CRIMINAL FINE ACCOUNT

February 5, 2025

John Borden, Principal Legislative Analyst, Legislative Fiscal Office

LEGISLATIVE FISCAL OFFICE

BACKGROUND

- ORS 137.300 establishes the CFA, which, according to the legislative findings, is to be used to fund "systems critical components of the Oregon criminal justice system." (ORS 137.301).
- The account serves as a mechanism by which the legislature specifies the priority use of moneys derived from court-imposed monetary obligations in criminal proceedings.
- CFA has provided funding to components of the broader criminal justice system for over 35 years.
- CFA, however, represents a relatively small portion of the overall budget.
- CFA is a statutory fund that is continuously appropriated to the Department of Revenue, which is responsible for the collection of deposits into the account and making distributions from the account based upon a legislatively-approved allocation measure and administrative rule (OAR 150-137-0010).

HISTORY

- CFA originally was established by the Legislature in 1987 as the Criminal Fines and Assessment Account (CFAA).
- The statutory framework remained relatively unchanged until the 2005 Legislature reduced the list of statutorily eligible programs that could receive an allocation from the account and changed the methodology from a percentage-based revenue allocation to a fixed dollar amount allocation, among other changes.
- Major legislative reform occurred during the 2011 and 2012 sessions, and which was based on the findings and recommendations of the Joint Interim Committee on State Justice Systems Revenues (HB 2287, 2009).
  - The account was renamed to CFA and reforms updated and simplified the statutory revenue and distribution structure by consolidating all revenues derived from monetary obligations in criminal proceedings into the CFA and expanded the statutory list of eligible state programs that could receive an allocation from the account.
  - Since the 2011/2012 reforms, successive legislatures have mostly adhered to the principle of consolidated criminal fines revenues into the CFA.

REVENUE

- Circuit courts produce the majority of CFA revenue (74.4%) followed by municipal (12%), and then justice courts (13.7%).

- CFA revenues are derived from fines, fees, and costs upon conviction of a criminal offense, which include violations or infractions, misdemeanors, and felonies.
- Most revenue is collected as part of a single integrated judgement.
- The type of revenue is dictated by the type of court.
  - Revenues from circuit courts are derived criminal fines, public defense attorney fee recoupment, diversion fees, general court costs, and other financial penalties imposed on violations.
  - Revenue from justice (or county-based courts) and municipal courts (or city courts) are derived from a portion of criminal fines and other financial penalties imposed on violations.
  - To-date, there has been no financial auditing of CFA receipts.

REVENUE FORECASTING

- The 2023-25 CFA revenue forecast totals an estimated $119.7 million.
- The current General Fund Revenue Statement (December 2024) for 2023-25 has CFA distributions to the General Fund at $230,000 down from $15.5 million close-of-session forecast.

- The Department of Administrative Services - Office of Economic Analysis (DAS-OEA) produces a quarterly economic and revenue forecast that includes a line-item for the distribution of CFA to the state's General Fund.
- To derive the CFA distribution to the General Fund, apart from each quarterly forecast, DAS-OEA forecasts the total amount of state and local court revenues available for CFA each biennium.
- The DAS-OEA CFA forecast is used by the legislature each session as the basis for determining CFA allocations or adjustments to existing CFA allocations.
- Forecasts account for legislative measures with a revenue impact to CFA.

ALLOCATIVE MODEL

- The Legislature employs an allocative model to move funds from the CFA to eligible agencies and programs. Such a model aligns statutory priorities with forecasted account revenues.
- An allocative model ensures that revenues do not automatically flow to statutory priorities without legislative decision-making related to program activities, investments, and outcomes.
- While agencies receive an allocation from CFA, the General Fund receives a distribution from CFA, which are inversely related, as a change in one necessitates an opposite change in the other.
- The rationale behind the use of an allocative model is so that agencies do not directly benefit financially from their actions and to provide an accountability mechanism for the collection of state revenues directed to the General Fund.
- Indirectly, agencies benefit from CFA by receiving a General Fund appropriation to help fund core functions of government.

ALLOCATIONS

- 2023-25 legislatively approved CFA allocations total $106.3 million.

- CFA allocations are established in Oregon Law, as part of an omnibus allocation measure.
- CFA allocations go through the legislative budgetary review process under the purview of the Joint Committee on Ways and Means.
- Moneys are allocated to eligible state agencies based on statutory/Oregon Law priorities.
- The legislative practice has been to allocate resources to most, but not all CFA priorities and instead utilize General Fund resources to support non-CFA allocated (yet eligible) programs or to augment existing CFA allocations.
- Any remaining or unexpended CFA allocation at the end of biennium is retained by an agency, which can be important for cash flow purposes.

BUDGETING

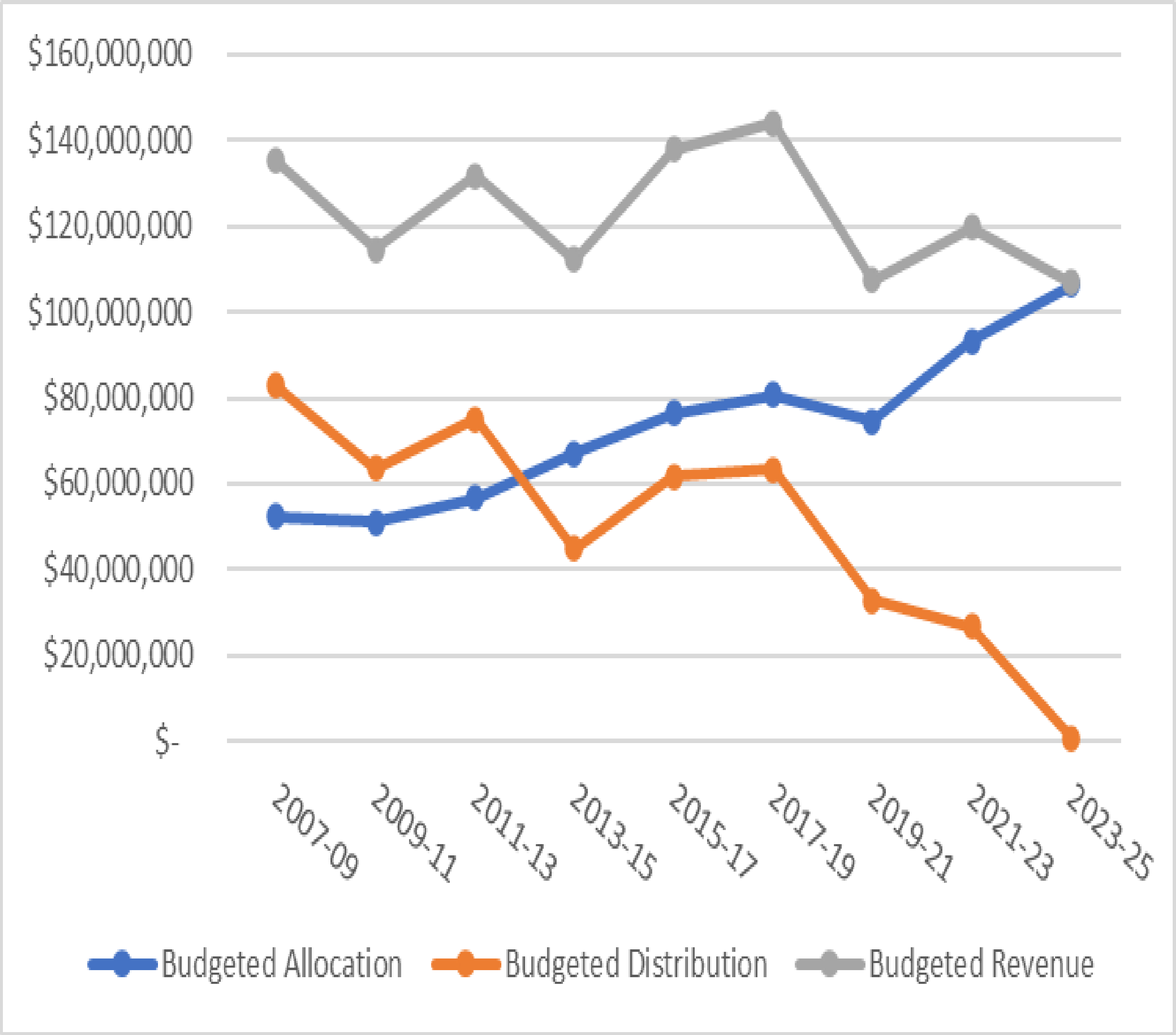
- The authority to expend CFA is established in Oregon Law as Other Funds expenditure limitation.
- Other Funds expenditure limitation is typically included as a part of an eligible agency's primary budget measure.
- The Legislature considers CFA fungible with General Fund, as any unallocated CFA revenue is deposited into the General Fund and any legislatively approved enhancements or increase to a CFA allocation may represent a reduction to the General Fund.
- CFA provides funding to three program areas, nine agencies, and 20 programs:
  - Program Areas: Public Safety, Judicial, Human Services, and Administration
  - Agencies: DPSST, DOJ, OJD, OHA, DHS, DOC, OSP, GOV, and DOR
  - Programs: law enforcement, victim assistance, state and local courts, Community Corrections, alcohol and drug abuse prevention and treatment.

VARIABLES

- The major variables impacting CFA are:
  - Case filings and case-types
  - Amount and type of statutory fines, fees, and costs
  - Statutory prioritization for the distribution of monetary judgments
  - Judgements imposed
  - Judicial discretion
  - Verification of revenue receipts deposited into CFA
  - Collections and the prioritization of payments
  - Legislative action
  - Enacted ballot measures
  - Governor executive orders
  - Chief Justice Orders
  - Exogenous events

Budget History

In recent biennia, CFA has come under financial pressure due to declining revenues and increasing allocations with their convergence beginning to challenge the sustainability of allocations and distributions to the General Fund.



PRELIMINARY CONCERN

- Unless the trend in declining CFA revenues reverses, the legislature will be faced with having both fewer resources to allocate for CFA priorities coupled with a reduction in General Fund resources.
- DAS-OEA revenue forecasts in February and June of 2025 will provide an update to available revenues for both the 2023-25 and the 2025-27 biennia.
- Forecasted revenues will inform any potentially needed budgetary changes to allocations, expenditure limitations, and potentially General Fund appropriations for both the current and upcoming biennia.
- An update to Oregon Revised Statute and/or Oregon Law may become necessary, as statute does not contemplate or provide direction when allocations exceed available revenues.
- The nature of declining CFA revenues merits study to ensure the long-term viability of the Account.

Questions?

Legislative Fiscal Office

900 Court Street NE, Room H-178, Salem, Oregon 97301

Oregon State Capitol | (503) 986-1828 | www.oregonlegislature.gov/lfo