

JUDICIAL BRANCH
BISMARCK, NORTH DAKOTA
Audit Report

For the Biennium Ended
June 30, 2015

ROBERT R. PETERSON
STATE AUDITOR

Office of the State Auditor
Division of State Audit

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Transmittal Letter

January 6, 2016

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, 2015. 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 Andrea Wike. Holly Robak and David Senti were the staff auditors. Cindi Pedersen, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. 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 "Rob 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, Clerk of Courts, 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 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 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 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 findings addressing the "Lack of Complete Revenue Reconciliation Procedures" (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?

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 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.*

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 Capital Management (HCM), Odyssey Case Management System, and the 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 ended June 30, 2015 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, 2015. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Each of the following locations were included in the scope of this audit:

- The Judicial Branch's Central Office, Supreme Court, and Law Library.
- The Judicial Branch's state funded counties: Stutsman, Cass, Ramsey, Walsh, Stark, Ward, Burleigh, Morton, Grand Forks, Richland, Williams, and Rolette.
- The Judicial Branch's 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 June 30, 2015, operations of the Judicial Branch were primarily supported by appropriations from the state's general fund. This is supplemented by federal funding and special revenue fund collections.

Financial Summary

The Judicial Branch had a significant decrease in the amount of cash held for others in the Clerk of Court Bond Fund as there was a balance of \$6,668,971 for the year ended June 30, 2015 as compared to \$11,836,636 in the prior year. The amounts in this fund are received as bail, restitution, or pursuant to an order of the court and are used for the purposes of refunding bail, forwarding restitution amounts to entitled recipients, or making payments as directed by an order of the court. This fund is authorized by North Dakota Century Code section 27-05.2-04.

The Judicial Branch had receivables in the amount of \$6.5 million (\$21.1 million gross receivables with an allowance for doubtful accounts of \$14.6 million) for the year ended June 30, 2015. The receivables consist of amounts to be collected by the Clerk of Courts.

The Judicial Branch had approximately \$1.6 million in capital assets, net of accumulated depreciation, as of June 30, 2015. The capital assets consisted primarily of equipment and software.

Revenues consisted primarily of court imposed fees and fines and revenue from the Department of Human Services for the reimbursement of a portion of Title IV-D Child Support cases that are heard by the clerk of courts. Total revenues were \$1,860,359 for the year ended June 30, 2015 compared to \$1,658,980 for the year ended June 30, 2014. The increase in court fees is a result of the Clerk of Courts collecting more court imposed fees and fines in the year ended June 30, 2015 as compared to the prior year.

Total expenditures for the Judicial Branch were \$50,641,741 for the year ended June 30, 2015 as compared to \$46,715,609 for the prior year. There were significant increases in Salaries and Benefits and Grants to Counties. The increase in Salaries and Benefits is primarily due to legislative increases. The increase in Grants to Counties was a result of more grants given from the court facilities improvement and maintenance fund for improvement and maintenance of courthouses in the year ended June 30, 2015 than were given in the prior year.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2015</u>	<u>June 30, 2014</u>
<u>Revenues:</u>		
Court Fees	\$ 797,823	\$ 663,867
Intergovernmental Revenue	771,987	726,200
Disciplinary Fees	209,214	193,577
Miscellaneous Revenue	39,717	33,935
Charges for Services	34,079	36,979
Conference Registration Fees	6,575	3,250
Interest Income	964	1,172
Total Revenues	<u>\$ 1,860,359</u>	<u>\$ 1,658,980</u>
<u>Expenditures:</u>		
Salaries and Benefits	\$ 36,535,441	\$ 35,306,202
Operating Fees and Services	5,288,540	5,038,855
Supplies	2,381,096	1,845,123
Grants	1,505,022	471,354
Equipment	1,451,353	675,741
IT Services	1,156,796	1,221,688
Travel	979,090	853,853
Professional Services	804,967	678,315
Continuing Education	333,423	299,642
Repairs	109,908	106,304
Rentals/Leases	96,105	218,532
Total Expenditures	<u>\$ 50,641,741</u>	<u>\$ 46,715,609</u>

Statement of Appropriations

For The Biennium Ended June 30, 2015

Expenditures by Line Item:	Original <u>Appropriation</u>	<u>Adjustments</u>	Final <u>Appropriation</u>	<u>Expenditures</u>	Unexpended <u>Appropriation</u>
Supreme Court					
Salaries and Wages	\$ 11,759,055	\$ (1,685,799)	\$ 10,073,256	\$ 9,965,541	\$ 107,715
Accrued Leave Payments	531,696	(221,704)	309,992	46,642	263,350
Operating Expenses	2,824,254	(5,000)	2,819,254	2,334,759	484,495
Capital Assets	15,000	5,000	20,000	9,034	10,966
SC - Judges Retirement	75,017		75,017	75,014	3
District Court					
Salaries and Wages	59,107,665	1,861,829	60,969,494	60,060,828	908,666
Accrued Leave Payments	2,399,277		2,399,277	303,550	2,095,727
Operating Expenses	20,277,841	(465,000)	19,812,841	18,768,343	1,044,498
Capital Assets	833,026	390,000	1,223,026	1,197,826	25,200
DC - Judges Retirement	500,936		500,936	459,635	41,301
Mediation	1,089,228	88,387	1,177,615	1,147,915	29,700
UND-Central Legal Research	80,000		80,000	80,000	0
Judicial Conduct Board					
Judicial Conduct Board	988,587	32,287	1,020,874	979,275	41,599
Totals	<u>\$ 100,481,582</u>	<u>\$ 0</u>	<u>\$ 100,481,582</u>	<u>\$ 95,428,362</u>	<u>\$ 5,053,220</u>
Expenditures by Source:					
General Fund	\$ 98,305,993	\$ 0	\$ 98,305,993	\$ 93,581,438	\$ 4,724,555
Other Funds	2,175,589		2,175,589	1,846,924	328,665
Totals	<u>\$ 100,481,582</u>	<u>\$ 0</u>	<u>\$ 100,481,582</u>	<u>\$ 95,428,362</u>	<u>\$ 5,053,220</u>

Appropriation Adjustments:

Per Senate Bill 2002, sections 2 and 4 of the 2013 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, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations. The transfer of funds between line items of appropriation shall be made as requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government. 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 North Dakota Century Code (NDCC) section 27-05.2-08. (\$1,896,376 of expenditures for this biennium).

Restitution Collection Fund has a continuing appropriation authorized by NDCC section 12.1-32-08 (2) (\$29,836 of expenditures for this biennium).

Judges Retirement Fund is authorized by NDCC section 27-17-05 (\$2,775 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, 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 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 information system.
- Controls surrounding the Jury Management information 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 that internal control was not adequate noting certain matters involving internal control and its operation that we consider to be significant deficiencies.

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 January 6, 2016.

Lack of Complete Revenue Reconciliation Procedures (Finding 15-1)

Condition:

The Judicial Branch does not have a complete reconciliation between receipts recorded on the Odyssey Case Management System and funds remitted to the state by the county clerks of court as the agency did not do a reconciliation of monies deposited into funds under the control of other state agencies.

Criteria:

The Treadway Commission of Sponsoring Organizations (COSO) states that Control Activities include reconciliations.

Cause:

The Judicial Branch failed to implement a recommendation issued in the information system audit of the Odyssey Case Management System issued March 21, 2014.

Effect or Potential Effect:

Not having a reconciliation between the Odyssey Case Management System and the state's accounting system could result in state revenue not being properly received and recorded in the proper funds.

Recommendation:

We recommend the Judicial Branch reconcile all funds receipted into the Odyssey Case Management System to deposits on the state's accounting system.

Judicial Branch Response:

We are in agreement with the recommendation. A report of total revenues deposited with the State Treasurer is generated within Odyssey on a monthly basis. The total is compared and reconciled to total revenues received as reported by the State Treasurer. This recommendation was originally included in the Odyssey Case Management System audit report dated March 21, 2014. Due to a misunderstanding as to the detail of reconciliation expected, the State Auditor's Office determined that the recommendation was not being properly addressed when it issued the follow-up of this audit report on October 5, 2015. After further discussion with the State Auditor's Office, it was agreed that the procedures referenced above would be implemented to address the recommendation. However, the recommendation is repeated in the Judicial Branch audit report as the agreed upon procedures were not implemented until after the June 30, 2015 period covered by this audit report.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2015, 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:

- Compliance with appropriations.
- Proper authorization of expenditures without appropriations of specific amounts:
 - Restitution Collection Fund (NDCC 12.1-32-08).
 - Court Facilities Improvement Fund (NDCC 27-05.2-08 and NDCC 29-26-22).
 - Judges Retirement Fund (NDCC 27-17-05).
- Travel-related expenditures are made in accordance with state statute.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Proper use of outside bank accounts.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including lease analysis requirements, record-keeping, annual inventory counts, and surplus property.

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

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.

Management Letter (Informal Recommendations)

January 6, 2016

The Honorable Gerald W. VandeWalle
Chief Justice
ND 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, 2015, 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.

EXPENDITURES

Informal Recommendation 15-1: We recommend the Judicial Branch establish policies surrounding the following:

- Procurement of trainers/speaker for conferences hosted by the agency;
- Allowable costs for snacks/meals provided at conferences hosted by the agency and a reasonable dollar limit on those items;
- Costs allowable for investitures; and
- Payments for juror amenities and meals.

Informal Recommendation 15-2: We recommend the Judicial Branch monitor and maintain adequate information to ensure compliance with expenditure related policies.

FIXED ASSETS

Informal Recommendation 15-3: We recommend the Judicial Branch improve procedures surrounding capital asset deletions.

INFORMATION SYSTEMS

Informal Recommendation 15-4: We recommend the Judicial Branch strengthen controls to verify that mileage paid to jurors is reasonable.

Informal Recommendation 15-5: We recommend the Judicial Branch obtain an understanding of the controls the service organization has for the processing of credit card transactions in the Odyssey system and evaluate how this system affects the Judicial Branch's system of internal controls.

Management of the Judicial Branch agreed with these recommendations.

I encourage you to call me 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,



Andrea Wike
Auditor in-charge

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or by contacting the
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