

LASSEN COUNTY

Audit Report

COURT REVENUES

July 1, 2011, through June 30, 2017



BETTY T. YEE
California State Controller

August 2019



BETTY T. YEE
California State Controller

August 30, 2019

Diana Wemple, Auditor
Lassen County
221 South Roop Street, Suite 1
Susanville, CA 96130

Christopher Vose, Court Executive Officer
Superior Court of California, Lassen County
2610 Riverside Drive
Susanville, CA 96130

Dear Ms. Wemple and Mr. Vose:

The State Controller's Office (SCO) audited Lassen County's court revenues for the period of July 1, 2011, through June 30, 2017.

Our audit found that Lassen County underremitted \$85,223 in state court revenues to the State Treasurer. The county should remit \$85,223 to the State Treasurer via the TC-31 (Report to State Controller of Remittance to State Treasurer), and include the Schedule of this audit report. On the TC-31, the county should specify the account name identified on the Schedule of this audit report and state that the amount is related to the SCO audit period of July 1, 2011, through June 30, 2017.

The county should not combine audit finding remittances with current revenues on the TC-31. A separate TC-31 should be submitted for underremitted amounts for the audit period. For your convenience, the TC-31 and directions for submission to the State Treasurer's Office are located at https://www.sco.ca.gov/ard_state_accounting.html.

The underremitted amount is due no later than 30 days after receipt of the final audit report. The SCO will add a statutory one-and-a-half percent (1.5%) per month penalty on the applicable delinquent amount if payment is not received within 30 days of issuance of the final audit report.

Upon receipt of payment, the Tax Programs Unit (TPU) will calculate penalties and interest, if applicable, pursuant to Government Code sections 68085, 70353, and 70377; and will bill the county accordingly.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustments to the attention of the following:

Tax Programs Unit Supervisor
Local Government Programs and Services Division
Bureau of Tax Administration and Government Compensation
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250

If you have questions regarding payments, TC-31s, or interest and penalties, please contact Jennifer Montecinos, Manager, TPU, by telephone at (916) 324-5961, or by email at lgpsdtaxaccounting@sco.ca.gov.

If you have questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138, or by email at lkurokawa@sco.ca.gov.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/hf

Attachment

cc: Jeff Hemphill, Chair
Lassen County Board of Supervisors
Grant Parks, Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
California Victim Compensation Board
Anita Lee, Senior Fiscal and Policy Analyst
Legislative Analyst's Office
Sandeep Singh, Manager
Local Government Policy Unit
State Controller's Office
Jennifer Montecinos, Manager
Tax Programs Unit
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Lassen County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2011, through June 30, 2017.

Our audit found that Lassen County underremitted \$85,223 in state court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties by \$28,470;
- Underremitted the State Court Facilities Construction Fund by \$52,969; and
- Underremitted the state DNA penalties by \$3,784.

In addition, we found that the county under-reported the traffic violator school (TVS) fee as qualified fines, fees, and penalties when it calculated the 50% excess of qualified revenues.

We also found that the Superior Court of California, Lassen County:

- Did not deduct the 2% State Automation Fee from all fines and forfeitures;
- Incorrectly distributed the base fine for city-arrest DUI cases; and
- Did not impose the Administrative Screening Fee and Citation Processing Fee.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to receive a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires the SCO to review the reports and records to ensure that all fines and forfeitures have been transmitted. GC section 68104 authorizes the SCO to examine records maintained by the court. Furthermore, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county and court remitted all court revenues for the period of July 1, 2011, through June 30, 2017, to the State Treasurer, pursuant to the TC-31 process.

To achieve our objective, we performed the following procedures:

General

- Gained an understanding of the county and court's revenue collection and reporting processes by interviewing key personnel, and reviewing documentation supporting the transaction flow;
- Scheduled monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State; and
- Performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

Cash Collections

- Scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period;
- Performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements; and
- Recomputed the annual maintenance-of-effort (MOE) calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% excess of qualified revenues remitted to the State.

Distribution Testing

- Scheduled parking surcharge revenues collected from entities that issue parking citations within the county to ensure that revenues were correct, complete, and remitted in accordance with state statutory requirements;
- Performed a risk evaluation of the county and the court, and identified violation types susceptible to errors due to statutory changes during the audit period. Based on the risk evaluation, judgmentally selected a non-statistical sample of 17 cases for five violation types. Errors found were not projected to the intended (total) population. Then, we:
 - Recomputed the sample case distributions and compared them to the actual distributions; and
 - Calculated the total dollar amount of material underremittances to the State and county.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We did not audit the county and the court's financial statements. We considered the county and court's internal controls only to the extent necessary to plan the audit. We did not review any court revenue remittances that the county and court may be required to make under GC sections 70353 and 77201.1(b), included in the TC-31.

Conclusion

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. Specifically, we found that:

- Lassen County underremitted \$85,223 in state court revenues to the State Treasurer;
- Lassen County under-reported the TVS fee when it calculated the 50% excess of qualified revenues; and
- The Superior Court of California, Lassen County did not deduct the 2% State Automation Fee from all fines and forfeitures; incorrectly distributed the base fine for city-arrest DUI cases; and did not impose the Administrative Screening Fee and Citation Processing Fee.

The county should remit \$85,223 to the State Treasurer.

These instances of non-compliance are quantified in the Schedule and further described in the Findings and Recommendations section of this audit report.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2004, through June 30, 2011, issued December 3, 2013.

Views of Responsible Officials

We issued a draft report on June 20, 2019. Diana Wemple, Auditor, responded by letter dated June 28, 2019 (Attachment A), agreeing with the audit results. Christopher Vose, Court Executive Officer, responded by letter dated June 28, 2019 (Attachment B), agreeing with the audit results. This final audit report includes both the county and the court's response.

Restricted Use

This audit report is solely for the information and use of Lassen County; Superior Court of California, Lassen County; the Judicial Council of California; and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

August 30, 2019

Schedule—
Summary of Audit Findings Affecting Remittances to the State Treasurer
July 1, 2011, through June 30, 2017

Finding ¹	Fiscal Year						Total	Reference ²
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17		
Underremitted 50% Excess of Qualified Fines, Fees, and Penalties								
State Trial Court Improvement and Modernization Fund – GC §77205	\$ 9,122	\$ 9,805	\$ 9,543	\$ -	\$ -	\$ -	\$ 28,470	Finding 1
Underremitted State Court Facilities Construction Fund								
State Court Facilities Construction Fund – GC §70372(a)	52,969	-	-	-	-	-	52,969	Finding 2
Underremitted State DNA Penalties								
State DNA Identification Fund – GC §76104.7	-	9,703	-	-	-	-	9,703	
State Penalty Fund – Penal Code (PC) §1464	-	(3,187)	-	-	-	-	(3,187)	
State Court Facilities Construction Fund – GC §70372	-	(2,277)	-	-	-	-	(2,277)	
State DNA Identification Fund (Prop 69) – GC §76104.6	-	(455)	-	-	-	-	(455)	
	-	3,784	-	-	-	-	3,784	Finding 3
Total amount underremitted to the State Treasurer	\$ 62,091	\$ 13,589	\$ 9,543	\$ -	\$ -	\$ -	\$ 85,223	

¹The identification of state revenue account titles should be used to ensure proper recording when preparing the TC-31.

²See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Underremitted 50%
excess of qualified
fines, fees and
penalties**

During recalculation of the 50% excess of qualified fines, fees, and penalties, we found that the county underremitted \$28,470 for the period of July 1, 2011, through June 30, 2014.

GC section 77205 requires the county to remit 50% of the qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for fiscal year (FY) 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

The following table shows:

- The excess qualified revenues amount above the base; and
- The county underremittances to the State Treasurer by comparing 50% of the excess qualified revenues amount above the base to actual county remittances:

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due to the State	County Remittance to the State Treasurer	County Underremittance to the State Treasurer ¹
2011-12	\$ 558,265	\$ 430,163	\$ 128,102	\$ 64,051	\$ (54,929)	\$ 9,122
2012-13	541,382	430,163	111,219	55,610	(45,805)	9,805
2013-14	472,728	430,163	42,565	21,283	(11,740)	9,543
2014-15	377,666	430,163	(52,497) ²	-	-	-
2015-16	402,016	430,163	(28,147) ²	-	-	-
2016-17	364,000	430,163	(66,163) ²	-	-	-
Total						<u>\$ 28,470</u>

¹Should be identified on the TC-31 as State Trial Court Improvement and Modernization Fund – GC section 77205.

²Qualified revenues do not exceed the base amount for FY 2014-15 through FY 2016-17.

The error occurred because the county understated fines by \$56,940. The actual adjustment is \$28,470, representing 50% of the understated fines. The \$56,940 is calculated as follows:

- As stated in Finding 3, the court did not increase the state DNA penalty from \$3 to \$4 until November 2012. The error caused the county share of the State Penalty Fund to be overstated. A total of \$1,366 was erroneously included in the MOE calculation; and
- As stated in Finding 4, the county included only \$11.76 (49% of \$24.01) in its MOE calculation, instead of the entire \$24.01 (49% of \$49). We recalculated the MOE with the revised fee of \$24.01 and determined that the error resulted in an understatement of \$109,781 in the MOE calculation for the audit period. However, the county did not collect enough qualified revenues to exceed the base year amount for FY 2014-15 through FY 2016-17; therefore, the county was not required to make any additional MOE payments to the State for these fiscal years. As such, we only included \$58,306 from FY 2011-12 through FY 2013-14 in the MOE recalculation.

Recommendation

We recommend that the county remit \$28,470 to the State Treasurer and report on the TC-31 an increase to the State Trial Court Improvement and Modernization Fund.

County’s Response

The county agrees with the finding.

**FINDING 2—
Underremitted State
Court Facilities
Construction Fund**

During testing of outstanding bonded indebtedness, we found that the county underremitted \$52,969 to the State Court Facilities Construction Fund in FY 2011-12.

As of June 30, 2009, the county transferred responsibility for 33.75% of its court facilities to the Judicial Council. As the court facilities did not have any outstanding bond indebtedness, the county should have imposed and collected only 66.25% of its courthouse construction penalty from relevant cases. However, the county incorrectly imposed and collected 100% of its courthouse construction penalty from July 2011 through April 2012. Therefore, \$52,969 ($\$156,934 \times 33.75\%$) of the total collection for the county courthouse construction fund during the affected period should have been transferred to the State Court Facilities Construction Fund. The error occurred because county personnel were unaware of the required distribution.

Per GC section 70402(a), any amount in a county’s courthouse construction fund should be transferred to the State Court Facilities Construction Fund following the date of the last transfer of responsibility for court facilities from the county to the Judicial Council, if there is no outstanding bonded indebtedness.

GC section 70402(b) states:

If the responsibility for one or more facilities does not transfer, the county’s courthouse construction fund shall retain that portion of the total money in the fund as the square footage of the facilities that do not transfer bears to the total square footage of court facilities in that county.

The following table shows the effect of the underremittance:

Account Title	Underremitted/ (Overremitted)
State Court Facilities Construction Fund – GC §70372(a)	\$ 52,969
County Courthouse Construction Fund	(52,969)

Recommendation

We recommend that the county remit \$52,969 to the State Treasurer and report on the TC-31 an increase to the State Court Facilities Construction Fund.

County’s Response

The county agrees with the finding.

**FINDING 3—
Underremitted state
DNA penalties**

During testing of DUI cases, we found that the court failed to update its distribution system to increase the state DNA penalty from \$3 to \$4 until November 2012. The error occurred because court personnel overlooked the requirements for the DNA penalty assessment.

Beginning June 26, 2012, GC section 76104.7 requires a penalty of \$4 for every \$10, or fraction thereof, upon every fine, penalty, or forfeiture levied on criminal offenses, including traffic offenses but excluding parking offenses. The penalty is levied and collected in the same manner as the state penalty imposed per PC section 1464. The entire amount, including interest, should be distributed to the State DNA Identification Fund.

In addition, the incorrect distributions overstated the revenues reported to the State Trial Court Improvement and Modernization Fund under the MOE formula (see Finding 1) by a total of \$1,366.

The incorrect distributions had the following effect:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
State DNA Identification Fund – GC §76104.7	\$ 9,703
State Penalty Fund – PC §1464	(3,187)
State Court Facilities Construction Fund – GC §70372	(2,277)
State DNA Identification Fund (Prop 69) – GC §76104.6	(455)
Total	<u>3,784</u>
County General Fund (State Penalty 30%) – PC §1464	(1,366)
County Courthouse Construction Fund	(1,507)
County Criminal Justice Facilities Construction Fund	(911)
Total	<u>\$ (3,784)</u>

Recommendation

We recommend that the county remit \$3,784 to the State Treasurer and report on the TC-31 an increase of \$9,703 to the State DNA Identification Fund and decreases of \$3,187 to the State Penalty Fund, \$2,277 to the State Court Facilities Construction Fund, and \$455 to the State DNA Identification Fund (Prop 69).

County’s Response

The county agrees with the finding.

Court’s Response

The court agrees with the finding.

**FINDING 4—
Incorrect TVS Fee
reported as qualified
fines, fees, and
penalties**

During testing of the 50% excess of qualified revenues, we found that the county incorrectly included 49% of the \$24.01 TVS fee in the MOE calculation, instead of the entire \$24.01 (49% of \$49) in the MOE calculation. The error occurred because the county misinterpreted the required distributions.

Vehicle Code section 42007.1 requires 49% of the \$49 fee to be reported as qualified revenues in accordance with GC section 77205. The incorrect reporting of the TVS fee caused the revenues reported to the State Trial Court Improvement and Modernization Fund to be understand under the MOE formula pursuant to GC section 77205. A net total of \$109,781 should have been included in the MOE calculation (see Finding 1).

Recommendation

We recommend that the county establish procedures to ensure that qualified revenues are calculated using 49% of the \$49 fee (\$24.01) and be deposited in the county General Fund.

County’s Response

The county agrees with the finding.

**FINDING 5—
Incorrect distribution
of the 2% State
Automation Fee**

During testing of bail bond forfeitures, we found that the court did not deduct the 2% State Automation Fee from the State Restitution Fine or from bail bond forfeitures for county arrests related to the Penal Code. The error occurred because the court accounting system was not programmed to calculate the distribution correctly.

GC section 68090.8 requires that a 2% State Automation Fee be deducted from all fines, penalties, forfeitures, and restitutions.

We did not measure the fiscal effect, as the related monetary amount was not significant.

Recommendation

We recommend that the court:

- Establish and implement procedures to ensure that 2% state automation fees are distributed in accordance with statutory requirements; and
- Update its accounting system to ensure that 2% state automation fees are distributed in accordance with statutory requirements.

Court’s Response

The court agrees with the finding.

**FINDING 6—
Incorrect distribution
of base fines for city-
arrest DUI cases**

During testing of city-arrest DUI cases, we found that the court incorrectly distributed only 21% of base fines to cities instead of the statutorily required 79% of base fines. The error occurred because court personnel misinterpreted the required distributions.

Per PC section 1463.001, base fines resulting from a city arrest are to be split between the county and the city. The county receives an amount equal to the percentage listed in PC section 1463.002. For Lassen County, the county should receive 21% of the base fine and cities should receive 79% of the base fine on city-arrest DUI cases.

We did not measure the fiscal effect, as there were few city-arrest DUI cases and the related monetary amount was not significant.

Recommendation

We recommend that the court:

- Establish and implement procedures to ensure proper distribution of base fines for city-arrest DUI cases; and
- Update its accounting system to properly distribute base fines for city-arrest DUI cases.

Court's Response

The court agrees with the finding.

FINDING 7— Failure to impose the Administrative Screening Fee and the Citation Processing Fee

During testing of 50% excess of qualified revenues, we found that the court did not impose the Administrative Screening Fee and the Citation Processing Fee from July 2011 through June 2017. The error occurred because court personnel were unaware of the required fees.

PC section 1463.07 requires a \$25 fee from each person arrested and released on his or her recognizance upon conviction for any criminal offense other than an infraction, and a \$10 fee from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense other than an infraction.

Failure to impose these fees caused deposits in the County General Fund to be understated. The incorrect distribution of fees also caused the revenues reported to the State Trial Court Improvement and Modernization Fund to be understated.

We did not measure the fiscal effect, as the related monetary amount was not significant.

Recommendation

We recommend that the court:

- Include the Administrative Screening Fee and the Citation Processing Fee in sentencing guidelines used by its judicial officers; and
- Update its case management system to assess these fees.

Court's Response

The court agrees with the finding.

**Attachment A—
County’s Response to Draft Audit Report**

County of Lassen
Auditor



June 28, 2019

Lisa Kurokawa, Chief
Compliance Audit's Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250

Dear Ms. Kurokawa:

Please accept this response from the County of Lassen regarding the court's draft revenue audit for the period of July 1, 2011 through June 30, 2017.

After reviewing the findings, I am in agreement with them. We have implemented the corrections and have prepared the TC-31 and warrant in accordance.

Sincerely,

A handwritten signature in blue ink that reads "Diana Wemple".

Diana Wemple
Lassen County Auditor

Diana Wemple
Auditor
Lori Pearce
Assistant Auditor
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**Attachment B—
Superior Court's Response to Draft Audit Report**



LASSEN SUPERIOR COURT

June 28, 2019

Lisa Kurokawa
Chief – Compliance Audits Bureau
State Controller's Office – Division of Audits
PO Box 942850
Sacramento, CA 94250

RE: Lassen County's Court Revenues Audit

Dear Ms. Kurokawa:

The Court received and has reviewed the draft audit report for Lassen Superior Court and the County of Lassen. With respect to those portions of the audit report which pertain to the Court, the Court agrees with and adopts the findings and recommendations of the State Controller's Office.

Very respectfully,

A handwritten signature in black ink, appearing to read "Christopher Vose".

Christopher Vose
Court Executive Officer

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>