estimated budget.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2011</u>	<u>June 30, 2010</u>
<u>Revenues and Other Sources:</u>		
Fees, Fines, Forfeits	\$ 804,561	\$ 574,677
Reimbursement from Other Agencies	537,791	594,241
Federal Revenue	274,472	251,695
Judicial Conduct Board	168,317	168,865
Miscellaneous Revenue	20,207	20,751
Transfers In	12,049	
Total Revenues and Other Sources	<u>\$ 1,817,397</u>	<u>\$ 1,610,229</u>
<u>Expenditures and Other Uses:</u>		
Salaries and Benefits	\$ 29,717,221	\$ 27,999,985
Operating Fees and Services	3,376,685	3,079,805
IT Contractual Services and Repairs	1,677,662	2,469,703
IT Equipment	1,509,938	1,317,397
Supplies	1,265,532	954,332
Travel	886,299	873,587
Grants	765,574	611,090
Fees – Professional Services	669,692	455,163
IT – Data Processing	524,721	471,145
Professional Development	319,167	286,855
Other Operating Expenses	301,193	297,007
IT – Communications	260,705	247,375
Postage	236,369	253,161
Equipment	211,751	126,660
Rent	90,414	207,210
Total Expenditures and Other Uses	<u>\$ 41,812,923</u>	<u>\$ 39,650,475</u>

Statement of Appropriations

For The Biennium Ended June 30, 2011

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	\$ 8,189,996		\$ 8,189,996	\$ 8,180,399	\$ 9,597
Operating Expenses	2,197,376		2,197,376	1,854,176	343,200
Capital Assets	12,549		12,549	8,193	4,356
Judges Retirement	127,021		127,021	127,021	
District Court					
Salaries and Wages	48,940,255	\$ 40,000	48,980,255	48,152,777	827,478
Operating Expenses	20,626,322	(230,000)	20,396,322	17,312,210	3,084,112
Capital Assets	2,301,933	180,000	2,481,933	2,405,665	76,268
Judges Retirement	533,705		533,705	452,405	81,300
Mediation	792,036	50,000	842,036	774,244	67,792
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	813,629		813,629	787,871	25,758
Totals	<u>\$ 84,634,822</u>	<u>\$ 40,000</u>	<u>\$ 84,674,822</u>	<u>\$ 80,134,960</u>	<u>\$ 4,539,862</u>
Expenditures by Source:					
General Fund	\$ 82,590,015		\$ 82,590,015	\$ 78,118,149	\$ 4,471,866
Other Funds	2,044,807	\$ 40,000	2,084,807	2,016,811	67,997
Totals	<u>\$ 84,634,822</u>	<u>\$ 40,000</u>	<u>\$ 84,674,822</u>	<u>\$ 80,134,960</u>	<u>\$ 4,539,862</u>

Appropriation Adjustments:

Per Senate Bill 2002, Sections 2 and 3 of the 2009 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 Fund has a continuing appropriation authorized by NDCC section 27-05.2-08 (\$1,296,664 of expenditures for this biennium).

Restitution Collection Fund has a continuing appropriation authorized by NDCC section 12.1-32-08 (2) (\$26,928 of expenditures for this biennium).

Judges Retirement Fund is authorized by NDCC section 24-17-05 (\$4,847 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2011, 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 Odyssey Case Management System.
- Controls surrounding the Jury Management 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. However, we noted other matters involving internal control that we have reported to management of the Judicial Branch in a management letter dated February 24, 2012.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2011, we identified and tested the Judicial Branch's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Proper use of the following legally restricted funds:
 - Restitution Collection Fund in accordance with NDCC 12.1-32-08
 - Court Facilities Improvement Fund in accordance with NDCC 27-05.2-10
 - Electronic Filing Administration Fund in accordance with NDCC 27-03-05
 - State Courts 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
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2009 North Dakota Session Laws chapter 30).
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Proper use of outside bank accounts.
- 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 below. Other than this finding, we concluded there was compliance with the legislative intent identified above.

Maintain Adequate Fixed Asset Records (Finding 11-1)

Condition:

The Judicial Branch is not updating fixed asset records when items are disposed.

Criteria:

North Dakota Century Code (NDCC) section 44-04-07 states that a department/branch must maintain a complete and current inventory record of all property of sufficient value and performance as to render such inventory practice.

NDCC 54-27-21 states that all fixed assets under a department/branch's control should be included in their financial statements, except those having a value of five thousand dollars or less.

Cause:

Prior recommendation not implemented.

Effect or Potential Effect:

There is an increased likelihood for potential misstatement on the state's financial statements.

Recommendation:

We recommend the Judicial Branch update fixed asset records when items have been disposed.

Sample Agency Response:

We are in agreement with the finding and recommendation. The inventory items in question will be further investigated as to the date of disposal and will be removed from the fixed asset records.

Operations

This audit did not identify areas of 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 February 24, 2012.

Prior Recommendations Not Implemented

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

Proper Fixed Asset Records (Finding 09-2)

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.

Status:

Not implemented – Fixed asset records were not updated for changes to fixed assets. Recommendation is re-addressed on page 11.

Management Letter (Informal Recommendations)

February 24, 2012

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, 2011, 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.

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 11-1: We recommend the Judicial Branch utilize their P-card as a form of payment to vendors accepting P-cards, to the extent possible.

Informal Recommendation 11-2: 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, approve transactions, or record assets have access to the appropriate roles necessary to perform their assigned duties.

FIXED ASSETS

Informal Recommendation 11-3: We recommend the Judicial Branch ensures that individuals responsible for taking physical inventory do not have access to the fixed asset records.

ACCOUNTS RECEIVABLE/REVENUE

Informal Recommendation 11-4: We recommend the Judicial Branch calculate the allowance for uncollectible accounts using historical data on revenue collectability. We also recommend the Judicial Branch track the receivable collections by county and monitor the collection rates.

Management of the 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,



Kristi Morlock
Auditor in-charge

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www.nd.gov/auditor/

or by contacting the
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