

# State of New Mexico Supreme Court



## Financial Statements

June 30, 2012

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## Independent Auditor's Report

To the Honorable Petra Jimenez Maes  
New Mexico Supreme Court  
And  
Hector Balderas  
New Mexico State Auditor

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information and the budgetary comparisons for the general fund of the State of New Mexico Supreme Court (Court), as of and for the year ended June 30, 2012 which collectively comprise the Court's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Court's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Court's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Court as of June 30, 2012, and the respective changes in financial position thereof and the budgetary comparisons for the general fund for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with Government Auditing Standards, we have also issued our report dated December 13, 2012 on our consideration of the Court's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 4 through 7 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the basic financial statements, the combining and individual fund financial statements, and the budgetary comparisons. The additional schedules listed as "other supplemental information" in the table of contents are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

*Zlotnick Lawz & Sandoval, P.C.*

Zlotnick, Laws & Sandoval, P.C.

December 13, 2012

**Management's Discussion and Analysis**  
**June 30, 2012**

The discussion and analysis provide an overview of the objective and program of the Supreme Court. This discussion helps the reader understand the Supreme Court's operation in terms of financial planning and expenditures of the annual budget. The Supreme Court is the agency created by the Constitution to head the judicial branch of state government.

**Agency Overview**

The New Mexico Supreme Court is a constitutionally created entity. See N.M. Const. Art. VI, Sections 1 to 11. The Supreme Court's constitutional powers are also recognized by statute. See, e.g., NMSA 1978, Sections 34-2-1 et. seq.; NMSA 1978, Sections 34-5-10 & 34-5-14. The New Mexico Supreme Court is the highest court in the judicial branch of state government. The Supreme Court hears appeals from district court judgments imposing a sentence of death or life imprisonment and from the Public Regulation Commission. The Supreme Court has original jurisdiction in quo warranto and mandamus against all state officers, boards, and commissions, and has superintending control over all inferior courts. The Court also has the power to issue writs of mandamus, error, prohibition, habeas corpus, certiorari, injunctions, and other writs necessary or proper for complete exercise of its jurisdiction. In addition, NM Const. Art. IV, Section 35, provides for the chief justice to preside at impeachment trials; Art. V, Section 3, provides for the Supreme Court to license attorneys, Art. VI, Section 15, provides for designation of judges; and Art. VI, Sec. 31 provides for review of the decisions of the judicial standards commission.

The program is a statewide program that includes oversight and superintending control, over all state courts. The main premises of the Supreme Court are in the Supreme Court Building and the assets purchased by the Supreme Court become the property of the Supreme Court Building Commission, although they are maintained by the Supreme Court.

In accordance with its constitutional authority, the Supreme Court has the inherent power to manage the judicial branch of government, which includes the promulgation of rules governing the conduct of court business, the conduct of lawyers and judges, the admission to the practice of law, and the continuing legal education requirements for lawyers and judges.

**USING THIS ANNUAL REPORT**

**Management's Discussion and Analysis (MD&A)**

This section includes information on the use of the annual report, and management's analysis of the financial position and results of operations for the Court. Information compares this fiscal year with the prior fiscal year.

**Financial Statements Overview**

The financial statements are for the purpose of presenting to the reader the financial position and financial changes for the Supreme Court. The financial statements are not intended to report the financial position of the State of New Mexico as a whole.

The Supreme Court has three funds: SHARE fund 13800 is the general fund, which reverts, SHARE fund 25100 is the docket fee suspense fund, which is not reverting, and SHARE fund 79300 is the certificate fee fund which transfers over every month into the State General Fund, and does not accrue to the

**Management's Discussion and Analysis**  
**June 30, 2012**

direct benefit of the Supreme Court. Generally speaking, the Supreme Court is a reverting agency. The Supreme Court's general fund reverts into the State General Fund after the end of the fiscal year. The Supreme Court's revenues are mainly from the State General Fund, with no money received from the docket fees in 2012 and 2011. Pursuant to Section 34-2-6 NMSA 1978, the suspense fund is for the purpose of paying the costs of preparing closed cases and is non-reverting, with a fiscal year 2012 ending balance of \$9,385.

**Government - Wide Financial Statements**

The government-wide financial statements are designed to be corporate-like in that all governmental activities are consolidated into one column. The Supreme Court has no business-type activities. The focus of the Statement of Net Assets (Unrestricted Net Assets) is designed to be similar to a bottom line for the Supreme Court and its governmental activities. This statement combines and consolidates governmental fund's current financial resources (short-term spendable resources) with capital assets and long term liabilities.

The Statement of Activities is focused on cost of various activities that are provided by the Supreme Court's general revenues. This is intended to summarize and simplify the user's analysis of the cost of services.

The governmental activities reflect the Supreme Court's basic services of providing judicial services and oversight to the Judicial Branch of state government.

**Fund Financial Statements**

Traditional users of governmental financial statements will find the Fund Financial Statements presentation more familiar. The focus is now on Major Funds, rather than fund types. The Supreme Court only has two such funds: the general fund and the suspense fund. The Governmental Fund presentation is presented on a sources and uses of liquid resources basis.

**Budgetary Comparisons**

The budgetary comparison schedules present both the original and the final appropriated budgets for the reporting period as well as the actual inflows, outflows and balances, as stated on the government's budgetary basis.

As required by the Office of the State Auditor under 2 NMAC 2.2, the Statements of Revenues and Expenditures - Budget and Actual - are also presented. This information is provided at the approved budget level to demonstrate compliance with legal requirements.

**Management's Discussion and Analysis**  
**June 30, 2012**

**GOVERNMENT-WIDE FINANCIAL ANALYSIS****Statement of Net Assets**

	<b>Government Activities</b>	
	<b>2012</b>	<b>2011</b>
Current Assets	\$ 160,767	144,739
Liabilities	<u>(229,713)</u>	<u>(209,983)</u>
Total Net Assets	<u>\$ (68,946)</u>	<u>(65,244)</u>

For more detailed information, see the Statement of Net Assets.

All amounts appropriated were expended as of June 30, 2012 except for \$3,421 which was reverted to the state general fund. The Court has a deficit in net assets at June 30, 2012, as the state does not provide resources for compensated absences until they are paid.

**Statement of Activities**

The following schedule represents the revenues and expenses for the current and prior year.

	<b>Government Activities</b>	
	<b>2012</b>	<b>2011</b>
State General Fund Appropriations	\$ 2,783,900	2,853,100
Miscellaneous	795	1,407
Reversions to State General Fund	<u>(3,421)</u>	<u>(7,811)</u>
<b>Total Revenues</b>	<b>2,781,274</b>	<b>2,846,696</b>
Program Expenses	<u>2,784,976</u>	<u>2,831,221</u>
Change in net assets	<b>(3,702)</b>	15,475
Net assets, beginning of year	<u>(65,244)</u>	<u>(80,719)</u>
<b>Net assets, end of year</b>	<u><b>\$ (68,946)</b></u>	<u>(65,244)</u>

For more detailed information, see the Statement of Activities.

Activity for fiscal year 2012 is consistent with 2011 considering there was no real change in the State General Appropriation.

**THE SUPREME COURT'S FUNDS**

The Supreme Court has one governmental fund which is solely State general fund appropriated by the State Legislature. The general fund has decreased in 2012 as well as previous years due to statewide budget cuts imposed by the State Legislature for all state government agencies. The docket fee fund, also known as the suspense fund, did not have any expenditures in fiscal year 2011 but did have an expenditure of \$2042 in fiscal year 2012.

**Management's Discussion and Analysis**  
**June 30, 2012**

**BUDGETARY HIGHLIGHTS**

The Supreme Court had one budget adjustment during fiscal year 2012, which resulted in a decrease in budget for personal services of \$41,000, decrease in budget for contractual services of \$1,412, an increase in other costs of \$42,412.

**LONG-TERM DEBT ACTIVITY**

The Supreme Court's long-term liabilities are for compensated absences as summarized in Note 4 to the financial statements.

**ANTICIPATED CHANGES**

The Supreme Court knows of no anticipated changes that will significantly affect the financial position of the agency.

**FINANCIAL CONTACT**

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Joey D. Moya, Chief Clerk and CFO, Supreme Court of New Mexico, [supjdm@nmcourts.gov](mailto:supjdm@nmcourts.gov)



**Statement of Net Assets  
June 30, 2012**

	<u><b>Governmental Activities</b></u>
<b>ASSETS</b>	
Current Assets:	
Investment in State General Fund Investment Pool	\$ 160,767
<b>TOTAL ASSETS</b>	<u><u>\$ 160,767</u></u>
<b>LIABILITIES</b>	
Current Liabilities:	
Accounts Payable	\$ 41,802
Accrued Payroll	106,159
Due to State General Fund	3,421
Compensated Absences - current	65,837
Total Current Liabilities	<u>217,219</u>
Noncurrent Liabilities:	
Compensated Absences	12,494
<b>TOTAL LIABILITIES</b>	<u><u>229,713</u></u>
<b>NET ASSETS</b>	
Restricted - Court Records Maintenance	9,385
Unrestricted (deficit)	(78,331)
<b>TOTAL NET ASSETS</b>	<u><u>(68,946)</u></u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u><u>\$ 160,767</u></u>

*See Notes to Financial Statements.*

**Statement of Activities  
For the Year Ended June 30, 2012**

	<b>Governmental Activities</b>
Expenses:	
Judicial:	
Administrative Services	\$ 2,784,976
Total Expenses	2,784,976
Program Revenues:	
Charges for Services	795
Total Program Revenues	795
<b>Net Program Expenses</b>	<b>(2,784,181)</b>
General Revenues and Transfers	
State General Fund Appropriations	2,783,900
2012 State General Fund Reversion	(3,421)
Total General Revenues and Transfers	2,780,479
<b>Change in Net Assets</b>	<b>(3,702)</b>
Net Assets, beginning of year	(65,244)
<b>Net Assets, end of year</b>	<b>\$ (68,946)</b>

*See Notes to Financial Statements.*

**Balance Sheet - Governmental Funds  
June 30, 2012**

	General Fund	Suspense Fund	Total
<b>ASSETS</b>			
Current Assets:			
Investment in State Gen. Fund Investment Pool	\$ 151,382	9,385	\$ 160,767
<b>TOTAL ASSETS</b>	<b>\$ 151,382</b>	<b>9,385</b>	<b>\$ 160,767</b>
<b>LIABILITIES AND FUND BALANCES</b>			
Current Liabilities:			
Accounts Payable	\$ 41,802	-	\$ 41,802
Accrued Payroll	106,159	-	106,159
Due to State General Fund	3,421	-	3,421
<b>TOTAL LIABILITIES</b>	<b>151,382</b>	<b>-</b>	<b>151,382</b>
<b>FUND BALANCES</b>			
Restricted	-	9,385	9,385
Unassigned	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>-</b>	<b>9,385</b>	<b>9,385</b>
<b>TOTAL LIABILITIES AND FUND BALANCES</b>	<b>\$ 151,382</b>	<b>9,385</b>	<b>\$ 160,767</b>

**Amounts reported in the Statement of Net Assets differ because:**

Total fund balances	\$ 9,385
Compensated absences accrued in the government-wide financial statements are excluded from the governmental funds statement	<u>(78,331)</u>
Net assets per Statement of Net Assets	<u>\$ (68,946)</u>

*See Notes to Financial Statements.*

**Statement of Revenues, Expenditures and  
Changes in Fund Balance - Governmental Funds  
For the Year Ended June 30, 2012**

	General Fund	Suspense Fund	Total
<b>REVENUES</b>			
Charges for Services	\$ -	740	\$ 740
<b>Total Revenues</b>	<u>-</u>	<u>740</u>	<u>740</u>
<b>EXPENDITURES</b>			
Current:			
Judicial:			
Administrative Services:			
Personal Services and Benefits	2,639,521	-	2,639,521
Contract Services	12,510	-	12,510
Other Costs	128,448	2,042	130,490
<b>Total Expenditures</b>	<u>2,780,479</u>	<u>2,042</u>	<u>2,782,521</u>
Excess (Deficiency) of Revenues Over Expenditures	<u>(2,780,479)</u>	<u>(1,302)</u>	<u>(2,781,781)</u>
<b>OTHER FINANCING SOURCES (Uses)</b>			
<b>Transfers In:</b>			
General Fund Appropriation	2,783,900	-	2,783,900
<b>Transfers Out:</b>			
2012 Reversions to the State General Fund	<u>(3,421)</u>	<u>-</u>	<u>(3,421)</u>
<b>Total Other Financing Sources (Uses)</b>	<u>2,780,479</u>	<u>-</u>	<u>2,780,479</u>
<b>Net Change in Fund Balances</b>	-	(1,302)	(1,302)
Fund Balances, beginning	<u>-</u>	<u>10,687</u>	<u>10,687</u>
<b>Fund Balances, ending</b>	<u>\$ -</u>	<u>9,385</u>	<u>\$ 9,385</u>

**Amounts reported In the Statement of Activities are different because:**

Net Change in Fund Balance	\$ (1,302)
Net change in current and long-term portions of compensated absences	<u>(2,400)</u>
Changes in net assets of governmental activities	<u>\$ (3,702)</u>

*See Notes to Financial Statements.*

**Statement of Revenues and Expenditures  
Budget and Actual (Budgetary Basis) - General Fund  
For the Year Ended June 30, 2012**

	Budget		Actual Amounts (Budgetary Basis)	Variance with Final Budget Positive (Negative)
	Original	Final		
<b>REVENUES</b>				
General Fund Appropriation	\$ 2,783,900	2,783,900	2,783,900	-
Total Revenues	2,783,900	2,783,900	2,783,900	-
Fund Balance	-	-		
<b>Total Revenues and Fund Balance</b>	<b>\$ 2,783,900</b>	<b>2,783,900</b>		
<b>EXPENDITURES</b>				
Administrative Services:				
Personal Services	\$ 2,681,600	2,640,600	2,639,521	1,079
Contractual Services	14,200	12,788	12,510	278
Other	88,100	130,512	128,448	2,064
<b>Total Expenditures</b>	<b>\$ 2,783,900</b>	<b>2,783,900</b>	<b>2,780,479</b>	<b>3,421</b>

*See Notes to Financial Statements.*

Statement of Fiduciary Assets and Liabilities- Agency Fund

June 30, 2012

	<u>Supreme Court Fees Fund</u>
<b>ASSETS</b>	
Cash	\$ -
<b>LIABILITIES</b>	
Deposits Held for Others	\$ -

*See Notes to Financial Statements.*

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**Notes to the Financial Statements**  
**June 30, 2012**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The financial statements of the State of New Mexico, Supreme Court (Court) have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental entities. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Supreme Court' accounting policies are described below:

**A. Reporting Entity**

In evaluating how to define the Supreme Court, for financial reporting purposes, management has considered all potential component units in the reporting entity by applying the criteria set forth in GAAP. The basic, but not the only, criterion for including a potential component unit within the reporting entity is the governing body's ability to exercise oversight responsibility. The most significant manifestation of this ability is financial interdependency. Other manifestations of the ability to exercise oversight responsibility include, but are not limited to, the selection of governing authority, the designation of management, the ability to significantly influence operations, and accountability for fiscal matters. A second criterion used in evaluating potential component units is the scope of public service. Application of this criterion involves considering whether the activity is conducted within the geographic boundaries of the government and is generally available to its citizens. A third criterion used to evaluate potential component units for inclusion or exclusion from the reporting entity is the existence of special financing relationships, regardless of whether government is able to exercise oversight responsibilities. Based upon the application of these criteria, the following is a brief review of the entities included and excluded in these financial statements.

Included within the reporting entity:

Supreme Court

The State of New Mexico, New Mexico Judicial Department created by Article VI, Section 1 of the New Mexico Constitution. The Supreme Court is the court of last resort in the State of New Mexico. The New Mexico Constitution gives the Supreme Court control over all other State Courts. The Supreme Court promulgates the rules and regulations governing procedures for all courts, as well as the Bar and other areas of the judiciary. The rules are published in New Mexico Statutes Annotated.

**B. Basic Financial Statements**

The basic financial statements include both government-wide (based on the Supreme Court as a whole) and fund financial statements. Both the government-wide and fund financial statements categorize primary activities as either governmental or business type. The Supreme Court is a single-purpose government entity and has no business type activities. In the government-wide Statement of Net Assets, the governmental activities are presented on a consolidated basis and are reflected on the full accrual, economic resource basis, which incorporates long-term assets and receivables, as well as long-term debt and obligations.

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**Notes to the Financial Statements**  
**June 30, 2012**

The government-wide Statement of Activities reflects both the gross and net cost per functional category, which are otherwise being supported by general government revenues. The Statement of Activities reduces gross expenses by related program revenues, operating and capital grants. The program revenues must be directly associated with the function and consist of fees.

The net cost by function is normally covered by general revenue. Historically, the previous model did not summarize or present net cost by function or activity. Since the Supreme Court only has one program, it does not employ direct cost allocation in the financial statements.

The fund financial statements are very similar to the financial statements presented in the previous model. Emphasis is on the major funds of the governmental category. Non-major funds are summarized into a single column. The Supreme Court's only major fund is its General Fund.

The governmental funds in the fund financial statements are presented on a current financial resource and modified accrual basis of accounting. This is the manner in which these funds are normally budgeted. This presentation is deemed more appropriate to demonstrate legal and covenant compliance, to demonstrate the source and use of liquid resources and to demonstrate how the Supreme Court's actual experience conforms to the budget or fiscal plan. Since the governmental fund statements are presented on a different measurement focus and basis of accounting than the government-wide statements governmental column, a reconciliation is presented on the page following each statement, which briefly explains the adjustment necessary to transform the fund based financial statements into the governmental column of the government-wide presentation.

The financial transactions of the Supreme Court are recorded in individual funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, expenditures or expenses and other financing sources or uses. Government resources are allocated to, and accounted for, in individual funds based upon the purpose for which they are to be spent and the means by which the spending activities are controlled.

The Supreme Court Funds are classified into two categories: governmental and fiduciary. Each category, in turn, is divided into separate "fund types."

**Governmental Funds** - are used to account for all or most of the Supreme Court's general government activities, including the collection and disbursement of earmarked monies (Special Revenue Fund).

General Fund - The general fund is the primary operating fund of the Supreme Court, and is presented as a major fund. It accounts for all financial resources except those required to be accounted for in another fund. The operations of the Supreme Court are funded primarily by appropriations from the State General Fund which are recorded as "other financing sources" in the general fund in the year appropriated. The General Fund is a reverting fund. The New Mexico Supreme Court was created by Article VI, Section 1 of the NM Constitution and is SHARE fund 13800.



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**Notes to the Financial Statements**  
**June 30, 2012**

Supreme Court Suspense Fund - This special revenue fund accounts for revenue sources that are legally restricted to expenditures for specific purposes. No expenditures from the special revenue fund can be made for the operations of the Supreme Court. The Suspense Fund was established by NMSA 1978, Section 34-2-6. This statute authorized the Supreme Court to retain in the Suspense Fund four dollars (\$4) of fees collected on each case docketed in the Supreme Court. These funds are designated to defray the cost of filming, binding and storing Supreme Court documents and records. The Suspense Fund does not revert to the State General Fund as it is not a budgeted fund. This is the only special revenue fund of the New Mexico Supreme Court and it is SHARE fund 25100. The Supreme Court has elected to present this fund as a major fund to streamline the financial statement presentation.

**Fiduciary Funds** - are used to account for all assets held on behalf of outside parties, including other governments, or on behalf of other funds within the government. Since the activities in these funds are on behalf of other governments, it is excluded from the entity-wide financial statements.

Supreme Court Fees Fund - This agency fund receives certificate fees which it remits to the State General Fund.

**C. Non-Current Governmental Assets/Liabilities**

Non-current assets and liabilities are not presented in the fund financial statements, but rather incorporated only in the government-wide Statement of Net Assets.

**D. Basis of Accounting**

Basis of accounting refers to the point at which revenues or expenditures are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made, regardless of the measurement focus applied.

The statement of net assets and the statement of activities display information about the Court, the primary government, as a whole, without displaying the individual funds or fund types. Generally, these statements distinguish between activities that are governmental and those that are considered business-type activities. The Court has no business-type activities; therefore these statements only reflect governmental activities. Government-wide financial statements exclude information about fiduciary funds and component units that are fiduciary in nature.

The government-wide financial statements are prepared using the economic resources measurement focus and the accrual basis of accounting. The Court has elected not to apply the provisions of all relevant pronouncements of the Financial Accounting Standards Board (FASB), including those issued after November 30, 1989. Under the accrual basis of accounting, revenues are recognized when earned and expenses are recorded when the liability is incurred or economic assets used. Revenues, expenses, gains, losses, assets and liabilities resulting from exchange transactions are recognized when the exchange takes place. Revenues, expenses, gains, losses, assets and liabilities resulting from non-exchange transactions are recognized in accordance with requirements of GASB 33.

The General Fund utilizes the modified accrual basis of accounting. Under this method, revenues and other governmental fund financial resource increments are recognized in the accounting

**Notes to the Financial Statements  
June 30, 2012**

period in which they become susceptible to accrual that is, when they become both measurable and available to finance expenditures of the current fiscal period; available meaning collectible within the current period or soon enough thereafter (60 days) to be used to pay liabilities of the current period.

Expenditures are recorded as liabilities when incurred. An exception to this general rule is that accumulated unpaid annual, compensatory and certain sick leave are not accrued as current liabilities but as non-current liabilities.

In applying the “susceptible to accrual” concept to intergovernmental revenues pursuant to Governmental Accounting Standards Board Statement No. 33 (GASB 33), *Accounting and Financial Reporting for Nonexchange Transactions*, the provider should recognize liabilities and expenses and the recipient should recognize receivables and revenues when the applicable eligibility requirements, including time requirements, are met. Resources transmitted before the eligibility requirements are met, under most circumstances, should be reported as advances by the provider and deferred revenue by the recipient.

**E. Encumbrances**

Encumbrances follow the modified accrual basis of accounting. Outstanding valid encumbrances are classified as accounts payable if they are normally paid before 30 days after the end of the fiscal year. After this deadline, the agency may still make the expenditure for a prior year accounts payable; however, they must first obtain DFA’s permission to pay prior year bills. “Permission to pay prior year bills” is a penalty under law for not paying bills timely. It penalizes an agency by mandating that they charge an expenditure of one fiscal year to the subsequent fiscal year’s budget.

**F. Capital Assets**

By State statute, all capital assets used by the Supreme Court are accounted for by the State of New Mexico, Supreme Court Building Commission. The Commission is responsible for the care, custody, and control of capital assets used by agencies of the judicial department housed within the Supreme Court Building. Capital assets purchased by the Supreme Court are reported as capital outlay expenditures in the General Fund.

**G. Compensated Absences**

Qualified employees accumulate annual leave to a maximum of 240 hours as follows:

Years of Service	Hours Earned Bi-Weekly
1 – 3 years	4.62
4 – 6 years	5.54
7 – 13 years	6.46
14 years or more	7.39

The maximum accrued annual leave may be carried forward into the beginning of the next calendar year and any excess is lost. When employees terminate, they are compensated for accumulated

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**Notes to the Financial Statements**  
**June 30, 2012**

unpaid annual leave as of the date of termination. Accrued annual leave is recorded as a liability and net changes are recorded as expenditures in the government-wide financial statements. The fund financial statements and budgetary comparison reports only recognize the compensated absences when payments are made to employees.

#### **H. Net Assets**

The government-wide financial statements utilize a net asset presentation. Net assets are categorized as invested in capital assets (net of related debt), restricted and unrestricted.

*Invested in Capital Assets (net of related debt)*—is intended to reflect the portion of net assets which is associated with non-liquid, capital assets less outstanding capital asset related debt. The net related debt is the debt less the outstanding liquid assets and any associated unamortized cost. The Court does not have any related debt.

*Restricted Assets*—are liquid assets (generated from revenues and not bond proceeds), which have third-party, legally enforceable, (statutory, bond covenant or granting agency) limitations on their use. When there is an option, the Supreme Court spends restricted resources first.

*Unrestricted Assets*—represent unrestricted liquid assets.

#### **I. Fund Balances**

Governmental funds report fund balance classifications that comprise a hierarchy based primarily on the extent to which the government is bound to honor constraints on the specific purposes for which amounts in those funds can be spent. The classifications used in the governmental fund financial statements are as follows:

**Nonspendable** - This classification includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.

**Restricted** - This classification includes amounts that are restricted to a specific purpose. Fund balances are restricted when constraints placed on the use of resources are either: (a) Externally imposed by creditors (such as debt covenants), grantors, contributors, or laws or regulations of other governments; (b) Enabling legislation, as the term is used authorizes the Court to assess, levy, charge or otherwise mandate payment of resources and includes a *legally enforceable* requirement that those resources be used only for the specific purposes stipulated in the legislation.

**Committed** - This classification includes amounts that can only be used for specific purposes to constraints imposed by formal action of the Court's highest level of decision-making authority. Those committed amounts cannot be used for any other purpose unless the Court removes or changes the specific use by taking the same type of action (for example resolution, ordinance) it employed to previously commit those amounts.

**Assigned** - This classification includes amounts that are constrained by the Court's *intent* to be used for specific purposes, but are neither restricted nor committed. Intent should be expressed by (a) the governing body itself or (b) a body or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes.

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**Notes to the Financial Statements**  
**June 30, 2012**

**Unassigned** - This classification is the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. The general fund should be the only fund that reports a positive unassigned fund balance amount.

**J. Compensated Absences**

Vested or accumulated vacation leave and vested sick leave are reported in the entity-wide financial statements, since they are not expected to be liquidated with expendable available financial resources. No current expenditures are reported in the General Fund financial statements for these amounts.

**K. Long-Term Obligations**

Long-term debt is recognized as a liability of a governmental fund when due. For other long-term obligations, only that portion expected to be financed from expendable available financial resources is reported as a liability of the General Fund. The remaining portion of such obligations is reported in the entity-wide financial statements.

**L. Budgets**

The Supreme Court follows these procedures in establishing the budgetary data reflected in the financial statements:

No later than September 1, the Supreme Court submits to the Judicial Budget Office (JBO), the Legislative Finance Committee (LFC), and the Department of Finance and Administration (DFA) an appropriation request for the fiscal year commencing the following July 1. The appropriation request includes proposed expenditures and the means of financing them.

Appropriation request hearings are scheduled by the DFA. Budget hearings are scheduled before the New Mexico House Appropriations and Senate Finance Committees. The final outcomes of these hearings are incorporated into the General Appropriations Act. The Act is signed into law by the Governor of the State of New Mexico within the legally prescribed time limit.

The Supreme Court submits to the DFA, no later than May 1, an annual operating budget by category and line item based upon the appropriation made by the Legislature. The DFA – Budget Division reviews and approves the operating budget which becomes effective on July 1. All subsequent budget adjustments must be approved by the State of New Mexico, Administrative Office of the Courts and the director of the DFA - Budget Division and the LFC. The current year budget was adjusted in a legal manner.

Legal budget control for expenditures is by category of line item. Formal budgetary integration is employed as a management control device during the fiscal year for the General Fund.

Appropriations lapse at the end of the fiscal year except for multi-year special appropriations. All amounts within the General Fund revert annually to the State General Fund, with the exception of unspent multi-year special appropriations.

**Notes to the Financial Statements  
June 30, 2012**

Each year the Legislature approves multiple year appropriations, which the State considers as continuing appropriations. The Legislature authorizes these appropriations for two to five years; however, it does not identify the authorized amount by fiscal year. Consequently, the appropriation is budgeted in its entirety the first year the Legislature authorizes it. The unexpended portion of the budget is carried forward as the next year’s beginning budget balance until either the project period has expired or the appropriation has been fully expended. The budget presentation in these financial statements is consistent with this budgeting methodology.

The budget for the General Fund is adopted on the modified accrual basis of accounting except for accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline (Section 6-10-4 NMSA 1978), that must be paid out of next year’s budget. A reconciliation of budgetary basis to GAAP basis will be necessary if all accounts payable at the end of the fiscal year are not paid by the statutory deadline. No reconciliation was necessary as of June 30, 2012.

**NOTE 2: STATE TREASURER GENERAL FUND INVESTMENT POOL**

State law (Section 8-6-3 NMSA 1978) requires the Court’s cash be managed by the New Mexico State Treasurer's Office. Accordingly, the investments of the Department consist of an interest in the General Fund Investment Pool managed by the New Mexico State Treasurer's Office.

At June 30, 2012 the Court had the following invested in the General Fund Investment Pool:

	<u>Share Fund #</u>	<u>Maturity</u>	<u>Account Balance</u>	<u>Fair Value</u>
General Fund	138	1 day	\$ 151,382	\$ 151,382
Supreme Court Fees Fund	793	1 day	-	-
Supreme Court Suspense Fund	251	1 day	<u>9,385</u>	<u>9,385</u>
 Total Governmental Funds			 <u>\$ 160,767</u>	 <u>\$ 160,767</u>

Interest Rate Risk - The New Mexico State Treasurer’s Office has an investment policy that limits investment maturities to five years or less on allowable investments. This policy is a means of managing exposure to fair value losses arising from increasing interest rates. This policy is reviewed and approved annually by the New Mexico State Board of Finance.

Credit risk - The New Mexico State Treasurer pools are not rated.

For additional GASB 40 disclosure information regarding cash held by the New Mexico State Treasurer, the reader should see the separate audit report for the New Mexico State Treasurer's Office for the fiscal year ended June 30, 2012.

**General Fund Investment Pool Not Reconciled**

The General Fund Investment Pool is the State of New Mexico’s main operating account. State revenues such as income taxes, sales taxes, rents and royalties, and other recurring revenues are

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**Notes to the Financial Statements**  
**June 30, 2012**

credited to the General Fund Investment Pool. The fund also comprises numerous State agency accounts whose assets, by statute (Section 8-6-3 NMSA 1978), must be held at the State Treasury.

As of June 30, 2012, the General Fund Investment Pool has not been reconciled at the business unit/fund level. Essentially, independent, third-party verification/confirmation of the balances at the business unit/fund level is not possible. Section 6-5-2.1 (J) NMSA 1978 requires DFA to complete on a monthly basis, reconciliations with the balances and accounts kept by the State Treasurer and adopt and promulgate rules regarding reconciliation for state agencies.

Under the direction of the State Controller/Financial Control Division Director, the Financial Control Division of the New Mexico Department of Finance & Administration (DFA/FCD) is taking aggressive action to resolve this serious problem. DFA/FCD has commenced the Cash Management Remediation Project (Remediation Project) in partnership with the New Mexico State Treasurer's Office, the New Mexico Department of Information Technology, and a contracted third party PeopleSoft Treasury expert.

The purpose of the Remediation Project is to design and implement the changes necessary to reconcile the General Fund Investment Pool in a manner that is complete, accurate, and timely. The Remediation Project will make changes to the State's current SHARE system configuration, cash accounting policies and procedures, business practices, and banking structure. The scheduled implementation date for the changes associated with the Remediation Project is February 1, 2013. An approach and plan to address the population of historical reconciling items will be developed during the Remediation Project, but a separate initiative will be undertaken to resolve the historical reconciling items.

The initial phase of the Remediation Project, completed on October 11, 2012, focused on developing a project plan and documenting current statewide business processes. The work product of the initial phase of the Remediation Project is a document entitled Cash Management Plan and Business Processes. This document is available on the Cash Control page of the New Mexico Department of Finance & Administration's website at: [http://www.nmdfa.state.nm.us/Cash\\_Control.aspx](http://www.nmdfa.state.nm.us/Cash_Control.aspx).

The cash transactions processed by Supreme Court flow through the state general fund investment pool. Since SHARE was implemented, we recognized the statewide cash reconciliation issue and in response, developed internal reconciliation procedures to ensure that cash receipts and disbursements recorded in the SHARE system are in fact transactions that have been initiated by the Supreme Court.

The reconciliation occurs each month and any required adjustments are forwarded to the Financial Control Division at DFA for correction. Monthly reconciliation procedures throughout the fiscal year, include, but are not limited to validation of: allotments, deposits, expenditures, all general entries, operating transfers, payroll expenditures/payroll liabilities, and review of outstanding warrants within the court's statewide case management system. The Supreme Court reports the timely completion of the reconciliation process to Court management monthly and conducts monthly management budget reviews to ensure that all cash deposits and financial transactions are accurately recorded and posted to the SHARE system.

This monthly internal reconciliation of cash receipts and disbursements flowing through Supreme Court's share of the state general fund investment pool provides management assurance that the balance reflected in State General Fund Investment Pool account is accurate as of the end of the

**Notes to the Financial Statements**  
**June 30, 2012**

reporting period. In addition, Supreme Court reconciles other asset and liability accounts on the balance sheet of each fund type. This process also provides additional assurance that transactions affecting the Supreme Court's share in the State General Fund Investment Pool account are accurate.

**NOTE 3: DUE TO STATE GENERAL FUND**

The Supreme Court accrued a liability for reversion to the State General Fund for its unexpended general appropriations for the fiscal year ended June 30, 2012. The following is a summary of reversion activity for the fiscal year.

Budget year 2012 reversion	\$ 3,421
Due to State General Fund	\$ 3,421

**NOTE 4: COMPENSATED ABSENCES**

The following is a summary of changes in compensated absences:

Balance 6/30/11	Additions	Deletions	Balance 6/30/12	Due within One Year
\$75,931	90,862	88,462	\$78,331	\$65,837

Compensated absences are liquidated with available financial resources out of the general fund. The State of NM does not budget in the current year, funds to pay any portion of the compensated absence liability at the end of the year; therefore, the current portion of compensated absences is not recorded in the fund financial statements. The Court has no other debt.

**NOTE 5: RETIREMENT PLANS**

*Plan Description.* Substantially all of the Supreme Court's full-time employees participate in public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11 NMSA 1978). The Public Employees Retirement Association (PERA) is the administrator of the plan, which is a cost-sharing multiple-employer defined benefit retirement plan. The plan provides for retirement, disability benefits, survivor benefits and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to PERA, PO Box 2123, Santa Fe, NM 87504-2123.

*Funding Policy.* Plan members are required to contribute 10.67% of their gross salary. The Supreme Court is required to contribute 13.34% of the gross covered salary. The contribution requirements of plan members and Supreme Court are established under Chapter 10, Article 11 NMSA 1978. The requirements may be amended by acts of the legislature. The Supreme Court contributions to PERA for the years ended June 30, 2012, 2011 and 2010 were \$177,327, \$209,518 and \$233,195, respectively, equal to the amount of the required contributions for each year.

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**Notes to the Financial Statements**  
**June 30, 2012**

Judicial Retirement Plan

*Plan Description.* Substantially all of the Judges of the Supreme Court participate in a defined benefit contributory retirement plan through the Judicial Retirement Act (Chapter 10, Article 12B, NMSA 1978). The Public Employees Retirement Association (PERA) is the administrator of the plan, which is a cost-sharing multiple-employer defined benefit retirement plan. The plan provides for retirement, disability benefits, survivor benefits and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to PERA, PO Box 2123, Santa Fe, NM 87504-2123.

*Funding Policy.* Plan members are required to contribute 3.5% of their gross salary if they participate in the plan existing prior to June 30, 1980, or 10.00% if they participate in the plan after June 30, 1980. The Supreme Court is required to contribute 10.50% of the Judge's gross covered salary. The contribution requirements of plan members and the Supreme Court are established under Chapter 10, Article 12B, NMSA 1978. The requirements may be amended by acts of the legislature. The Supreme Court's contributions to the Judicial Retirement Act for the years ending June 30, 2012, 2011 and 2010 were \$52,202, \$65,398 and \$62,642, respectively, equal to the amount of the required contributions for each year.

**NOTE 9: POST-EMPLOYMENT BENEFITS - STATE RETIREE HEALTH CARE PLAN**

*Plan Description.* The Supreme Court contributes to the New Mexico Retiree Health Care Fund, a cost-sharing multiple-employer defined benefit post-employment healthcare plan administered by the New Mexico Retiree Health Care Authority (RHCA). The RHCA provides health care insurance and prescription drug benefits to retired employees of participating New Mexico government agencies, their spouses, dependents, and surviving spouses and dependents. The RHCA Board was established by the Retiree Health Care Act (Chapter 10, Article 7C, NMSA 1978). The Board is responsible for establishing and amending benefit provisions of the healthcare plan and is also authorized to designate optional and/or voluntary benefits like dental, vision, supplemental life insurance, and long-term care policies.

Eligible retirees are: 1) retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the RHCA plan on the person's behalf unless that person retires before the employer's RHCA effective date, in which the event the time period required for employee and employer contributions shall become the period of time between the employer's effective date and the date of retirement; 2) retirees defined by the Act who retired prior to July 1, 1990; 3) former legislators who served at least two years; and 4) former governing authority members who served at least four years.

The RHCA issues a publicly available stand-alone financial report that includes financial statements and required supplementary information for the post-employment healthcare plan. That report and further information can be obtained by writing to the Retiree Health Care Authority at 4308 Carlisle NE, Suite 104, Albuquerque, NM 87107.



**Notes to the Financial Statements  
June 30, 2012**

*Funding Policy.* The Retiree Health Care Act (Section 10-7C-13 NMSA 1978) authorizes the RHCA Board to establish the monthly premium contributions that retirees are required to pay for healthcare benefits. Each participating retiree pays a monthly premium according to a service based subsidy rate schedule for the medical plus basic life plan plus an additional participation fee of five dollars if the eligible participant retired prior to the employer’s RHCA effective date or is a former legislator or former governing authority member. Former legislators and governing authority members are required to pay 100% of the insurance premium to cover their claims and the administrative expenses of the plan. The monthly premium rate schedule can be obtained from the RHCA or viewed on their website at [www.nmrhca.state.nm.us](http://www.nmrhca.state.nm.us).

The Retiree Health Care Act (Section 10-7C-15 NMSA 1978) is the statutory authority that establishes the required contributions of participating employers and their employees. During the fiscal year ended June 30, 2012, the statute required each participating employer to contribute 1.834% of each participating employee’s annual salary; each participating employee was required to contribute 0.917% of their salary. In the fiscal years ending June 30, 2013 through June 30, 2014 the contribution rates for employees and employers will rise as follows:

For employees who are not members of an enhanced retirement plan the contribution rates will be:

<u>Fiscal Year Employer</u>	<u>Contribution Rule Employer</u>	<u>Contribution Rule Employee</u>
FY 13	2.000%	1.000%

For employees who are members of an enhanced retirement plan, during the fiscal year ended June 30, 2012, the statute required each participating employer to contribute 2.292% of each participating employee’s annual salary, and each participating employee was required to contribute 1.146% of their salary. In the fiscal year ending June 30, 2013 the contribution rates for both employees and employers will rise as follows:

<u>Fiscal Year Employer</u>	<u>Contribution Rule Employer</u>	<u>Contribution Rule Employee</u>
fiscal year13	2.500%	1.250%

Also, employers joining the program after January 1, 1998 are required to make a surplus-amount contribution to the RHCA based on one of two formulas at agreed-upon intervals.

The RHCA plan is financed on a pay-as-you-go basis. The employer, employee and retiree contributions are required to be remitted to the RHCA on a monthly basis. The statutory requirements for the contributions can be changed by the New Mexico State Legislature.

The Supreme Court contributions to the RHCA for the years ended June 30, 2012, 2011 and 2010 were \$39,625, \$35,839, and \$27,864, respectively, which equal the required contributions for each year.

**Notes to the Financial Statements  
June 30, 2012**

**NOTE 10: RISK MANAGEMENT**

The Supreme Court is exposed to various risk of loss related to torts; theft of, damage to, or destruction of assets; errors and omissions; injuries to employees or others; or acts of God. The Court is insured through Risk Management Division of the General Services Department, which is accounted for as an internal service fund of the State of New Mexico. In general, Risk Management Division responds to suits against the state and state agencies; manages fund to provide unemployment compensation, tort liability insurance, workman's compensation, and general and property insurance, and attempts to reduce the number of suits against the state and state agencies through the risk management process. The actuarial gains and losses of Risk Management Division were not available and are not included in this report. However, the Court would not be liable for more than the annual premiums.

Schedule of Changes in Assets and Liabilities  
 Agency Fund  
 June 30, 2012

	Balance July 1, 2011	Additions	(Deletions)	Balance June 30, 2012
<b>ASSETS</b>				
Cash	\$ -	637	(637)	\$ -
<b>LIABILITIES</b>				
Deposits Held for Others	\$ -	637	(637)	\$ -

*See Auditor's Report*

Schedule of Operating Transfers  
For the Year Ended June 30, 2012

SHARE FUND	TITLE	TRANSFER	
		In	Out
(1) 85300	Department of Finance & Administration	\$ 2,783,900	\$ -
(1) 14900	FY 2012 Reversion	-	3,421
<b>Total</b>		<u>\$ 2,783,900</u>	<u>\$ -</u>

(1) General Fund Appropriation, Laws of 2011, Chapter 179, Section 4

*See Auditor's Report*

**Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards***

To the Honorable Petra Jimenez Maes  
New Mexico Supreme Court  
And  
Hector Balderas  
New Mexico State Auditor

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information and the budgetary comparisons for the general fund of the State of New Mexico, Supreme Court (Court), as of and for the year ended June 30, 2012, and have issued our report thereon dated December 13, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control over Financial Reporting**

Management of the Supreme Court is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Court's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Court's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Court's internal control over financial reporting.

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 and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting, described in the accompanying schedule of findings and responses that we consider to be significant deficiencies in internal control over financial reporting. These are described as items 2012-2 through 2012-04.

A *significant deficiency* is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether *Court's* financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings and responses as items 2012-03 through 2012-04.

We also noted certain other matters that are required to be reported pursuant to *Government Auditing Standards* paragraphs 5.14 and 5.16, and pursuant to Section 12-6-5, NMSA 1978, which is described in the accompanying schedule of findings and responses as item 2012-01.

The Court's responses to the findings identified in our audit are described in the accompanying schedule of findings and responses. We did not audit the Court's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the Presiding Judge of the New Mexico Supreme Court, others within the entity, the Department of Finance and Administration, the State Auditor, the New Mexico Legislature, and applicable federal grantors, and is not intended to be and should not be used by anyone other than these specified parties.

*Zlotnick Law & Sandoval, P.C.*

Zlotnick, Laws & Sandoval, PC  
December 13, 2012

**Schedule of Findings and Responses**  
**June 30, 2012**

**Status of Prior Year's Findings**  
None

**Schedule of Findings and Responses  
June 30, 2012**

**2012-01 – Personnel Records Maintenance - Other**

**Condition:** Documents that are required to be present in personnel records were missing or inadequate. Our review of personnel files revealed the following forms were not retained in the files:

- Employee evaluations were not on file. We couldn't determine if they were misfiled or never done.

The personnel files were not always maintained in a systematic and orderly manner.

**Criteria:** New Mexico Judicial Branch Personnel Rules and Code of Conduct, Audit Rule 2012 2.2.2.10 G NMAC, and 12-6-5 NMSA.

**Effect:** The Court is out of compliance with personnel rules as they relate to personnel file documentation.

**Cause:** Responsible personnel did not follow proper procedures in maintaining files.

**Auditors' Recommendation:** Management must ensure that all personnel files contain all required documents and that those documents are filed in a systematic and orderly manner.

**Management's Response:** Many of the Court's employees are at-will employees who are not subject to annual evaluations under the New Mexico Judicial Branch Personnel Rules for At-Will Employees. However, for those employees who are required to receive annual evaluations, management discovered that many had not received the annual performance plan at the beginning of fiscal year 2012. As a result, management consulted with the AOC Human Resources Director to determine if it would be appropriate to give employee evaluations to those employees who did not have a performance plan in place for fiscal year 2012. On the advice of the HR Director, management did not complete employee evaluations for fiscal year 2012. Management did ensure that performance plans were put in place for all applicable employees at the beginning of the fiscal year 2013 and will ensure that timely employee evaluations are completed during the focal point period for fiscal year 2013 as required the New Mexico Judicial Branch Personnel Rules.



**Schedule of Findings and Responses  
June 30, 2012**

**2012-02 – Fraud Policy - Significant Deficiency**

**Condition:** Supreme Court policies and procedures address some elements of SAS No. 99; however, the Supreme Court has not established a formal fraud policy that includes a management assessment of fraud, monitoring, and procedures whereby employees can report fraud.

**Criteria:** Management is responsible for creating an atmosphere of honesty and ethical behavior. Statement on Auditing Standards (SAS) No. 99 created new responsibilities for management to formalize this responsibility.

**Cause:** Management believed the current policies and procedures and code of conduct addressed the condition.

**Effect:** The Supreme Court has not formally established the manner in which employees can report fraud.

**Recommendation:** We recommend that the Supreme Court formalize a fraud policy as soon as possible. The policy should cover all of the necessary elements described in the condition above.

**Management's Response:** Management understands the importance of a formal fraud policy and will coordinate with the Administrative Office of the Courts to adopt and implement a formal fraud policy for fiscal year 2013.

**Schedule of Findings and Responses  
June 30, 2012**

**2012-03 – Responsibility for the Financial Statements – Significant Deficiency**

**Condition:** Responsibility for the financial statements is delegated to lower levels of management. Management is not thoroughly reviewing the initial drafts of the financial statements provided to the auditors. The auditors significantly enhanced the financial statement presentation and disclosures.

**Criteria:** Good internal controls require that management maintain the ability to prepare financial statements and take responsibility for their content even in situations where they have obtained the assistance of their auditor in preparing the financial statements. The State Audit Rule 2.2.2.8 (J) states that the Supreme Court is responsible for the content of the audited financial statements. In addition, 2.20.5.8 (B) NMAC states that the Chief Financial Officer (CFO) responsibilities should be assigned “to any employee within the agency that has the educational background, knowledge, and experience necessary to supervise, monitor, and control the state agency’s accounting function.” Also, 2.20.5.8 (C)(10) NMAC further states, “it is the responsibility of the CFO to ensure that all reporting of financial information must be timely, complete and accurate, to the state agency’s management and to oversight agencies and entities.”

**Effect:** Management’s ability to take responsibility for the financial statements is impaired if drafts of the financial statements are not thoroughly reviewed.

**Cause:** The individual designated as the Chief Financial Officer (CFO) is not an accountant position. The individual designated as the CFO is an attorney and holds other responsibilities.

**Auditors’ Recommendation:** The Chief Justice should take responsibility for verifying that the report has been read, thoroughly understood and approved to allow management to take responsibility for the financial statements. The Supreme Court should seek the assistance of accounting personnel at the Administrative Office of the Courts when drafting the annual financial statements to ensure that this condition does not recur.

**Management’s Response:** The Chief Justice is confident that management can and does take responsibility for the financial statements and disagrees that any deficiencies are attributable to the fact that the CFO is an attorney and not an accountant. Nonetheless, the Chief Justice will ensure that the audit report is read, thoroughly understood, and approved by management and that a process is implemented to coordinate with the Administrative Office of the Courts to improve the method for the annual drafting of financial statements.

**Schedule of Findings and Responses**  
**June 30, 2012**

**2012-04 – Budgetary Control – Significant Deficiency**

**Condition:** The Supreme Court (Court) is purchasing items for the Supreme Court Building Commission (Commission) and not adequately disclosing such actions in the financial statements. In our audit of expenditures, we found an invoice to Boot Barn in the amount of \$1,259.60 that was for goods utilized at the Building Commission.

**Criteria:** General Fund Appropriation, Laws of 2011, Chapter 179, Section 4; 6-3A-2 NMSA. GASB Concepts Statement No. 1, *Objectives of Financial Reporting*, states:

Financial reporting should assist in fulfilling government's duty to be publicly accountable and should enable users to assess that accountability by (1) Providing information to determine whether current-year revenues were sufficient to pay for current-year services. (2) Demonstrating whether resources were obtained and used in accordance with the entity's legally adopted budget, and demonstrating compliance with other finance-related legal or contractual requirements. (3) Providing information to assist users in assessing the service efforts, costs, and accomplishments of the governmental entity.

**Effect:** Budgetary statements in the financial statements are misstated. The Court's and the Commission's financial statements do not adequately reflect their respective financial activity.

**Cause:** Resources were not budgeted for these expenditures at the Building Commission.

**Auditors' Recommendation:** Management should ensure that budgets are complied with and that financial statements properly reflect the "sources and uses of financial resources" within each respective entity (GASB Concepts Statement No. 1).

**Management's Response:** Management is confident that there was no misuse of budgeted funds and that adequate control over the budgeted funds is in place. That said, management understands the need to ensure that the financial statements adequately reflect the financial activity of the Supreme Court and Supreme Court Building Commission and will take steps to ensure that future expenditures are adequately reported on the financial statements.

**Other Disclosures**  
**June 30, 2012**

**Preparation of the Financial Statements**

Zlotnick, Laws & Sandoval, PC assisted in the preparation of the financial statements presented in this report. The Court’s management has reviewed and approved the financial statements and related notes and they believe that their records adequately support the financial statements.

**Exit Conference**

The contents of this report were discussed on December 13, 2012. The following individuals were in attendance:

New Mexico Supreme Court

- |                              |  |
|------------------------------|--|
| Honorable Petra Jimenez Maes | Chief Justice  |
| Joey D. Moya                 | Attorney, Clerk of the New Mexico Supreme Court, CFO |
| Wanda Gonzales               | Deputy CFO   |

Zlotnick, Laws & Sandoval, PC

- |                    |         |
|--------------------|---------|
| Asa Laws, CPA      | Partner |
| Rick Sandoval, CPA | Partner |
| Ban Trinh, CPA     | Staff   |
| Brian Laws, CPA    | Staff   |