



Judicial Council of California
Trial Court Budget Advisory Committee

TRIAL COURT BUDGET ADVISORY COMMITTEE
FUNDING METHODOLOGY SUBCOMMITTEE

MATERIALS FOR OCTOBER 30, 2024
VIRTUAL MEETING

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Judicial Council of California

Trial Court Budget Advisory Committee

www.courts.ca.gov/tbac.htm
tbac@jud.ca.gov

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TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

NOTICE AND AGENDA OF OPEN MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: Wednesday, October 30, 2024
Time: 12:00 p.m. to 1:00 p.m.
Public Call-in Number: <https://jcc.granicus.com/player/event/3869>

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be emailed to tbac@jud.ca.gov.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve minutes of the September 11, 2024, Funding Methodology Subcommittee meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

This meeting will be conducted by electronic means with a listen-only conference line available for the public. As such, the public may submit comments for this meeting only in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to tbac@jud.ca.gov. Only written comments received by 12:00 p.m. on October 29, 2024 will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEM (ITEMS 1-2)

Item 1

Trial Court Trust Fund Court Interpreters Program for 2024–25 (Action Required)

Consideration of court interpreter allocations and expenditures for 2024–25.

Presenter(s)/Facilitator(s): Mr. Douglas Denton, Principal Manager, Judicial Council
Center for Families, Children & the Courts

Item 2

Workload Formula Allocation Methodologies for Potential Budget Reductions and Funding Restoration (Action Required)

Consideration of workload formula options for allocation methodologies for potential future budget reductions and restoration of funding.

Presenter(s)/Facilitator(s): Ms. Oksana Tuk, Senior Analyst, Judicial Council Budget
Services

IV. INFORMATION ONLY ITEMS (ITEMS 1-2) (NO ACTION REQUIRED)

Info 1

Court Reporter Funding Mid-Year Survey for 2024–25

Informational update on the mid-year survey for one-time redistribution of unspent court reporter funding for 2024–25.

Presenter(s)/Facilitator(s): Mr. Chris Belloli, Manager, Judicial Council Business
Management Services

Info 2

Community Assistance, Recovery, and Empowerment (CARE) Act Updates

Informational update on the mid-year survey for one-time redistribution of unspent CARE Act funding for 2024–25 and potential allocation adjustments.

Presenter(s)/Facilitator(s): Mr. Don Will, Deputy Director, Center for Families, Children
& the Courts

V. ADJOURNMENT

Adjourn



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TRIAL COURT BUDGET ADVISORY COMMITTEE
FUNDING METHODOLOGY SUBCOMMITTEE

MINUTES OF OPEN MEETING

September 11, 2024
12:00 p.m. – 12:30 p.m.

<https://jcc.granicus.com/player/event/3271>

Advisory Body Members Present: Judges: Hon. Jonathan B. Conklin (Cochair), Hon. Judith C. Clark, Hon. David C. Kalemkarian, Hon. Patricia L. Kelly, and Hon. Kevin M. Seibert.

Executive Officers: Mr. Chad Finke (Cochair), Ms. Krista LeVier, Mr. Brandon E. Riley, Mr. David W. Slayton, Mr. Neal Taniguchi, and Mr. David H. Yamasaki.

Advisory Body Members Absent: Hon. Wendy G. Getty and Mr. James Kim.

Others Present: Ms. Rebecca Fleming, Mr. Zlatko Theodorovic, Ms. Fran Mueller, Ms. Donna Newman, and Ms. Rose Lane.

OPEN MEETING

Call to Order and Roll Call

The chair welcomed the members, called the meeting to order at 12:01 p.m., and took roll call.

Approval of Minutes

The subcommittee approved minutes from the June 18, 2024, Funding Methodology Subcommittee meeting.

DISCUSSION ITEMS (ITEM 1)

Item 1 – 2024–25 Sargent Shriver Civil Counsel Pilot Program Pro Rata Distribution for a Mid-Cycle Allocation (Action Required)

Consideration of an allocation methodology for additional grant funds to current Sargent Shriver Civil Counsel Pilot Program recipients.

Action: *The Funding Methodology Subcommittee unanimously voted to approve the recommendation from the Shriver Civil Counsel Act Implementation Committee to approve the mid-cycle allocation methodology to distribute an additional \$3.6 million to current pilot projects on a pro rata basis for expenditure during fiscal years 2024–25 and 2025–26, for consideration by the Trial Court Budget Advisory Committee, the Judicial Branch Budget Committee, and then the Judicial Council at its November 15, 2024, business meeting.*

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:12 p.m.

Approved by the advisory body on .

JUDICIAL COUNCIL OF CALIFORNIA
BUDGET SERVICES
Report to the Funding Methodology Subcommittee
(Action Item)

Title: Trial Court Trust Fund Court Interpreters Program for 2024–25
Date: 10/30/2024
Contact: Douglas G. Denton, Principal Manager, Center for Families, Children & the Courts
415-865-7870 | douglas.denton@jud.ca.gov

Issue

Consider Trial Court Trust Fund (TCTF) Court Interpreters Program (CIP) allocations and expenditures for 2024–25 to address any program shortfalls due to increasing interpreter costs and expenses. The approved recommendation will be considered by the Trial Court Budget Advisory Committee, the Judicial Branch Budget Committee, and then the Judicial Council.

Background

With the adoption of the Judicial Council’s Strategic Plan for Language Access in the California Courts in 2015, the council has approved budget change proposals to augment the CIP to support expansion of interpreter services to all case types.¹ Expenditure increases in the CIP are a result of multiple factors including wage growth on ratified agreements, expansion of interpreter services to all case types, increases in the number of mandated staff interpreters and mandated contractor usage, contractor rates, and merit salary adjustments.

At its business meeting on September 21, 2018, the council approved an allocation of unrestricted fund balance from the TCTF on a one-time basis to address an anticipated shortfall in the CIP for fiscal year 2018–19, not to exceed the estimated \$3.4 million required to cover cost increases and maintain service levels. The council directed staff to continue to monitor CIP funding and to provide regular updates to the Trial Court Budget Advisory Committee (TCBAC) to report any changes, and to incorporate any additional funding after the Governor’s proposed budget was released in January 2019.²

At its business meeting on May 17, 2019, the council approved a one-time allocation of unrestricted fund balance from the TCTF in an amount not to exceed \$13.5 million to address the projected shortfall in fiscal year 2019–20.³

¹ Strategic Plan for Language Access in the California Courts, adopted by the Judicial Council on January 22, 2015, https://languageaccess.courts.ca.gov/sites/default/files/partners/default/2024-01/CLASP_report_060514.pdf

² Judicial Council meeting report (September 21, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=6613659&GUID=D8DDBB1D-D123-410A-80B7-124C840672DB>

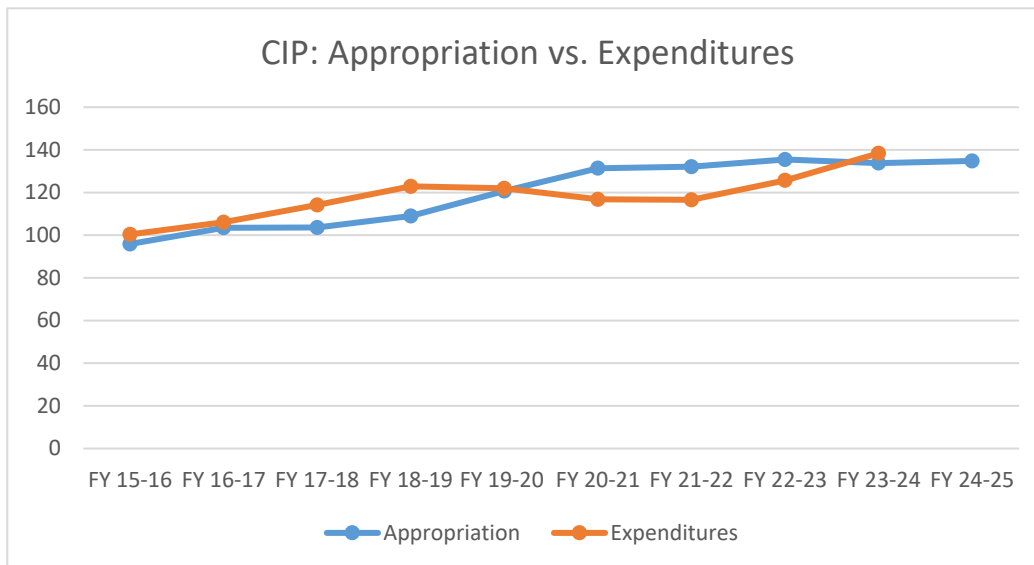
³ Judicial Council meeting report (May 17, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7213051&GUID=C4A81071-30F9-4D1C-B10A-1F56A047C3BA>

The Budget Act of 2020 included a \$9.3 million augmentation which brought the CIP appropriation up to \$131.4 million for fiscal year 2020–21. Since the COVID-19 pandemic, expenditures have been less than the yearly appropriation, resulting in cumulative program savings of approximately \$35 million.⁴

At its January 20, 2023, business meeting, the council approved a TCBCAC recommendation to approve the approach and methodology for when courts experience a shortfall, in which courts with a shortage will first be covered by other court savings up to the appropriation amount, after which the CIP funding balance will be used to make a court whole, and funds will be allocated proportionally based on the percentage of the shortfall if savings or funding balance is insufficient to cover the shortage, effective July 1, 2023.⁵

Analysis

Graph 1: CIP Appropriation vs. Expenditures for Fiscal Years 2015–16 through 2023–24 (Numbers in Millions)



Graph 1 shows how court interpreter expenditures were greater than the appropriation beginning in fiscal year 2015–16 through 2018–19. Beginning in fiscal year 2019–20 due to COVID-19, expenditures for the CIP were below the appropriation for several years resulting in \$35 million in program savings. However, as of fiscal year 2023–24, program expenditures exceeded the appropriation by approximately \$4.6 million due to increased interpreter costs.

⁴ Trial Court Interpreters Program Expenditure Report for Fiscal Year 2020–2021, as required by the Budget Act of 2020, <https://www.courts.ca.gov/documents/lr-2022-trial-court-interpreters-program-expenditure-report-2020-2021.pdf>

⁵ Judicial Council meeting report (January 20, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=11533862&GUID=BF5043BE-FE6C-4464-B2CE-336C36D5DB40>

Chart 1: Projected CIP Appropriation and Expenditures (Dollars in Millions)⁶

CIP Detail	2022–23	2023–24	2024–25	2025–26	2026–27
Appropriation	\$135.5	\$133.8	\$134.8	\$134.8	\$134.8
Actual or Projected Expenditures	\$125.7	\$138.4	\$146.7	\$155.5	\$164.8
Actual or Projected Rate of Increase Compared to Prior Year	7.8%	10.1%	6%	6%	6%
Current Year Surplus	\$9.8	-\$4.6	-\$11.9	-\$20.7	-\$30.0
Ending Program Balance	\$35.0	\$35.0	\$23.1	\$2.4	-\$27.6

Chart 1 demonstrates the anticipated funding needed from the program’s fund balance reserves based on projected expenditures increasing by 6 percent each year beginning in 2024–25. Based on projections, the CIP will have insufficient funding at the end of fiscal year 2025–26 and will require additional ongoing funding beginning in fiscal year 2026–27.

Although the rate of increase for expenditures was 7.8 percent for fiscal year 2022–23 and 10.1 percent in fiscal year 2023–24, the projections for fiscal years 2024–25 and 2025–26 use a rate of increase of 6 percent. This means that in theory, and as needed, courts could spend up to 6 percent over their allocation for those fiscal years. Courts will need information and guidance to understand the projected expenditure plan for the next few years based on the projected 6 percent rate increase. As noted, new funding to increase the ongoing baseline appropriation will be needed beginning in fiscal year 2026–27.

One factor that has led to the recent marked increase in court interpreter expenses is the high rates charged by independent contractors. The *Trial Court Interpreters Program Expenditure Report for Fiscal Year 2022–23*, as required by the Budget Act of 2022, found that contract interpreter expenditures in fiscal year 2022–23 represented 26.7 percent of total expenditures, reflecting an increase from fiscal year 2021–22, when contractor expenses were 21.7 percent of the total expenditures.⁷

Compared to fiscal year 2021–22, expenditures for contract interpreters in fiscal year 2022–23 increased by \$8.3 million (32.7 percent), and expenditures for court employees in fiscal year 2022–23 increased by \$850,000 (0.9 percent). Courts have reported that many contractors are

⁶ Actual appropriation for 2025–26 and 2026–27 may differ from amounts shown on chart due to benefit increases or increased interpreter funding based on new judgeships.

⁷ Trial Court Interpreters Program Expenditure Report for Fiscal Year 2022–23, as required by the Budget Act of 2022, https://www.courts.ca.gov/documents/lr-2024-trial-court-interpreters-program-expenditure-report_FY22-23.pdf

requesting rates that exceed the council’s standard rates for contractors⁸ and that are commensurate with current federal rates.

Addressing Potential Future CIP Shortfalls

The CIP has an annual appropriation of approximately \$135 million for trial court interpreter services. Courts receive an allocation based on a three-year average of prior expenses. Expenses for fiscal year 2020–21 (which is considered the first year of the COVID-19 pandemic) are excluded when calculating the three-year average. Savings remain in the CIP and are carried over for future use.

Since the pandemic, expenditures for fiscal years 2020–21 through 2022–23 were less than the annual appropriation, resulting in cumulative program savings of approximately \$35 million. Judicial Council staff propose the utilization of program savings for a mid-year allocation to the trial courts to address anticipated program deficiencies for fiscal years 2024–25 and 2025–26. Based on current projections, the program savings are expected to be depleted at the end of fiscal year 2025–26.

To address the continued anticipated growth in interpreter expenses and ensure critical services are provided to court users, Judicial Council staff will work with the trial courts to develop a funding request for additional resources beginning in fiscal year 2026–27.

Recommendations

1. Determine an approach to address the \$4.6 million shortfall in fiscal year 2023–24, which could include allocating a portion of the remaining \$35 million CIP fund balance from the TCTF in fiscal year 2024–25 to courts that exceeded their allocation;
2. Approve the remaining \$35 million CIP fund balance from the TCTF to be allocated to courts mid-year to address any CIP shortfalls for fiscal years 2024–25 and 2025–26; and
3. Direct Judicial Council staff to continue to monitor CIP funding and program expenditures, provide regular updates to the TCBAC to report any changes, and work with the trial courts to develop a funding request for additional CIP resources beginning in fiscal year 2026–27.

The approved recommendations will be considered by the TCBAC, the Judicial Branch Budget Committee, and then the Judicial Council.

⁸ Payment Policies for Independent Contractor Interpreters (Effective July 1, 2021), <https://www.courts.ca.gov/documents/CIP-Payment-Policies-for-Independent-Contractor-Interpreters.pdf>

JUDICIAL COUNCIL OF CALIFORNIA
BUDGET SERVICES
Report to the Funding Methodology Subcommittee
(Action Item)

Title: Workload Formula Allocation Methodologies for Potential Budget Reductions and Funding Restoration

Date: 10/30/2024

Contact: Oksana Tuk, Senior Analyst, Judicial Council Budget Services
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Issue

Consideration of the Workload Formula policy and options for allocation methodologies for potential future budget reductions and restoration of trial court funding. Determination of these complex issues will provide sufficient time for deliberation and enable the Judicial Council to thoughtfully consider the impact of these allocation methodologies on the trial courts in response to future changes in the state’s fiscal condition.

Background

The Judicial Council allocates a portion of the funding for the trial courts according to its approved allocation methodology, known as the Workload Formula. The Workload Formula determines the need for funding based on workload measures and has been in place since fiscal year 2018–19.

At its January 12, 2018, business meeting, the Judicial Council approved new policy parameters for the Workload Formula that specifically addressed how new discretionary funding included in the budget is to be allocated in the Workload Formula for the trial courts.¹ The new policy also stated that allocations in fiscal years for which a budget reduction must be implemented will be addressed as needed, with special consideration toward those courts below the statewide average funding level.

At its July 12, 2024, business meeting, the Judicial Council approved an amended definition for “new money”. Specifically, the Council established that because Consumer Price Index funding, when included in the budget, is used to address inflationary costs for the trial courts, such funding should not be considered “new money” for the purpose of allocation via the Workload Formula.²

¹ Judicial Council meeting report (January 12, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=5722980&GUID=EB419556-68BE-4685-A012-6A8D8502A126>.

² Judicial Council meeting report (July 12, 2024) <https://jcc.legistar.com/View.ashx?M=F&ID=13077708&GUID=08C509A8-B264-4D66-AFDC-B3EC97A5D296>

Previous Funding Reductions

Currently there is no “standard” methodology for addressing funding reductions; the Workload Formula policy states that a methodology for applying a funding reduction will be determined in the year a reduction occurs. Three recent examples of funding reductions that occurred in fiscal years 2020–21, 2023–24, and 2024–25 are described below:

Example 1 – The Budget Act of 2020 included a \$167.8 million reduction to trial court baseline funding due to the sizeable budget deficit projected as a result of the COVID-19 pandemic. The council-approved methodology³ to allocate this reduction is based on Workload Formula funding need. The specific steps in the calculation are described below:

- Courts within the established band around the statewide average funding level take a proportional reduction, but do not fall outside of the band;
- Courts above the band take an additional 1 percent cut from those within the band without falling into the band;
- Courts below the band take less of a cut than those within the band, scaled by their size and distance from the statewide average, not taking more of a cut than those inside of the band; and
- Cluster 1 courts – all of which are above the band – take the same percentage reduction as courts within the band but are not required to take the additional percentage reduction as those other courts above the band.

This reduction was restored in the Budget Act of 2021 and the funding was allocated to the courts in the same amounts as the initial reduction.

Example 2 – Per the Budget Act of 2022, effective 2023–24, the civil assessment backfill amount decreased by \$10 million to \$100 million ongoing, due to the elimination of one-time funding for prior uncollected debt. In addition, the backfill amount was reduced by an additional \$2.5 million for debt service obligation payments as approved by the council at its May 12, 2023, business meeting.⁴ As a result, there was a total reduction of \$12.5 million ongoing to the amount of civil assessment backfill funding allocated to the trial courts beginning in 2023–24.

The \$12.5 million was reduced proportionally based on courts’ percentage of 2022–23 civil assessment backfill funding – with additional adjustments to three courts funded over 100 percent and a redirection of \$421,000 to five courts below the statewide average funding level.⁵ As approved by the council at its July 21, 2023, business meeting, the \$12.5 million ongoing reduction was reflected in the trial court allocations beginning in fiscal year 2023–24.⁶

³ Judicial Council meeting report (July 24, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8651228&GUID=27A3B6D8-9783-4865-8C5A-F6697EB58734>.

⁴ Judicial Council meeting report (May 12, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=11916929&GUID=4F4B033A-9A14-4C88-8654-8CF355F8E8D5>.

⁵ Judicial Branch Budget Committee meeting report (June 6, 2023), <https://www.courts.ca.gov/documents/jbbc-20230606-materials.pdf>.

⁶ Judicial Council meeting report (July 21, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12124713&GUID=2A166CFF-E318-4E77-AA91-C06AE38FDFC2>.

Example 3 – The Budget Act of 2024 included an ongoing reduction of \$97 million to trial court baseline funding due to the state’s projected multiyear budget deficit. The council-approved methodology to allocate the reduction was similar to how the reduction was implemented in fiscal year 2020–21, whereas all calculations were based on the Workload Formula need. This methodology used a 4 percent band (2 percent above the statewide average and 2 percent below) and followed the same steps as outlined in Example 1.

Prior to the July 12, 2024, Judicial Council business meeting, several trial courts provided additional feedback on the methodology which included:

- Consideration of basing the calculations on Workload Formula allocation rather than Workload Formula need. The approved methodology for the fiscal year 2024–25 reduction calculates the share of the trial courts’ funding need and then the percentage is applied to the courts’ funding allocation.
- Discussion about how to apply the reduction to the trial courts within the 4 percent band around the statewide average to ensure (1) the courts do not fall outside of the band and (2) the courts do not move further away from the statewide average, which will impact funding equity.

Addressing Potential Future Budget Reductions and Restoration of Funding

Allocation Options for Budget Reductions

Due to the volatility of the state’s fiscal condition and limited General Fund resources to support state government, it is prudent to review how recent reductions were allocated and discuss whether a standard allocation methodology for potential future budget reductions should be adopted and, if so, what options exist for such a methodology.

Possible reduction allocation options for deliberation include, but are not limited to, the following:

1. ***Pro rata reduction allocation.*** This approach will allocate the reduction proportionally to all trial courts based on each court’s Workload Formula need or allocation amount. Courts with a greater need or allocation amount will receive a larger share of the reduction.
2. ***Reverse Workload Formula equity reduction allocations calculated on courts’ Workload Formula need or allocation.***
 - a. ***Reverse Workload Formula equity reduction allocation with reduction limitation.*** This approach will allocate the first 50 percent, or a specified portion, of the reduction to courts above the statewide average funding level scaled by each court’s distance from the statewide average and size based on the courts’ Workload Formula need or allocation. Consistent with the Workload Formula, the size of any court’s reduction would be capped at a set amount. The allocated reduction will bring courts down to but not below the

statewide average funding level. The other 50 percent, or balance of the reduction, will be allocated to all courts based on the Workload Formula.

This methodology is the reverse of the existing Workload Formula allocation methodology used to distribute new money when it is included in the budget for trial courts. Consistent with the Workload Formula policy, this methodology gives special consideration to courts below the statewide average funding level to support the goal of workload-based equitable funding.

- b. ***Reverse Workload Formula equity reduction allocation without reduction limitation.*** This approach, which can be based on either Workload Formula need or allocation, will establish a funding band with specific criteria and a sequence of steps in which the reduction is allocated. The band will be established around a determined funding level (i.e.: statewide average funding level) and a specified reduction methodology, such as a proportional reduction, will be allocated to courts within the band. An additional reduction will be allocated to courts that are above the band and a smaller reduction will be allocated to courts that are below the band. The potential reduction level for courts above the band would not be subject to any limitation. Similar to option 2a, this methodology also gives special consideration to courts below the statewide average to support the goal of workload-based equitable funding.

This methodology, as described in 2a, based on the Workload Formula need, was the approach used in fiscal years 2020–21 and 2024–25 to allocate the reductions as described in the aforementioned “Previous Funding Reductions” section of this report.

3. Consider other methodologies as proposed by members of the Funding Methodology Subcommittee or trial court representatives.

Allocation Options for Restoration of Funding

To the extent the state’s fiscal condition improves, it is also prudent to discuss now whether to establish a methodology to allocate the restoration of funding from prior budget reductions.

Possible restoration allocation options for deliberation include, but are not limited to, the following:

1. ***Restore funding exactly how it was reduced.*** Funding is allocated to the courts in the same amounts, or portion restored, as the initial reduction. This was the approach when funding was restored in the Budget Act of 2021 for the reduction taken in fiscal year 2020–21 due to the state’s deficit resulting from COVID-19.
2. ***Workload Formula.*** Funding is allocated to the courts in the same way new money is allocated using the existing Workload Formula methodology. In general, the Workload Formula allocates the first 50 percent of new funding to courts under the statewide average and then the remaining 50 percent is allocated to all courts. In this manner,

workload-based funding equity for the lower funded courts is prioritized and all courts benefit from the additional funding.

3. ***Pro rata restoration allocation.*** This approach will allocate the restoration proportionally to all trial courts based on each court's Workload Formula need or allocation amount. Courts with a greater need or allocation amount will receive a larger share of the restoration.

Recommendation

Consider the various options for allocation methodologies for potential future budget reductions and restoration of funding for the trial courts and make recommendations to the Trial Court Budget Advisory Committee for consideration.