

**ATTESTATION REPORT
OF
HAYES COUNTY COURT**

JANUARY 1, 2023, THROUGH DECEMBER 31, 2023

**This document is an official public record of the State of Nebraska, issued by
the Auditor of Public Accounts.**

**Modification of this document may change the accuracy of the original
document and may be prohibited by law.**

Issued on March 27, 2024

*The **Nebraska Auditor of Public Accounts Office** was created by the first territorial Legislature in 1855. The Auditor was the general accountant and revenue officer of the territory. Those duties have expanded and evolved over the decades, as modern accounting theory has been implemented. The office of the Auditor of Public Accounts is one of six offices making up the executive branch of Nebraska State Government. Mike Foley was elected in November 2006 and re-elected in November 2010 and November 2022 as the Nebraska Auditor of Public Accounts. He was sworn into office on January 5, 2023, and is Nebraska's 24th State Auditor.*

The mission of the Nebraska Auditor of Public Accounts' office is to provide independent, accurate, and timely audits, reviews, or investigations of the financial operations of Nebraska State and local governments.

We will provide this information, as required by statute, to all policymakers and taxpayers through written reports and our Internet-based Budget and Audit databases.

We will maintain a professionally prepared staff, utilizing up-to-date technology, and following current Government Auditing Standards.

Audit Staff Working On This Examination

Kris Kucera, CPA, CFE – Assistant Deputy Auditor

Rachel Wittler, CPA, CFE – Audit Manager

Alex List – Senior Auditor-in-Charge

Nathan Tomjack – Auditor-in-Charge

Brett Fry - Auditor

Our reports can be found electronically at: auditors.nebraska.gov

Additionally, you may request them by contacting us at:

Nebraska Auditor of Public Accounts

State Capitol, Suite 2303

P.O. Box 98917

Lincoln, Nebraska 68509

Phone: 402-471-2111

HAYES COUNTY COURT

TABLE OF CONTENTS

	<u>Page</u>
<u>Comments Section</u>	
Summary of Comments	1
Comments and Recommendations	2 - 3
<u>Financial Section</u>	
Independent Accountant's Report	4 - 5
Financial Schedule:	
Schedule of Changes in Assets and Liabilities Arising from Cash Transactions - Custodial Funds - For the Calendar Year Ended December 31, 2023	6
Notes to Financial Schedule	7

HAYES COUNTY COURT

SUMMARY OF COMMENTS

During our examination of the Hayes County Court, we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards*: Comment #2 (“Overdue Balances”), which is considered to be a significant deficiency, and Comment #1 (“Segregation of Duties”), which is considered to be a material weakness.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
2. ***Overdue Balances:*** The County Court did not review its overdue balances on an ongoing, timely basis to ensure collection and/or resolution of such balances.

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the County Court.

Draft copies of this report were furnished to the County Court to provide management with an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

HAYES COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Segregation of Duties

Good internal control includes a plan of organization, procedures, and documentation designed to safeguard assets and provide reliable financial records. A system of internal control should include a proper segregation of duties, so no one individual is capable of handling all phases of a transaction from beginning to end.

We noted that the office of the County Court lacked a sufficient segregation of duties. Specifically, one person was capable of handling all aspects of processing transactions from beginning to end. Additionally, staff could create and issue orders affixed with the Judge's signature in the JUSTICE (Judicial User System to Improve Court Efficiency) application without formal documentation to support that the Judge approved the order. That same staff had access to court receipts and were able to record non-monetary transactions (e.g., waiving fines) in JUSTICE. We noted further that such access had been given also to eight other Clerk Magistrates who were not employees of the Hayes County Court.

A lack of segregation of duties increases the risk of possible errors or irregularities; however, due to a limited number of personnel, an adequate segregation of duties may not be possible without additional cost. Further, personnel are under the direction of both the Nebraska State Court Administrator and the Presiding Judge.

We have noted this comment in previous examinations.

We recommend the County Court and the Nebraska State Court Administrator review this situation. As always, the cost of hiring additional personnel versus the benefit of a proper segregation of duties must be weighed. We also recommend the Supreme Court implement procedures to ensure that each Judge's approval of orders is formally documented.

County Court Response: The Administrative Office of the Courts and Probation (AOC) accepts that there is a risk from one person having the authority to initiate and complete financial transactions. To reduce the risk of improper transactions, court financial specialists review court records and provide assistance to county courts if there are discrepancies. However, the Judicial Branch does not have the financial and human resources to mitigate all risks related to segregation of duties sufficient to meet current audit guidelines. As a result, in order to fulfill all statutory obligations, the AOC has determined that all clerk magistrates will have the authority to operate all financial functions of a court.

2. Overdue Balances

Good internal control and sound business practices require overdue balances of the County Court to be reviewed on an ongoing, timely basis to determine what action should be taken to collect and/or resolve those balances.

During testing of the Overdue Case Account reports, we noted two overdue balances, totaling \$752, did not have subsequent action taken by the County Court, such as the issuance of warrants and/or suspensions or declaration of certain overdue balances as uncollectible, to ensure collection and/or resolution of the balances. The balances were as follows:

- One criminal case had an overdue balance of \$743 for liquidated damages due to the Nebraska Game and Parks Commission. No activity has been noted on this case since June 2020, and no amount of liquidated damages have been paid since May 2019.
- One criminal case had an overdue balance of \$9 for State fines that had not been paid; however, no follow-up action has been taken since January 2022. After inquiry during the attestation, a notice was sent out, and the remaining balance was paid.

HAYES COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Concluded)

2. **Overdue Balances** (Concluded)

As of January 31, 2024, overdue balances, excluding restitution judgments, totaled \$1,333.

Neb. Rev. Stat. § 37-613(3) (Cum. Supp. 2022), states, in relevant part, the following:

Such damages [for violating the Game Law] may be collected by the commission by civil action. In every case of conviction for any of such offenses, the court or magistrate before whom such conviction is obtained shall further enter judgment in favor of the State of Nebraska and against the defendant for liquidated damages in the amount set forth in this section and collect such damages by execution or otherwise. Failure to obtain conviction on a criminal charge shall not bar a separate civil action for such liquidated damages. Damages collected pursuant to this section

shall be remitted to the secretary of the commission who shall remit them to the State Treasurer for credit to the State Game Fund.

Without a regular review of overdue case balances, there is an increased risk that such balances may either not have proper follow-up action taken or have been previously resolved and should no longer be reflected as overdue.

We recommend the County Court implement an ongoing, timely review of its Overdue Case Account reports to ensure the timely collection and/or resolution of overdue balances.

County Court Response: It is the position of the Administrative Office of the Courts and Probation (AOCP) that Neb. Rev Stat. §37-613 does not create a duty for a court to enforce collection of liquidated damages. Courts will remit any funds received to the Nebraska Game and Parks Commission.

As to the balance of \$9 for a fine, this was an oversight and immediately corrected.

APA Response: Pursuant to the plain language of § 37-613(3), the County Courts are required not only to enter judgment against the defendant for liquidated damages arising from a conviction for the illegal selling, purchasing, taking, or possessing of any wildlife but also to “collect such damages by execution or otherwise.” Both the entering of the judgment for liquidated damages and the collection thereof are statutorily mandated upon the County Court.



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

HAYES COUNTY COURT

INDEPENDENT ACCOUNTANT'S REPORT

Hayes County Court
Hayes Center, Nebraska 69032

We have examined the accompanying Schedule of Changes in Assets and Liabilities Arising from Cash Transactions of the Hayes County Court as of and for the calendar year ending December 31, 2023. The County Court's management is responsible for the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we perform the examination to obtain reasonable assurance about whether the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions is based on the accounting system and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

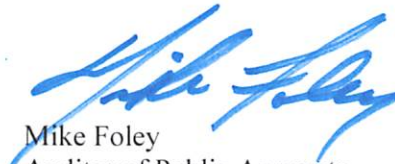
In our opinion, the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions for the calendar year ending December 31, 2023, is based on the accounting system and procedures prescribed by the Nebraska Supreme Court, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements that have a material effect on the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions; fraud that is material, either quantitatively or qualitatively, to the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions; and any other instances that warrant the attention of those charged with governance. We are also required to obtain and report the views of management concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions is presented in accordance with the criteria described above and not for the purpose

of expressing an opinion on the internal control over the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

The purpose of this report is to express an opinion on the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions, as described in paragraph one above. Accordingly, this report is not suitable for any other purpose. This report is a matter of public record, and its distribution is not limited.

March 25, 2024



Mike Foley
Auditor of Public Accounts
Lincoln, Nebraska

HAYES COUNTY COURT
HAYES CENTER, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
CUSTODIAL FUNDS

For the Calendar Year Ended December 31, 2023

	Balance January 1, 2023	Additions	Deductions	Balance December 31, 2023
ASSETS				
Cash and Deposits	\$ 2,915	\$ 14,433	\$ 16,378	\$ 970
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 354	\$ 6,250	\$ 6,519	\$ 85
Law Enforcement Fees	16	70	76	10
State Judges Retirement Fund	132	696	696	132
Court Administrative Fees	78	830	832	76
Legal Services Fees	78	387	397	68
Due to County Treasurer:				
Regular Fines	1,100	3,025	4,000	125
Regular Fees	-	186	186	-
Petty Cash Fund	25	-	-	25
Trust Fund Payable	1,132	2,989	3,672	449
Total Liabilities	\$ 2,915	\$ 14,433	\$ 16,378	\$ 970

The accompanying notes are an integral part of the Schedule.

HAYES COUNTY COURT
NOTES TO FINANCIAL SCHEDULES
For the Calendar Year Ending December 31, 2023

1. Criteria

A. Reporting Entity

The Hayes County Court is established by State statute and is administratively operated through the Court Administrator's Office of the Nebraska Supreme Court, which is part of the State of Nebraska reporting entity. The Schedule of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflect only the Custodial Funds activity of the County Court, including the receipts and their subsequent disbursement to the appropriate entities for which they were collected. The Schedule does not reflect the personal services expenses of the County Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Hayes County.

B. Basis of Accounting

The accounting records of the County Court Custodial Funds are maintained, and the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions has been prepared, based on the accounting system and procedures prescribed by the Nebraska Supreme Court. Under this system of accounting, fines, fees, and receipts relating to trust funds are shown as additions to assets and as an increase in the related liability when received or collected. Likewise, disbursements are shown as deductions to assets and as a decrease in the related liability when a check is written.

2. Deposits and Investments

Funds held by the County Court are deposited and invested in accordance with rules issued by the Supreme Court, as directed by Neb. Rev. Stat. § 25-2713 (Reissue 2016). Funds are generally consolidated in an interest-bearing checking account; however, the County Court may order certain trust funds to be invested separately. Any deposits in excess of the amount insured by the Federal Deposit Insurance Corporation are required by Neb. Rev. Stat. § 77-2326.04 (Reissue 2018) to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.