
Operational Costs Funding Model Recommendations

Recommendation 1.1: Establish a “Maintenance of Effort” (MOE) fiscal requirement for local governments to maintain their current court spending.

- a) To calculate an official MOE, local funding units should set up a special revenue fund now to track court operational expenses and revenues, with the state dictating what qualifies as a court operational expense. *(Note: Tentative – may change to a retrospective calculation.)*
- b) MOE should be adjusted annually (up or down) based on a three-year rolling average of the change in the funding unit’s local taxable value or 3%, whichever is lower.

Recommendation 1.2: Use the Court Operating Resources Report (CORR), an objective assessment of staffing needs for courts across the state, to help determine court operating costs.

- a) The SCAO should conduct the CORR on a six-year cycle, with the ability for courts to petition for staffing changes in off years based on caseload increases or decreases.
- b) Any staff positions recommended by the CORR above current levels should be funded by legislatively appropriated state dollars.
- c) Courts should work with their local funding unit and the SCAO to fund innovative programs or new services, with the goal of expanding successful pilots statewide through legislative appropriations.

Recommendation 1.3: Develop a formula for sharing facilities costs, facility debt, and other indirect costs between the state and the local unit.

- a) The SCAO should establish a set of guidelines for court facilities, prioritizing security, accessibility, and safety, and should require facilities to be reviewed on a six-year cycle to be eligible for state cost-sharing on capital improvements.
- b) The SCAO should develop a state-funded grant program – allocated by size of court – to help financially support court facility capital improvements or new buildings as they are necessary.
 - For capital improvements or construction of a new building, the local funding unit should contribute up to 1% of its general fund and then apply to the grant program to share any additional costs 50-50 with the state.
 - For leasing new space, the state and the local funding unit should share the cost of additional space 50-50, funded through the grant program.
- c) The state should not be responsible for paying for any debt on bonded buildings incurred before the rollout of the grant program above.
- d) In the case of any funding disputes, the SCAO should appoint a mediator.
- e) Routine facility maintenance should be funded like other court operations through the MOE and state appropriations, with local funding units responsible for unexpected facility maintenance.

Funding Distribution Recommendations

Recommendation 2.1: Establish a state-managed Trial Court Fund for receipt and redistribution of most court-generated revenue towards court operating costs.

- a) The Trial Court Fund should be created within the Department of Treasury, and revenue from court assessments should be deposited into this fund as it is received except as noted below.
- b) The following assessments, upon collection, should not be deposited into the Trial Court Fund, and should be distributed instead to their intended recipients:
 - Restitution to local funding units and Crime Victim’s Rights Assessments to the Crime Victim’s Rights Fund for distribution to individual victims, and

- Order of Filiation Fees to the Michigan Department of Health and Human Services.
 - *Note: Discussions continue on if and how to pay local governments for non-court operations currently reimbursed from court-generated revenue, as in MCL 769.1k, 769.1f, and 257.907.*
- c) The following functions currently funded by court-generated revenue should be considered court operations and therefore continue to receive funding from the Trial Court Fund:
- Community Dispute Resolution Fund (*Note: tentative*), Drug Treatment Court Fund, Friend of the Court Fund, Indigent Civil Legal Assistance (*Note: tentative*), Judges' Retirement and Reserve for Health Benefits, Judicial Electronic Filing Fund, Judicial Technology Improvement Fund, and Juror Compensation Reimbursement Fund.
- d) The following functions currently funded by court-generated revenue should not be considered court operations and should instead be funded from other sources:
- Attorney General's Operation Fund, Children's Advocacy Center Fund, Game and Fish Protection Account, Highway Safety Fund, Jail Reimbursement Program Fund, Legislative Retirement System, Michigan Justice Training Fund, Secretary of State, Sexual Assault Victims' Prevention and Treatment Fund, and State Forensic Laboratory Fund.

Recommendation 2.2: Implement a process for determining legislative appropriation requests, distributing money based on court operational needs, and monitoring spending.

- a) The SCAO should hire twelve additional full-time staff members to their Finance Team (two per region) to annually determine each court's operational needs, approve budget requests, monitor expenditures, and determine an appropriate request to the legislature.
- b) Decisions on how to spend money should remain at the local level, with courts communicating regularly with their funding units and the SCAO Finance Team in anticipation of increased needs.
- c) The funding request to the executive and legislative branches should be equal to the aggregate of all courts' approved budgets, minus the aggregate of local funding units' maintenance of effort and total federal grants. The appropriation may include state grants and payments, court-generated revenue from the Trial Court Fund, and state general fund dollars.
- d) If the state's appropriation is less than what is requested, the SCAO must communicate to courts and funding units the amount appropriated and how much courts will need to cut their expenditures for the following fiscal year.
- e) Local funding units should create a special revenue fund to receive funding from the MOE and legislative appropriations. (*Note: Discussions continue on how to build and maintain fund balances.*)
 - Per the recommendation for a special revenue fund, courts should work with their local funding unit and SCAO to determine an appropriate minimum fund balance.
 - If a court goes under budget for a fiscal year, unused funds should be retained in the special revenue fund to help reach the minimum fund balance.
 - If a court expects to go over budget, the court should cut their expenditures to stay within budget or request money from the special revenue fund's fund balance.
- f) Treasury should distribute funding into each local funding units' special revenue fund every two months, using money from the Trial Court Fund before the state general fund appropriation.
- g) Courts should submit a quarterly report to the SCAO with basic information on money they received and spent in that period, using official local funding unit financial reports where available.

Uniform Assessments & Indigency Determination Recommendations

Recommendation 3.1: Develop standardized court cost calculations, to remove the pressure on judges to use the court as a revenue generator for local funding units.

- a) The state should calculate total assessments for people convicted of a criminal case (or found responsible for a civil infraction) as follows:
 - Total Assessments = Restitution + Fine + Costs + Fees
 - Restitution and fines, which serve a compensatory and/or punitive function, are categorized as "accountability" assessments, and are not recommended to change.
 - Costs and fees, which serve a revenue-generating function, are categorized as "tax" assessments and changes are discussed below.

- b) To calculate the court costs attributable to different categories of cases, the SCAO should:
 - By funding unit, calculate the share of total court costs (using time spent by judges as reported on the JRR and by other court staff as reported on the CORR) attributable to each category of case: felonies, misdemeanors, and civil infractions.
 - Divide total costs for each case category by the number of dispositions of each case category, producing an estimate of the average total cost of each case type by funding unit.
- c) Most existing fees should be eliminated (e.g., Minimum State Cost, Justice System Assessment) as duplicative with total court costs.
- d) *Note: Discussion to continue on how to determine appropriate costs to the plaintiff attributable to MCL 769.1f offenses (e.g., operating while intoxicated (OWI)) and civil infractions.*

Recommendation 3.2: Establish a process, with uniform standards, for determining ability to pay at sentencing before court assessments are referred to Treasury for collections.

- a) The court should make a finding of indigency when the person being sentenced meets one or more of the following criteria:
 - Receives needs-based, means-tested public benefits,
 - Has income at or below the “Very Low” level identified by the Department of Housing and Urban Development for the county of sentencing, or
 - The judge determines, pursuant to a multi-factor judicial review test, that indigency should apply for another reason.
- b) Courts should handle ability to pay for different kinds of assessments as follows:
 - Restitution should be ordered in all applicable cases as in current practice,
 - Fines, based on statutory ranges, should be ordered in the judge’s sole discretion, and
 - All other assessments should not be ordered if the person is found indigent.
- c) Once assessments are ordered, they should be referred to Treasury for collections (see below). The court should retain discretion to subsequently waive the fine, while Treasury should follow its internal procedures as to subsequent relief for the collection of fees and costs.

Collections Systems Recommendations

Recommendation 4.1: Implement a uniform statewide collection system for court debt.

- a) The collection system should designate Treasury as the entity responsible for collecting court assessments, and should include:
 - Integration of Judicial Information Services (JIS) and Treasury software, including near-immediate exchange of information between systems,
 - Online and in-person options for making payments and setting up payment plans, and
 - Regular plain-language communication between Treasury and people who owe court debt.
- b) The implementation of the collections system should be a phased approach, including:
 - A pilot that includes a minimum of two courts for at least six months,
 - Integration of cohorts of counties into the statewide collection system at different times, aligning with the ongoing statewide rollout of JIS,
 - A new system for collecting debt that is in default (older than 56 days) but not yet delinquent,
 - Training for local court staff to ensure they understand the new process and how to inform people who owe court debt about their payment options, and
 - Transferring debts to Treasury only if they were incurred or had activity within the past year.
- c) Treasury should continue many of its existing practices around debt collection, including:
 - Initiating delinquent debt collections for debt older than 180 days if the person owing is not in good standing on a payment plan,
 - Writing off debt as best practices indicated, currently after six to seven years based on the limited likelihood of subsequent collection,
 - Allocating undesignated payments to older debts first, and
 - Maintaining quality assurance through internal metrics, work standards, and adherence to the Michigan Fair Debt Collection Practices Act.