

Alternative Funding for Trial Courts – FAQ

Background and questions on preliminary trial court funding recommendations following a webinar for the Michigan Municipal League and Michigan Townships Association on April 22, 2025. Recommendations are not yet final, and we welcome feedback on them.

Background

This project is being run by the Michigan Judicial Council, a project of the Michigan Supreme Court. The work is guided by Public Act 47 of 2024 (PA 47) and seeks to develop a plan for implementing the recommendations in the 2019 Trial Court Funding Commission report, which identified three key challenges with the current trial court funding system:

1. A real or perceived conflict of interest between judges’ impartiality and their obligation to use the courts to generate operating revenue.
2. Inadequate court funding from all sources due to over-reliance on local government funding.
3. Unequal access to justice for court users, harming the most vulnerable who have the least access to financial resources.

This document details the key components of the implementation plan and answers the questions raised in the MML/MTA webinar pertaining to each.

Questions and Answers

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Proposed New Funding Model

Maintenance of Effort	+	State & Federal Grants	+	Statewide Collections of Court Assessments	+	State General Fund Appropriation	=	Total Operational Costs
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Under the new funding model, pictured above, the key changes to the way trial courts will be funded are as follows:

- **Maintenance of Effort (MOE):** To fund operational costs of the court, local funding units will be responsible for an MOE, set at the amount they currently spend on trial court operations from their own general fund, described further below.¹
- **State & Federal Grants:** Current state and federal grant funding to the trial courts will not be affected under the new trial court funding model.
- **Statewide Collections:** Court assessments will be centrally collected by the Department of Treasury, go into a state Trial Court Fund, and then be redistributed to local funding units based on their need operational costs.
- **State Appropriation:** The state will appropriate any additional funding needed to fully fund trial court operational costs and distribute that to local funding units along with court assessments from the Trial Court Fund.
- **Total Operational Costs:** Total court operational costs will be calculated in part from current spending, and informed by the Court Operations Resource Report (CORR), which will determine appropriate levels of staffing, discussed further below.
- **Facility Maintenance & Capital Funding:** Capital facility improvements will be funded separately, discussed further below.

Question: What is the total dollar cost figure for court operations statewide?

- **Answer:** *We are still reviewing and finalizing data, but we anticipate the total cost to run probate, circuit, and district courts will be approximately \$1 billion.*

Maintenance of Effort (MOE)

Per the requirements of PA 47, MOE is defined as the average of a local funding unit's annual expenditures on trial courts *from its own general fund* for the three years prior to the creation of the Trial Court Fund. MOE does not include funds from court-generated revenue or payments from the state (e.g., grants, judges' salaries, Court Equity Fund payments, etc.). For multi-jurisdictional courts, it *does* include payments from all contributing localities.

For the purposes of the upcoming report and recommendations, Maner Costerisan (the accounting firm SCAO contracted with for this work) calculated the amount of each local funding unit's MOE using 2022

¹ Note that capital facility improvements and debt are not included in MOE.

and 2023 data obtained from the courts and local funding units. More than 99% of courts and local funding units provided this financial data. The calculated MOE is a very good estimate, but it is not intended to be the final MOE used for project implementation.

Question: Is the three-year lookback locked in? We used to get excess from the court but have suffered gross deficits in recent years. Three years will have us paying going forward when we have not had to in the past. Also, the three-year lookback includes a post-pandemic timeframe which may have dramatically changed the cost allocation and is not reflective of court operations moving forward?

- **Answer:** *The three-year period is required by statute, but the specific years being used will depend on the implementation timeline. We anticipate if the legislature takes up the recommendations in 2026, the years used for the calculation will be 2023, 2024, and 2025. We recognize that COVID and other factors may have changed MOE over the past several years, but the goal is to memorialize current spending, not historical spending.*

Question: What is the total amount across the state that local funding units are expected to continue to pay? Is the trial court budget the \$1.1-\$1.4 billion plus that amount? What is that additional amount that local government is being asked to continue to contribute from their general funds and is that included in the \$1.1 billion?

- **Answer:** *First, the numbers referenced in this question are an estimate from the 2019 Trial Court Funding Commission report, and we will have updated and more exact numbers soon. But the total budget (likely to be around \$1 billion) will include 1) the local contribution (MOE), 2) court-generated revenue (centralized at the state and redistributed), 3) existing state and federal grants, and 4) a state general fund contribution to make up any shortfall. For court operations (not including capital improvements, discussed below), local funding units will not be asked to contribute anything from their general fund that they aren't already spending or responsible for – the MOE memorializes that amount and locks it into place (absent adjustments, discussed below) and does not require an additional contribution from local funding units.*

Question: What happens when a local unit cannot maintain their maintenance of effort? Does the state general fund then pay the difference? **Question:** How is the state going to financially handle communities who have right-sized courts but are struggling to pay for them?

- **Answer:** *The MOE is the amount the local funding unit is already contributing. It will increase (or decrease) annually only based on changes to a rolling average of the last three years' local taxable value. Local taxable value accounts for changing property tax values, which are a significant revenue source for local funding units and therefore an accurate gauge of the ability to support the local trial court. Factoring in those adjustments, the local funding unit will be expected to maintain its MOE. But importantly, if there are increasing trial court costs, including for additional staffing, the state general fund will pay the increase, relieving the burden on the local funding unit. We anticipate recommending that both the local funding unit and the State Court Administrative Office (SCAO) have a say in approving trial court budgets.*

Question: Taxable value has nothing to do with court revenues and expenditures. Will the system consider Headlee rollback and reduction of millages when calculating property tax value increases and

how it relates to actual increase in tax revenues? Additionally, if a city is proactive in building out and redeveloping properties, hence increasing taxable value, we then will be "punished" by paying more in maintenance of effort costs?

- **Answer:** *Taxable value increases reflect a local funding unit's capacity to support public services. We believe tying MOE to taxable value is more accurate and locally responsive than using a general Consumer Price Index (CPI) adjustment, which does not reflect a specific community's actual fiscal changes. While the Headlee Amendment does slow the growth of tax revenues relative to taxable value, local units retain the ability to seek a Headlee override if needed. After evaluating alternative models, we believe this approach strikes the fairest balance — aligning contributions with local fiscal capacity while maintaining flexibility and responsiveness to local conditions.*

Question: Won't the maintenance of effort vary widely from place to place?

- **Answer:** *Yes. It could be considered a drawback of this model that local funding units that are overly reliant on court-generated revenue and other funding sources will have much lower MOEs than local funding units that fund primarily with their general funds. But it's an important ideal that all local funding units are "held harmless" and don't have to pick up additional costs they aren't already responsible for and have built into their existing budgets. The MOE memorializes the financial support local funding units are currently paying toward court operations from their general fund and establishes certainty of the local funding unit's financial obligation to the court going forward (with annual adjustment described above).*

Question: If a local funding unit has approved increased costs in the last three years for one-time purchases, won't that have an impact on the required contribution?

- **Answer:** *Yes, assuming the increase was paid for with local general fund revenues. But once the MOE is locked into place, the local funding unit will no longer be responsible for one-time purchases above its MOE — the state will cover those costs. The model trusts that local funding units and courts worked together to agree on the need to incur past expenditures. Additionally, using an average of three years of expenditures helps "smooth" the impact of one year having higher than normal expenditures.*

Question: But those of us with bonds will have those costs drop in the future when the bonds are paid off, right? Will our figure be adjusted at that point?

- **Answer:** *Bonded debt is accounted for separately from MOE (see Facilities section below). So when a bond is paid off, the MOE will not change (because the bond isn't included), but the local funding unit's total financial responsibility related to the trial court will be lower, because it's no longer making bond payments.*

Question: So going forward, will obligations of locals [in multi-jurisdictional courts] be a hard dollar number or weighted by caseload? If caseload weighting between us is different in the future, will we still be locked in to sharing ratios of the past?

- **Answer:** *Because all multi-jurisdictional courts have different arrangements, there will just be one MOE calculated for each of those courts, attributable to the host funding unit. It is up to the*

localities that contribute to decide how to share costs going forward. We anticipate recommending an updated memorandum of understanding between localities but not requiring any one method of coordination, as that is up to the local units.

Assessments, Collections, and the State Contribution

Currently, a portion of court assessments are sent to the local funding unit, and the rest are sent to various funds. As aforementioned, this results in unpredictable funding, creates a conflict of interest by requiring courts to generate their own revenue, and poses significant barriers to access to justice, particularly for Michigan's most vulnerable populations.

Under the new model, proposed by the Trial Court Funding Commission Report, the Michigan Department of Treasury will centralize collections and transmit these revenues into a to-be-created Trial Court Fund. Money from the Trial Court Fund will be distributed along with legislatively appropriated state general fund dollars to augment local contributions and adequately fund local trial courts according to their operational needs.

Question: I understand how indigency can impact equality, but I think court assessments should be handled more like health care: Everyone is treated fairly regardless of ability to pay, but if you CAN pay court costs, why should the general public pay for costs associated with a citizen who has incurred costs due to violating the law and has the ability to pay?

- **Answer:** *In People v. Cunningham (2014), the Michigan Supreme Court ruled that MCL 769.1k, allowing the imposition of court costs, did not provide courts with the independent authority to impose costs if they were not separately authorized by statute. But the Trial Court Funding Commission's recommendation was not to eliminate the imposition of these costs, but to specify them. We do not anticipate significant changes to financial penalties as part of this project. But one of the goals is to strengthen our system of determining indigency to ensure assessments are fair and equitable. And another is to separate the administration of justice (including the imposition of financial penalties) from the business of funding the court, so that government units are not incentivized to increase costs to generate revenue.*

Question: A major problem for many funding units in terms of funding their courts has been the limitations that have been placed on the generation of revenue in recent years at the state level. If you go back prior to COVID, the amount of revenue able to be generated by the courts was vastly greater. The last three years are not necessarily a good indicator of what funding units have experienced over the long-term.

- **Answer:** *Addressing this challenge is one of the key goals of the Trial Court Funding Commission. Because local funding units have been required to fund most of the cost of the trial courts, they often rely heavily on court assessments, even when such assessments are overly burdensome or inequitable. As the state has sought to restrict court assessments in some cases, however, it has not compensated for this lost revenue at the local level. By centralizing court collections and redistributing assessments and state appropriations to local funding units based on the*

operational costs of their courts, the new model will eliminate the conflict of interest inherent in requiring judges to impose assessments to fund their courts and will reduce the overall burden on local funding units by increasing the state contribution.

Question: What is the estimate of the added cost for the state to centralize collection efforts?

- **Answer:** *We are working with Treasury to estimate this cost. But evidence from other states suggests that centralizing collections results in lower overall costs and higher rates of collection. This is because the current cost of collections to localities, including judiciary time addressing delinquent payments on dockets and law enforcement costs for enforcing payment, will be eliminated under the new funding model.*

Question: What about legacy costs (pension and other post-employment benefits)? **Question:** How is it fair that local units of government are responsible for legacy pension costs, when the state takes court revenues?

- **Answer:** *Court employee benefits (for current and past employees) were nearly all aligned with other local unit employee groups and negotiated locally, and they have been an obligation of the local funding unit. Under the new model, these costs, including the amortized cost of any unfunded liability, are included in total operational costs. So the local funding unit is only responsible for them to the level of its MOE. The impact of rising costs is primarily the responsibility of the state, which will redistribute court revenues, and any necessary state appropriation, to the local units.*

Court Operations Resources Report (CORR) – Staffing

The Court Operations Resources Report (CORR) establishes the appropriate staffing level required for Michigan trial courts by using a time/workload study and qualitative adjustments to determine the personnel necessary to manage each court's current caseload. It provides an objective assessment of staffing needs statewide to ensure court cases are processed timely, efficiently, and effectively. The CORR is being conducted for the first time as part of this project, but it expands the constitutionally mandated Judicial Resources Report (JRR), which uses a weighted caseload methodology to determine the number of judges needed, to include all non-judicial court staff who handle cases. We anticipate recommending that the CORR be conducted on the same schedule as the JRR, every six years.

Question: Courts have different caseloads, staff sizes, numbers of judges, etc. How will decisions be made on right-sizing that are tailored to each community?

- **Answer:** *The CORR consisted of a time study in each court statewide, which identified court staff time spent processing different types of cases and handling other court business, and determined the adequacy of the time they had to perform their tasks. In addition, staff of all types from a variety of different courts provided qualitative input on the quantitative findings.*

Question: How will you address reducing the size of courts or the inequities that exist in staffing levels?

- **Answer:** *This is exactly the goal of the CORR – to balance staffing and address staffing inequities between courts based on court case workloads. For courts that are determined to be overstaffed,*

we anticipate recommending reductions in staffing via attrition or reassignment, not force reduction.

Question: Will all of these individual evaluations of each court be done between the Teams and the Court or between the Teams and the sponsoring local entities who are bearing the cost?

- **Answer:** *The CORR is being conducted by the State Court Administrative Office (SCAO), with support from the National Center for State Courts. Court personnel have the opportunity to weigh in and provide feedback on staffing levels, but the goal is for an independent and objective evaluation of staffing that is removed from cost considerations, particularly since under the new model, the state will cover the cost of any increased staffing needs.*

Question: How often are conclusions revisited? If case filings drop or increase, are figures revisited annually?

- **Answer:** *We anticipate a recommendation that the CORR be conducted every six years, on the same schedule as the existing JRR. However, if a court experiences significant changes in case filings, they may request an interim adjustment in staffing levels, which would be reviewed and approved by the SCAO. Should additional staffing be required to match increased court caseloads, this staff cost would be a responsibility of the state under this new model.*

Question: Will there be additional conversations regarding court consolidation in order to maximize efficiencies?

- **Answer:** *We do not anticipate discussion about closing or consolidating courts as part of this project. However, that conversation sometimes arises as part of the JRR, and may do so again as part of the CORR depending on the final results.*

Question: Are staff going to be staff of locals or the state?

- **Answer:** *Court staff will remain local court employees. While the Trial Court Funding Commission recommended a long-term goal of making all court staff state employees, the recommendations of this project will not include moving court staff to state employment (except for judges, which are currently state employees and will continue to be).*

Facility Improvements

To address the costs of facilities, this project draws a distinction between facility maintenance and capital improvements. Facility maintenance is the continued, ongoing upkeep of a facility to provide a safe and reliable work environment and will continue to be financed through the funding of regular court operations.

A “capital improvement” is defined by cost and scope. Specifically, a project qualifies as a capital improvement when its cost, including engineering and architectural fees, is at least 1% of the average of a local funding unit’s general fund revenues from the prior three years, and the project represents a

significant enhancement to the facility. There are three kinds of capital improvements: 1) Undertaking a significant renovation or upgrade, 2) Leasing new space for the court, and 3) Building a new facility.

Going forward, we anticipate recommending a cost sharing model between the local funding unit and the state to fund capital improvements. To enable this, the state should 1) establish clear and concise guidelines for facilities focused on functional use and condition; 2) create a competitive grant program for local trial courts and funding units to apply to when significant facility upgrades are needed; and 3) prioritize grants based on identified needs and the established guidelines and fiscal resources. We anticipate recommending that this cost sharing begin when money is appropriated to make grant awards for capital facility improvements and the state can be an equal partner in facility decision-making. We are still finalizing the details for the grant program including anticipating building capital projects being managed at the local level.

Question: Are building upgrades etc. included in the \$1.1 billion budget currently and how much is allocated to the capital improvement plan if so?

- **Answer:** *Regular facility maintenance is included in the total budget, but capital improvements are not (see definitions of each above). We anticipate recommending that the state initially appropriate funding for capital improvements based on the facility condition assessment collected as part of Maner's efforts in this project.*

Question: Any info on how locals will be compensated for buildings (old vs. new facilities)? We are still paying on bonds for a newer facility. **Question:** We have bonded for a building. Who owns it going forward? Who maintains it going forward? This cost will vary greatly from town to town.

- **Answer:** *The building will continue to be owned and maintained by the locality. Going forward, facility improvements will require a partnership between the state, local funding unit, SCAO, and the court. If all decisions (e.g., a referendum to build a new facility or capital bonds issued) have already been made by the locality and they have secured local funding, it cannot be a partnership. However, as the new building ages, it will be eligible for capital improvement support from the state as described above.*

Question: Some places have modern courts and others are using shared space. Does that create an uneven maintenance of effort that could result in them getting subsidized more than another court?

- **Answer:** *Outside of regular facility maintenance, facility improvement costs are not included in total operational costs, and therefore not covered by MOE. It is true that courts that have built or updated their buildings recently will not benefit immediately from support from the state. However, this model will create more equity in the long-term, as lower-resourced localities will be financially supported to upgrade their facilities to create more uniform court facilities statewide.*

Question: I have a question regarding paying for a newly built court. We have a multi-Municipal District. The Host community that houses the court has backed a bond to pay for the court's new courthouse. The other communities did not get a say in this decision. The court pays for this through a building fee

on tickets. Any shortfall is paid by the Host community as the backer of the bonds. So how is the state going to pay half and the other half is paid by the host or the combined district?

- **Answer:** *In this situation, the arrangement would not change and the existing debt would still be the responsibility of the unit that issued the debt. Going forward, we anticipate recommending that intergovernmental agreements be updated to cover facility upgrades. If a facility improvement meets the requirements, it would be eligible for cost sharing with the state, reducing the burden on the local units. But it would still be up to the local units to coordinate how they would allocate the local portion of the costs.*

Question: For courts that occupy a building owned by the local, however rental costs were not enforced due to the funding just not being available, how are these scenarios being accounted for in the Maner study? Total overhead of the court is being understated in this situation.

- **Answer:** *The determination of MOE is based on actual reported expenditures. If rental costs were not charged and recorded, then they would be omitted from the MOE. However, the cost allocation plan may also pick up some building costs as part of the MOE.*

Question: Will the state pay rent to the local government who owns the court building?

- **Answer:** *If rent on the building is currently part of total operational costs, the state will cover any portion of that (via court assessments and general fund appropriations) that isn't already covered by MOE. For a new lease going forward, we anticipate recommending that the state and the local funding unit split the cost of the lease 50-50.*

Stakeholder Engagement

Local government input and buy-in are essential to making sure the data collected and analyzed is accurate and the recommendations will work for all stakeholders. In addition to many other stakeholder groups, we have tried hard to engage with MML, MTA, and MAC throughout the process. The original Trial Court Funding Commission that developed these recommendations included members from MML, MTA, and MAC, all of whom approved the recommendations at that time. Maner connected with every court and local funding unit as part of their data collection and received data from over 99% of them. Maner will also provide an opportunity to further review data soon (see below). And MML, MTA, and MAC all have representatives on the current Alternative Funding for Trial Courts Workgroup and implementation teams. We encourage you to reach out to those representatives to share your perspectives further. You are also always welcome to connect with our team.

We recognize that for local funding units, accurate calculation of MOE is a particularly important part of this process. For purposes of informing and drafting legislative proposals, Maner Costerisan estimated the MOE using fiscal years 2022 and 2023. Per the requirements of Public Act 47 of 2024, the official MOE will need to be recalculated after the Trial Court Fund is created through legislation, using the three preceding years. When the time comes for this calculation, the local funding units and the courts will both be provided extensive opportunity to review their financial information and the calculation and ensure that it is correct.

Question: It sounds like we will continue to have most of the funding responsibility, but someone else will be making decisions that impact our costs. Given that the conversations have largely been with the courts, not the units of government footing the bill, this is a bit concerning. No one has been in contact with our local government.

- **Answer:** *Courts and local funding units have had equal engagement during this process – see above for details. However, one of the key tenets of the original Trial Court Funding Commission recommendations was that control of the courts remain local. The goal of this project is to contain costs at the local level and increase the partnership with the state for cost sharing. As the state contributes more funding, it may have more say over the approval of budgets and other decisions than it currently does. But local governments are still an essential partner in decisions made about the courts.*

Question: As Maner is analyzing the financial data, can there be a final review/confirmation of financial data by the funding units/courts to make sure everything seems reasonable related to their respective units?

- **Answer:** *Yes! This is coming very soon. All courts and funding units will have the opportunity to review data that was submitted, including the estimate of MOE using total revenues and expenditures, the cost allocation plan information used, and facility information. Keep an eye out for an email from Maner Costerisan and reach out if you didn't receive it and would like to review the information.*

Question: Has there been a date established where input from communities will no longer be accepted?

- **Answer:** *We anticipate conducting additional rounds of stakeholder engagement and feedback through June and July. Our goal is to submit final recommendations and legislative proposals to the legislature in early October. At that time, the legislature will hopefully consider the recommendations, solicit additional stakeholder feedback, and make their own decisions about passage and implementation.*