



# STATE OF NORTH CAROLINA

## FISCAL CONTROL AUDIT REPORT ON CHEROKEE COUNTY CLERK OF SUPERIOR COURT

MURPHY, NORTH CAROLINA

FOR THE PERIOD SEPTEMBER 1, 2004, THROUGH FEBRUARY 28, 2005

OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

STATE AUDITOR

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CHEROKEE COUNTY CLERK OF SUPERIOR COURT  
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**THE HONORABLE GERALD D. BREEDLOVE**



STATE OF NORTH CAROLINA  
Office of the State Auditor

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## AUDITOR'S TRANSMITTAL

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The Honorable Michael F. Easley, Governor  
The General Assembly of North Carolina  
The Honorable Gerald D. Breedlove, Clerk of Superior Court

This report presents the results of our fiscal control audit of the Cherokee County Clerk of Superior Court for the period September 1, 2004, through February 28, 2005. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The objective of a fiscal control audit is to gather and evaluate evidence about selected internal control policies and procedures designed to ensure: (1) reliable financial accounting and reporting and/or (2) compliance with finance-related laws and regulations. Should any information arise during the audit indicating that significant abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice.

The results of our audit disclosed a deficiency in internal control that is considered reportable under *Government Auditing Standards*. This matter is described in the Audit Findings and Recommendations section of this report.

*North Carolina General Statutes* require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

*Leslie W. Merritt, Jr.*

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

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## **BACKGROUND INFORMATION**

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The office of the Clerk of Superior Court is created by the North Carolina Constitution which mandates that there be a Clerk of Superior Court for each county. Under the constitution, it is the responsibility of the General Assembly to prescribe jurisdiction and the powers of the Clerk. Laws of the General Assembly regarding clerks must be uniformly applied in every county in the State.

Voters of each county elect the Clerk of Superior Court to a four-year term. Clerks are paid by the State, with their salaries scaled in accordance with the population of their counties. The Clerk appoints the assistants, deputies and employees in his or her office. The number of assistants and deputies that each clerk may employ varies from county to county depending on the volume of business. Assistant and deputy clerks are paid on a salary schedule fixed by the Administrative Office of the Courts based on education and years of service in the Clerk's office; the maximum and minimum salaries within that scale are fixed by the General Assembly.

The responsibilities of the Clerk are numerous and varied. The Clerk, as a judicial officer of the Superior Court, has judicial responsibilities. The Clerk is judge of probate; that is, the Clerk handles the probate of wills (proceedings to determine if a paper writing is a valid will) and the administration of estates of decedents, minors and incompetents. The Clerk also hears a variety of special proceedings such as adoptions, in competency determinations and partitions of land and is empowered to issue arrest and search warrants and to exercise the same powers as a magistrate with respect to taking pleas of guilty to minor littering, traffic, wildlife, boating, marine fisheries, alcoholic beverage, State park recreation and worthless-check offenses.

The Clerk is also responsible for all clerical and record-keeping functions of the Superior Court and District Court. The Clerk operates a unified record-keeping system for all civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and numerous other records required by law. The Clerk maintains the judgment docket, is custodian of evidence in civil and criminal trials, and issues civil summons and subpoenas. In addition, the Clerk invests money received and held by his or her office in trust and receives and administers insurance or other money on behalf of minors and incapacitated adults.

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# OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS

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## OBJECTIVES

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes* and in accordance with the standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have conducted a fiscal control audit at the Cherokee County Clerk of Superior Court.

The objective of a fiscal control audit is to gather and evaluate evidence about selected internal control policies and procedures designed to ensure: (1) reliable financial accounting and reporting and/or (2) compliance with finance-related laws and regulations. Should any information arise during the audit indicating that significant abuse may have occurred, the audit objective may be extended to include internal control designed to prevent abuse and to determine whether the abuse did in fact occur and its impact. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice.

Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

## SCOPE

Our audit scope covered the period September 1, 2004, through February 28, 2005, and included selected internal controls in the following areas:

### General

*Control Environment* - The control environment consists of the actions, policies, and procedures that reflect the overall attitude of top management about control and its importance to the entity. The control environment sets the tone of the organization, influencing the control consciousness of its employees.

*Information System Controls* - Information system controls include activities that relate to many computerized information system applications and support the effective functioning of application controls. Information system controls include access and end-user controls.

### Financial Accounting and Reporting

*Cash and Investment Cycle* - The cash and investment cycle generally consists of the activities associated with the custody of cash and investments. Financial statement accounts typically impacted by the cycle include cash, certificates of deposit, and other investments.

## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONTINUED)**

*Cash Receipts Cycle* – The cash receipts cycle generally consists of the activities associated with the receipt of cash. All financial statement accounts are impacted by this cycle.

*Cash Disbursements Cycle* – The cash disbursements cycle generally consists of the activities associated with disbursing cash for items other than operating and payroll costs. All financial statement accounts are impacted by this cycle.

### **Finance-Related Compliance**

Listed below are the compliance areas with one or more examples of the criteria for each.

*Cash Management and Investments* – Laws and regulations set limits on authorized deposits and investments. Moneys are required to be deposited in approved depositories and invested in specific investment types. Accounts must be protected with adequate insurance and collateral. Also, disbursements that are unclaimed by payees for a prescribed time period are often required to be remitted to the State Treasurer in accordance with the State of North Carolina's Escheats and Abandoned Property Program.

*Deposit of Receipts* – Laws and regulations require deposit of moneys as soon as possible in order to safeguard assets and to enhance the cash management and investment program. Receipts over a specified amount are required to be deposited on a daily basis.

*Annual Financial Reporting* – Laws and regulations require preparation of annual financial report information in a prescribed format and within a prescribed timeframe. Financial statement information is required to be filed with the Administrative Office of the Courts timely after year-end.

*Case Files* – Laws and regulations set record maintenance and security requirements. Records are required to be filed in a secure location using a uniform indexing system.

*Costs and Fees* – Laws and regulations set costs and fees to be charged. Uniform costs and fees are required to be charged as established by State law.

*Special Provisions* – Laws and regulations impose specific requirements on particular entities or activities. Partial payment collections are required to be distributed in the order prescribed by State law. Other special provisions include the investment of accounts greater than \$2,000, record retention requirements, property held for safekeeping procedures, and review procedures over monthly aging reports.



## **OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)**

### **METHODOLOGY**

To accomplish our audit objectives, we gained an understanding of internal control, performed tests of control effectiveness, and performed corroborating direct tests of the accounting records, reports, and/or compliance as we considered necessary in the circumstances. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. Our procedures were more limited than would be necessary to give an opinion on internal control, and accordingly, we do not express such an opinion.

### **RESULTS**

The results of our audit disclosed a deficiency in internal control that is considered reportable under *Government Auditing Standards*. This matter is described in the Audit Findings and Recommendations section of this report.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

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### **Matters Related to Financial Accounting, Reporting, or Compliance**

The following finding and recommendation was identified during the current audit and represents a significant deficiency in internal control over financial accounting and reporting.

#### SEGREGATION OF DUTIES RELATED TO FINANCIAL MANAGEMENT SYSTEM (FMS) ACCESS RIGHTS

One employee's FMS access rights result in the capability to receipt funds, void receipts, close out cash drawers, and perform bookkeeping functions. This is a deficiency in internal controls relative to the receipting of funds and the proper recording of transactions, and compromises the Clerk's ability to properly record, process, and report accurate financial data.

The Clerk of Superior Court Financial Policies and Procedures Manual, Chapter 2, describes appropriate internal controls applicable to segregation of duties. The manual provides that no single employee should have access rights to receipt funds, void receipts and close out cash drawers. No employee should have access rights to both bookkeeping functions and cashiering functions.

*Recommendation:* Employee responsibilities should be segregated and FMS access rights updated to comply with the Clerk of Superior Court Financial Policies and Procedures Manual.

*Clerk's Response:* In response to your finding, I must state that when taking command of this office over fourteen years ago, I set out to comply with all of our financial policies and procedures and to eliminate this office of any deficiency in internal controls. This has been a difficult task due to having a limited number of employees to perform so many functions. A unique problem that I have always had to overcome is working in an outdated facility, which does not allow grouping of employees in a functional manner.

It is my knowledge that I have no employees, other than myself, who have FMS access rights resulting in the capabilities of receipting funds, voiding receipts, closing out cash drawers, and performing bookkeeping functions. There are not deficiencies in internal controls within my employees.

As Clerk of Superior Court, I have chosen to retain all the access rights to FMS and bookkeeping for several reasons. In a smaller office, there are many times when someone is out sick, on vacation, attending court, or the office is simply experiencing a heavy workload. At the current time I am cash receipting because I have two vacancies. That is a twenty percent reduction in employees. Also, performing these functions myself places me in a better position to select a replacement, manage the work, and solve problems. Also, when it is necessary that I perform a function, it has been my practice to perform only that function on that day. By limiting myself to perform only that function, our internal control is not compromised.

## **AUDIT FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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If there is an employee in our office who has been assigned access rights by oversight or for temporary training purposes, which compromises our internal control, it will be corrected as it comes to my attention.

The Clerk of Superior Court, elected by the people of his County, charged by the General Statutes of North Carolina to perform his important duties, should have the right to perform all of his required duties. It is he who is charged with the responsibility of his duties.

It is my opinion that this office has no internal control weakness and that my employees have complied with all financial policies and procedure.

*Auditor's Response:* It is our opinion that the access rights as described in the finding above are a weakness in segregation of duties. We understand that in small offices these duties and access rights are difficult to properly segregate, but we continue to recommend that receipting, voiding of receipts, and closing out of cash drawers, be segregated to the maximum extent possible. If there are occasions where segregation of these duties is not practical, there should be specific additional supporting documentation to explain how adequate controls were achieved.

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# DISTRIBUTION OF AUDIT REPORT

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In accordance with General Statutes 147-64.5 and 147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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The Honorable Beverly M. Perdue  
The Honorable Richard H. Moore  
The Honorable Roy A. Cooper, III  
Mr. David T. McCoy  
Mr. Robert L. Powell

Governor of North Carolina  
Lieutenant Governor of North Carolina  
State Treasurer  
Attorney General  
State Budget Officer  
State Controller

## JUDICIAL BRANCH

The Honorable Gerald D. Breedlove  
The Honorable Ralph A. Walker  
Mr. Rex Whaley

Cherokee County Clerk of Superior Court  
Director, Administrative Office of the Courts  
Chief of Financial Services, Administrative Office of the Courts

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Director, Fiscal Research Division

June 30, 2005

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