



# Michigan Trial Court Funding

Michigan Association of Counties  
2023 Legislative Conference  
Executive Overview

April 24, 2023 @ 2:00 p.m.

# INFORMATION OUTLINE

- ❑ *Background on Michigan Trial Court Funding*
- ❑ *Key Definitions*
- ❑ *Past Challenges to Court Funding*
- ❑ *Insights from Work of TCFC*
- ❑ *Current Funding Model*
- ❑ *A New Funding Model*
- ❑ *Recommendations of TCFC*
- ❑ *Michigan Judicial Council Workgroups*
- ❑ *What's ahead after Johnson v. Alpena*
- ❑ *Discussion/Idea Exchange/Quiz Bowl*

# Trial Court System Overview

## Notes on Michigan Trial Court System:

- ❖ 165 Court Funding Units
- ❖ 242 trial courts in Michigan
  - ❑ 57 Circuit Courts
  - ❑ 78 Probate Courts
  - ❑ 103 District Courts
  - ❑ 4 Municipal Courts
    - 559 total circuit, district, probate and municipal Judges
    - 9,000 employees

# Trial Court System Definitions

**Trial Court Funding Commission**-14 commissioners appointed in 2017 by governor representing a variety of stakeholders vested in the operation and financing of trial courts. Mission to review Michigan's court funding system and make recommendations.

**Funding Unit**-the local unit of government in which a court operates. Primarily Michigan counties.

**Trial Court**-a trial court of general jurisdiction known as the circuit court, a probate court, and the legislatively created district court (Const 1963, art 6, §1 and the Revised Judicature Act of 1961, MCL 600.101 et seq).

**Case Weight**-average number of minutes to perform a task associated with a case.

**Case Load**-the number of cases filed in a court.

# Definitions-(Continued)

## Court Assessments:

Fines-*Imposed on an individual for a violation of statute or ordinance*

Statutory Fines-*imposed for a state penal law violation or civil infraction*

Ordinance Fines-*imposed for a violation of a municipality's ordinance*

Fees-*imposed on individual for a service provided directly to that individual (court appointed attorney fees, filing fees)*

Court Costs-*any cost reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case, including but not limited to:*

- *Salaries & benefits for relevant court personnel*
- *Goods & services necessary for the operation of the court*
- *Necessary expenses for the operation & maintenance of court buildings & facilities*

# Recent Michigan Trial Court Challenges

## Chronology of cases/actions:

### Code of criminal procedure; 769.1k Imposition of fine, cost or assessment

#### ▪ 2017:

- ***People v. Cunningham***-Michigan Supreme Court ruled state law does not give Courts authority to impose costs on criminal defendants in order to fund day-to-day operation of Courts. Can only assess what Legislature specifically authorized. Had been doing it without authority—so it ended.
- In response to the Cunningham decision, **PA 64** was enacted. Authorized trial courts to assess costs to criminal defendants. PA 64 was to last 36 months with a sunset provision in fall 2020
- **PA 65** was next. It created **Trial Court Funding Commission**-charged with reviewing funding system and to make recommendations to improve effectiveness including any changes to methods by which courts impose & allocate fees/costs



# Trial Court Challenges-Continued

- 2019:
- ***People v. Cameron***-Michigan Supreme Court ruled on challenge to constitutionality of courts assessing criminal defendants the cost of court operations—2 technical issues. Asked if the payment of court costs is an unconstitutional tax?

*Supreme Court ruled Imposition of court fines & fees is a tax & the court had a factual basis to determine the costs so **it was constitutional.***

- 2020:
  - **PA 151** was enacted; took over as PA 64 was scheduled to sun set in the fall of 2020; PA 151 was another temporary legislative fix thru fall 2022. Continued authority to ensure funding for piece of Michigan Trial Court funding pie.



# Trial Court Challenges-Last Slide

- 2020 Continued:
- *People v. Johnson*- Asked the question of whether the statute addressing court costs deprives criminal defendants of their due process right to an impartial decision maker (Judge) & violates separation of powers principles-Court of Appeals ruled not unconstitutional.

Application for Leave granted July 2022. Supreme Court has heard case in March. Will address matters related to MCL 769.1k(1)(b) (iii):

- (1) Whether it violates separation of powers by assigning the judicial branch “tasks that are more properly accomplished by the Legislature?”
  - (2) Whether it violates due process by creating a “potential for bias” or an “objective risk of actual bias”; and
  - (3) If MSC finds it unconstitutional under either 1 or 2 above, what is the remedy?
- 2022:
    - **PA 199** enacted; temporary legislative fix until May 1, 2024



# Methodology/Process-TCFC

- The commission began its work studying the existing model
- Heard from experts on court funding-Circuit, District & Probate Courts.
- Used data as framework for ***survey of stakeholder groups***
- What they said about nature & extent of problems in current funding model

## TCFC identified key best practices & principles to guide it's work:

Compared them to national norms:

- ✓National Center for State Courts
- ✓National Task Force on Fines, Fees and Bail
  - Presentations and publications as references

Above provided a solid framework for the commission's work.

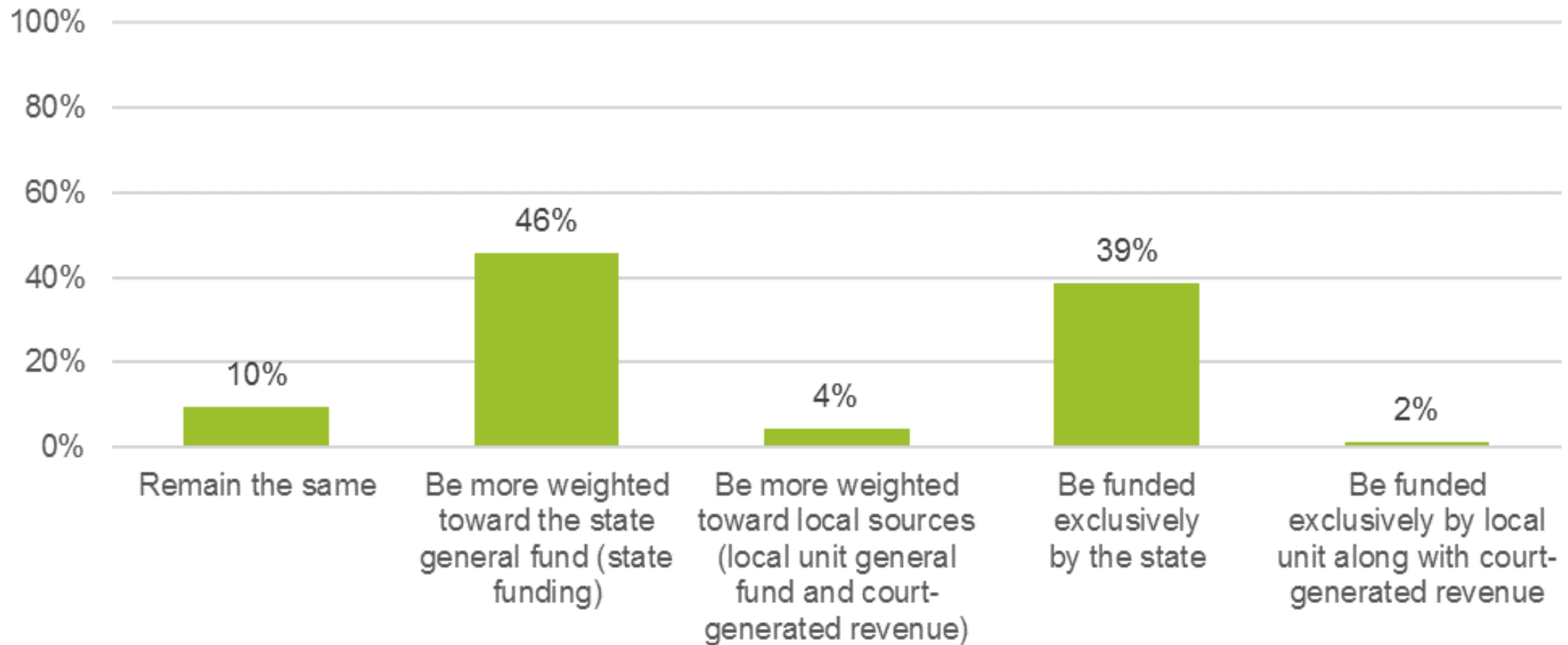
# Defining the Problem

The commission identified the following key barriers to an effective trial court funding system:

- ❖ A real or perceived conflict of interest between a judge's impartiality and the obligation to use the courts to generate operating revenue;
- ❖ Inadequate funding from all sources due to excessive dependence on local government funding; and
- ❖ Unequal access to justice, harming those who are most vulnerable and have the least access to financial resources.

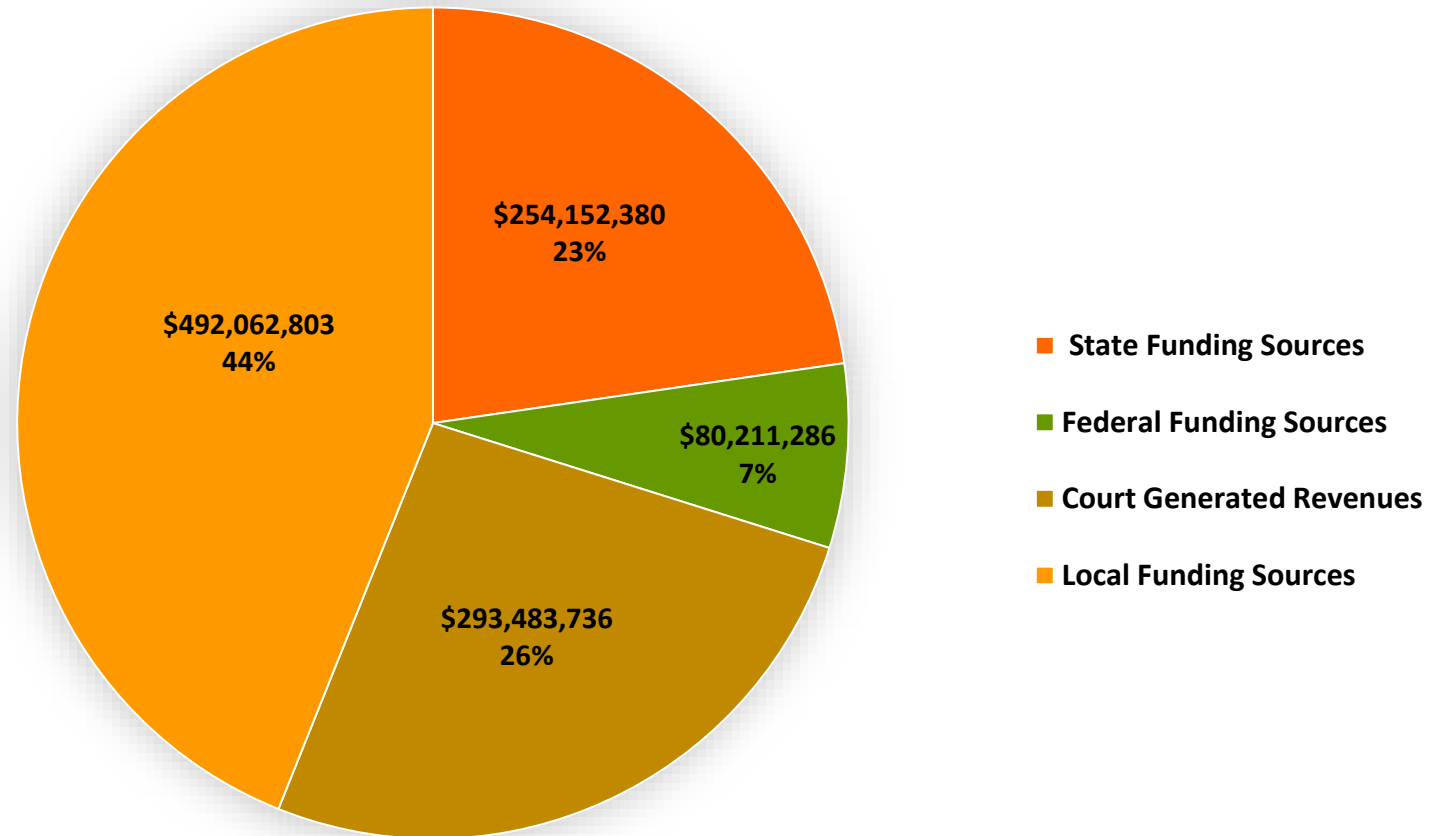
# Stakeholder Group Survey Results

## Future Trial Court Funding Sources



# Funding Sources to Michigan Courts

CALCULATION OF TOTAL REVENUES PROVIDED TO COURTS BY UNITS OF GOVERNMENT



# State Funding to Michigan Courts

State Grants/payments sent to local funding units:	\$ 96,647,493
Court Equity fund payments:	<u>\$ 48,697,247</u>
<b>Total:</b>	\$ 145,344,740
Remittances from local units paid to state:	<u>\$(127,754,717)</u>
Difference (amount of state general fund contribution to local units):	\$ 17,590,023
Percentage of local court operation expenses paid by state general fund:	<b>2.24%</b>
<u>Source:</u> SCAO Court Payments & Remittances FY 2018 & TCFC Financial Survey	

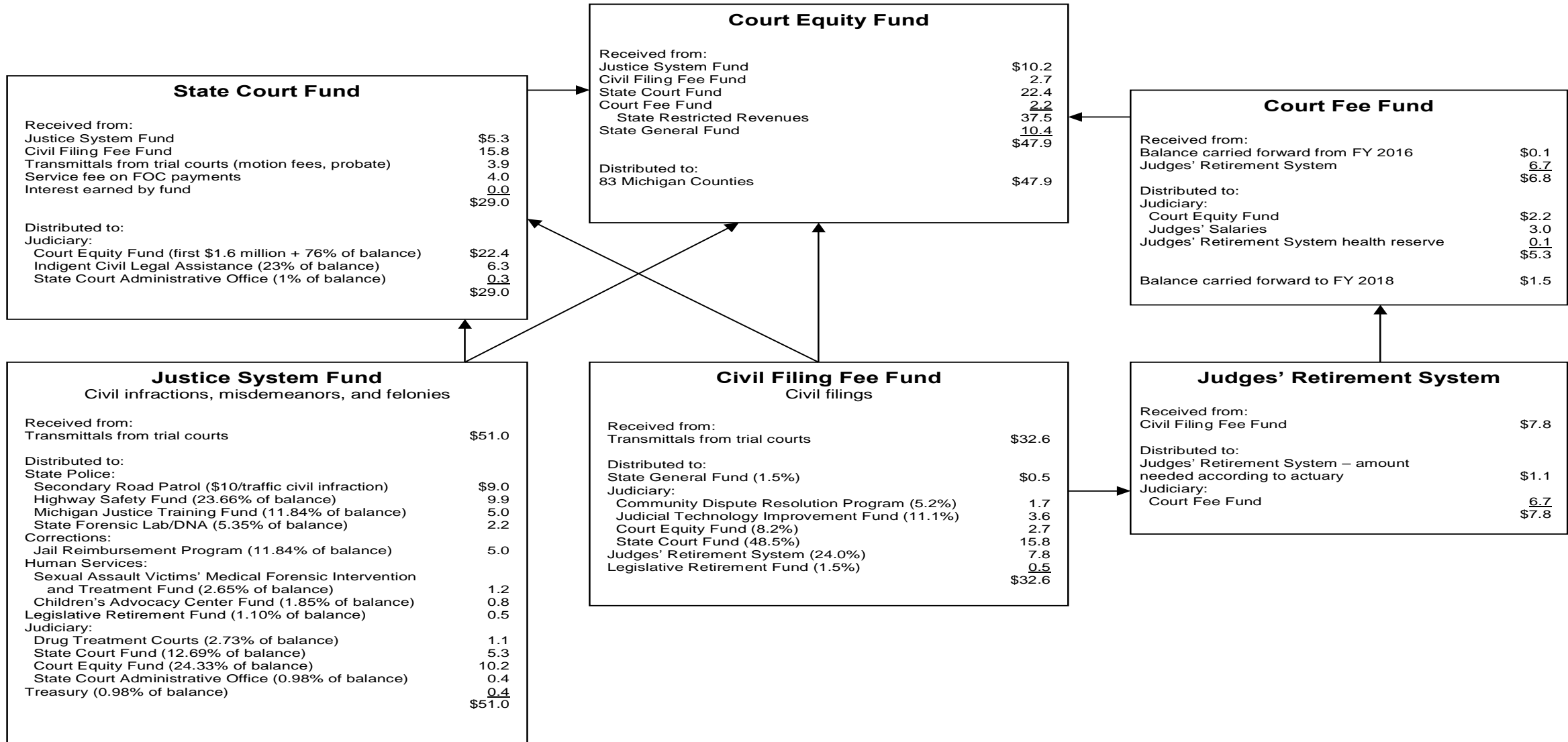
# Financial Snapshot—Michigan Courts

## Data as of 2017 Financials

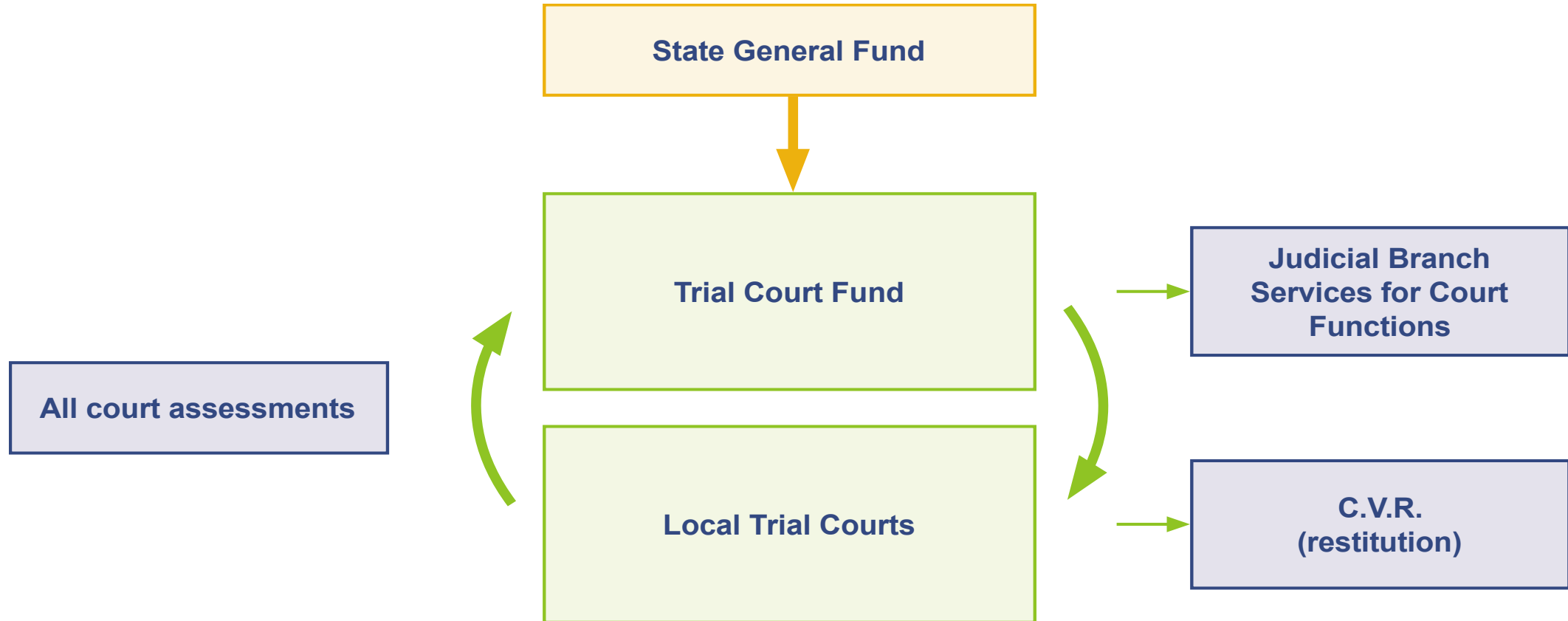
Line Item	Projection (Range Mean)	Range with 95 Percent Confidence
Total court expenditures	\$1.29 Billion	\$1.14 Billion to \$1.44 Billion



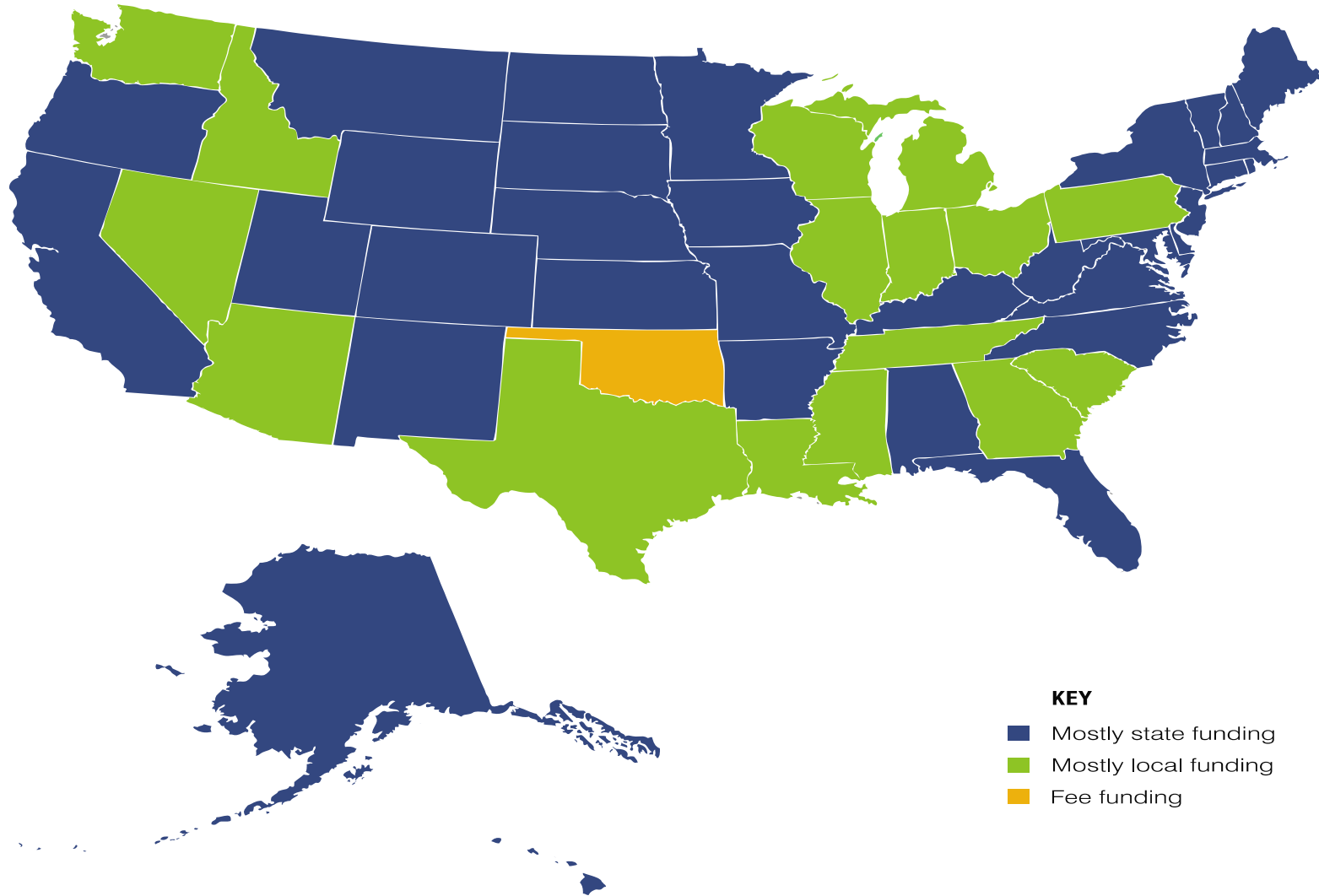
# Michigan's Current Funding Structure



# A New Funding Model for Michigan Courts



# National Perspective-Court Funding



**KEY**  
■ Mostly state funding  
■ Mostly local funding  
■ Fee funding

Share  
**ideas**  
Start  
something  
**good**

# TCFC Developed 5 Recommendations

## Trial Court Funding Commission:

- ❑ Interim Report Published April 8, 2019
- ❑ Final Report Published September 6, 2019
  - Final Report is 46 pages

## Each Recommendation Includes/Supported with:

- a. Summary
- b. Description
- c. Rationale/Findings
- d. Implementation Plan; Short-term & Long-term



# Recommendations

1. **Establish a Stable Court Funding System**
2. **The State Shall Offer to Provide All Court Technology Needs**
3. **Establish Uniform Assessments and Centralized Collections**
4. **Move Toward a Uniform Employment System**
5. **Establish a Transition Plan for the New Court Funding Model**

**Remember Slide #10:**

- Defining the Problem; drives the solutions**



# #1. Establish a Stable Court Funding System

- ✓ Current model does not achieve sustainability or equity throughout state
- ✓ New model would more equitably share costs of funding; state & local
- ✓ Over \$30 million per year in trial court revenues diverted to non-court functions
- ✓ Courts should not be collectors of revenue for other programs-administer justice
- ✓ Calls for a simpler model/plan that is more efficient to administer; savings





## #2. The State Shall Offer to Provide All Court Technology Needs

- ✓ Courts operate in data driven world; can't manage what is not measured. Need common data platform for courts to move together
- ✓ Too many different data management systems; lack central data repository; time spent preparing/collecting data for submission
- ✓ Promote more equal resource allocation from state leadership/support

### ☐ FY2023 budget includes:

\$150 Million for a statewide case management system

- ### ☐ FY2024 Governor's budget:
- recommends ending JIS user fees to funding units



# #3. Establish Uniform Assessments & Centralized Collections

- ✓ Addresses ethical dilemma facing judges and public perception that fines and costs assessed to fund courts
- ✓ Frees court personnel from collections/business practice to focus on core court functions-administration of justice
- ✓ Efficiency of collections; uniformity of collections; standardize fees & costs-A-87

[Recommendations #1 & #3](#) are linked in solving the constitutional challenges of courts assessing & collecting.

[#3](#) separates the Courts from the revenue they create by transferring this responsibility to the Executive Branch-Treasury.



## #4. Move Toward a Uniform Employment System

- ✓ From organizational and administrative perspective, a uniform employment structure is lacking
- ✓ Personnel compensated & managed under an array of standards under local funding units; extends to state circuit court probation-under State DOC



# #5. Establish a Transition Plan for the New Court Funding Model

- ✓ Recommendations at policy level; details needed as part of implementation plan
- ✓ Court operations must change under these recommendations; goals of improved funding model (savings re-invested in courts) drive enhancements for more equitable service model for all Michigan citizens
- ✓ Develop a full & detailed transition plan for recommendations
- ✓ Michigan Judicial Council



# #5. More on Michigan Judicial Council

Michigan Judicial Council: Created in 2021 with 29 members

## □ Strategic Initiatives-Strategic Agenda:

- Court Funding & Technology Infrastructure
- Public's Experience & Effective Problem Solving
- Racial & Social Equity
- Public Trust & Understanding
- Workforce Excellence

**Above all organized as Workgroups**  
**Working on plans**





# PREPARE FOR DECISION

## Referring to prior Cameron decision, the Court of Appeals observed:

“Opining that the MDJA might be right, Chief Justice McCormack stated: ‘No matter how neutral and detached a judge may be, the burden of taxing criminal defendants to finance the operations of his court, coupled with the intense pressures from local funding units (and perhaps even from the electorate), could create at least the appearance of impropriety. Assigning judges to play tax collector erodes confidence in the judiciary and may seriously jeopardize a defendant’s right to a neutral and detached magistrate.’”





# IN SUMMARY

The TCFC has provided a roadmap of a more equitable funding model for Michigan Trial Courts

- ❑ Judicial Council has aligned Workgroups under the TCFC Recommendations
  - ❑ Also, includes focus on new emerging issues to address/solve
- ❑ FY23 State Budget includes \$150 million for case management system
  - TCFC Recommendation # 2
- ❑ FY24 Governor's Budget-\$12.5 million
  - proposes ending JIS fees (3-4 yr. effort)
- ❑ Portion of Court generated funding to be determined by Johnson Case



# What's Ahead

March 16, 2023 Daily Telegram Headlines

“Upcoming Court Ruling Could Impact Trial Court Funding as Deadline Approaches”

- ❑ Portion of Court funding to be determined by Johnson Case
- ❑ County officials worry a ruling in favor of Johnson:
  - ❑ Stop Collection of Court costs
  - ❑ Funding units have to make up difference
  - ❑ Or reduce costs to fill budget hole
- ❑ Budget Battles
- ❑ Legislative Appropriation-\$46 Million



# What's Ahead

## Some perspectives:

Cunningham fix was to create statute allowing courts to assess court costs 2014

- Michigan District Judges Association requested sunset provision-test the idea
- Judiciary's concern with current arrangement is judge may feel pressure to assess costs on defendants to financially support court operations. Or just the appearance.
- TCFC said, "Create a stable court funding system whose money comes from the State" All costs assessed at court level; collected by non-court operation.
- It eliminates any actual or perceived influence on court costs
- MAC says, "Support that recommendation as it would also distribute funds to trial courts based on their operational requirements". CORR-Court Operational Resource Report, i.e., case weighting, etc. More evenly distribute resources.
- Michigan Judges Association, "It's not so much the law changes, but recognizing that some counties have different financial pressures than others".

# IN SUMMARY

## MAC In ACTION™

1. Supported Initiative of \$150 million for statewide CMS in the State FY23 budget
2. Supported Legislation to extend PA 199; another temporary fix allowing court's continued authority assessing costs to criminally defendants (also PA 64 & 151)
3. Supported efforts implementing recommendations of the TCFC; includes principle of State more equitably funding the Trial Courts
4. All five (5) recommendations of TCFC focus on improving court system & are supported by the biggest funders of the Trial Courts-Michigan Counties!



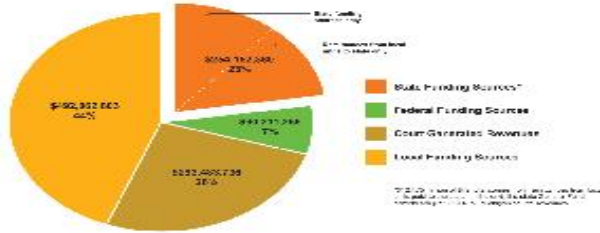


# MAC Summary Sheet

## Reforming Court Funding



CALCULATION OF TOTAL REVENUES PROVIDED TO COURTS BY UNITS OF GOVERNMENT



FUNDING PROCESS



### Trial Court Funding Commission addresses ...

- Equal Access to Justice Across the State
- Creating Efficiencies
- Retaining Local Control and Contribution Components
- Eliminating conflicts/courts as revenue generators
- Michigan as "One Court of Justice"\*
- Uncertainty: Cunningham, Cameron, What's Next?
- Current Cost Authorization Sunset on Oct. 17, 2020

### MAC SUPPORTS

- Findings of Trial Court Funding Commission
- Efficiency (centralized collections = millions of \$\$ in savings)

MAC

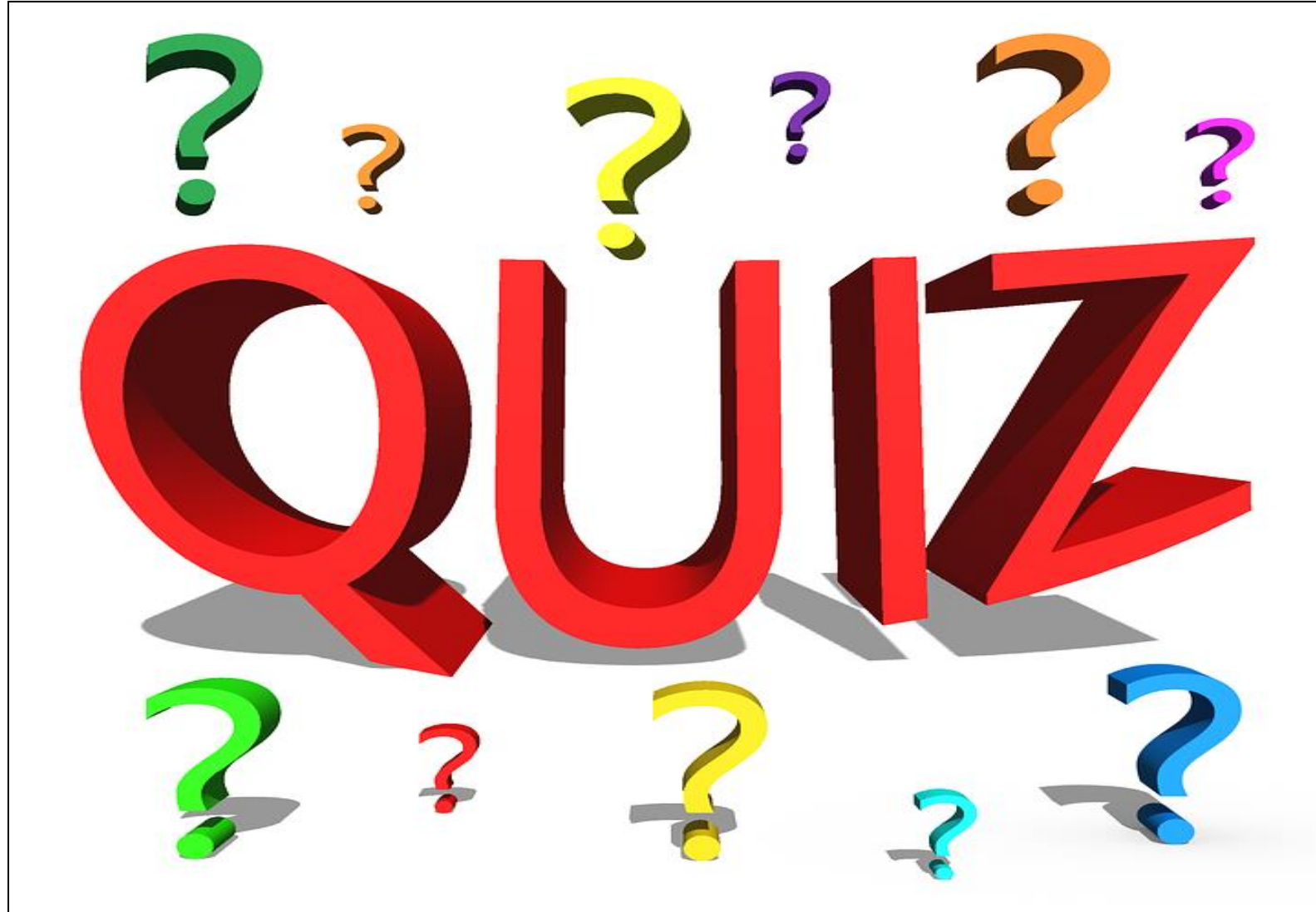
\*Article VI, section 1, 1963 Michigan Constitution



**Thank You!**  
**Discussion/Idea Exchange**



# Test Your Knowledge & Win \$



# Test Your Knowledge & Win \$

## Question #1:

The Michigan Supreme Court case concerning court costs is?

A. Johnson v. Alcona County

B. Johnson v. Alpena County



# Test Your Knowledge & Win \$

## Question #2:

What percentage of other states have Trial Courts primarily funded by the state government?

A. 66%

B. 60%



# Test Your Knowledge & Win \$

## Question #3:

True or False: The Trial Court Funding Commission was comprised of 14 Members?

A. True

B. False

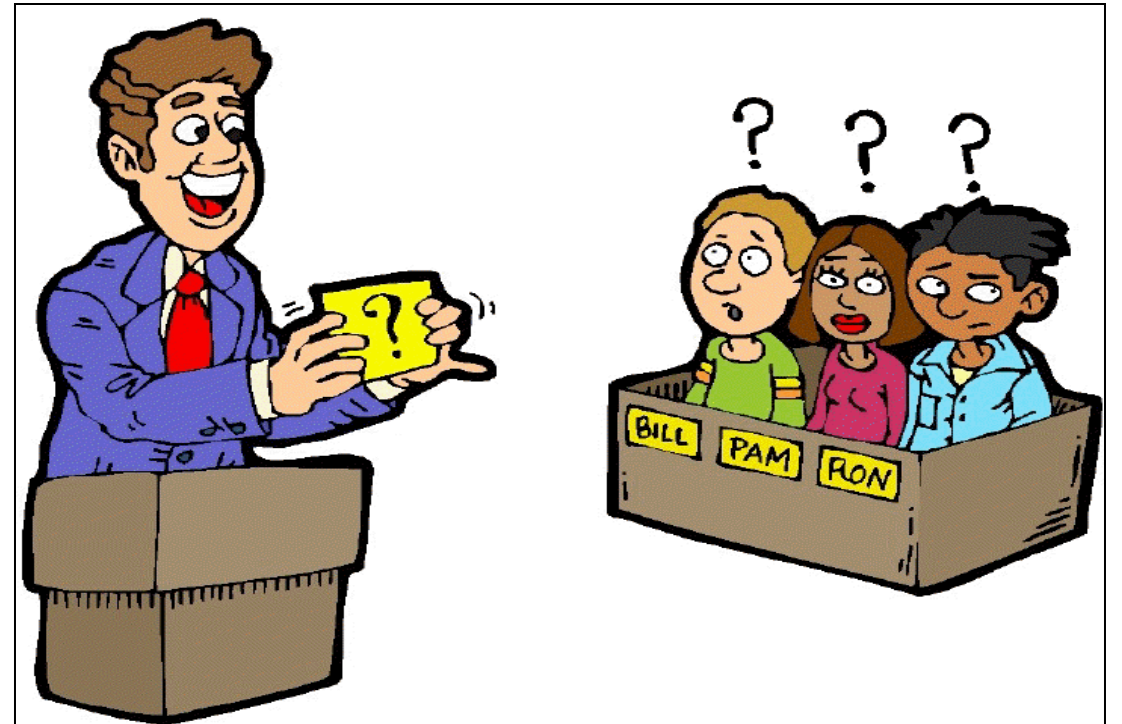


# Test Your Knowledge & Win \$

## Question #4:

The acronym JIS stands for what?

- A. Judges Information System
- B. Judicial Information System



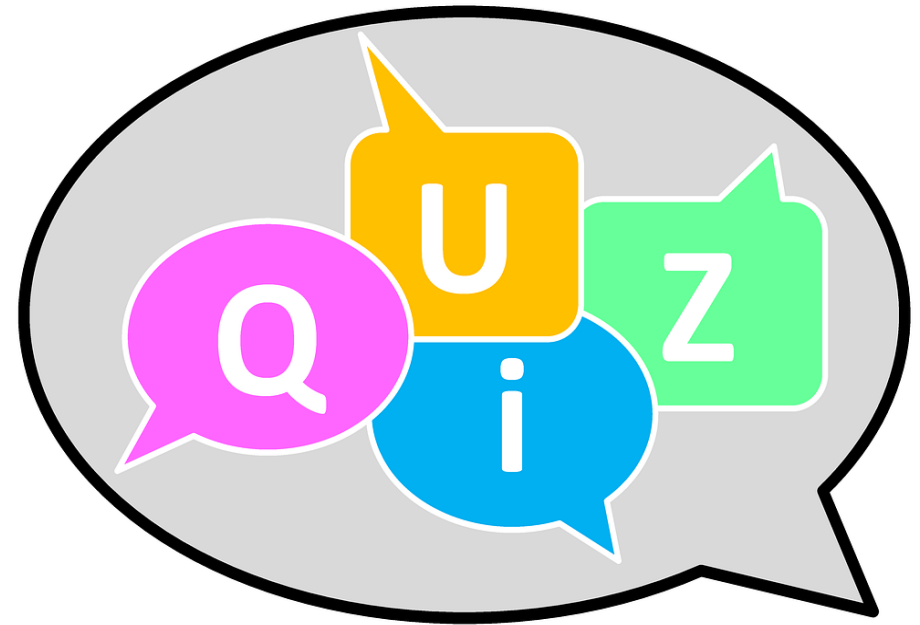
# Test Your Knowledge & Win \$

## Question #5:

Trial Court Funding includes Appeals Court?

A. True

B. False



# Test Your Knowledge & Win \$

## Challenge Question #1:

What is the only state to primarily fund the courts from user fees?

Answer: \_\_\_\_\_

A. Arkansas

B. Oklahoma



# Test Your Knowledge & Win \$

## Challenge Question #2:

How many Trial Courts and Funding Units, respectively in Michigan

- A. 224 Trial Courts & 160 Funding Units
- B. 242 Trial Courts & 165 Funding Units





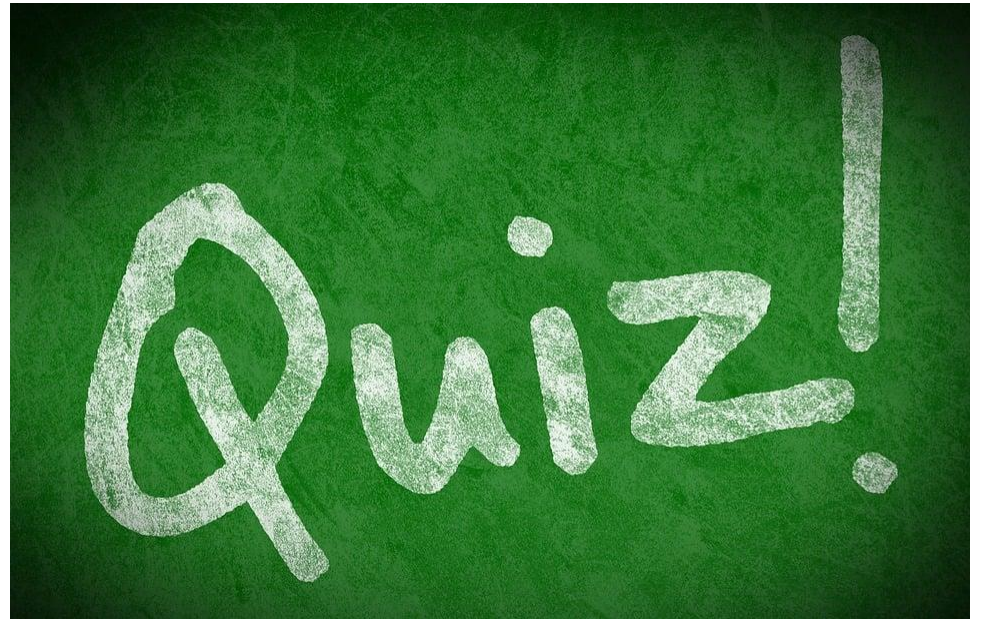
# Test Your Knowledge & Win \$

## Challenge Question #3:

Who is the current State Court Administrator?

A. Milton Mack

B. Thomas Boyd



# Test Your Knowledge & Win \$

Congratulations Winner \$25 dollars/cash

