

2025-27 Budget Review

Judicial Department

	2021-23 Actual	2023-25 Legislatively Approved *	2025-27 Current Service Level	2025-27 Governor's Budget
General Fund	622,417,382	793,820,709	845,529,574	843,843,470
Other Funds	69,842,961	398,188,341	47,935,032	243,877,455
Federal Funds	2,531,337	4,737,986	1,727,199	5,408,623
Total Funds	694,791,680	1,196,747,036	895,191,805	1,093,129,548
Positions	1,999	2,210	2,132	2,380
FTE	1,921.87	2,090.27	2,085.42	2,299.22

* Includes legislative and administrative actions through December 2024.

PROGRAM DESCRIPTION

The Oregon Judicial Department (OJD) includes the judges and administrative staff who operate general-jurisdiction circuit courts, the Tax Court, the intermediate Court of Appeals, and the Oregon Supreme Court. Oregon's 36 counties are consolidated into 27 judicial districts for purposes of circuit court administration.

The Chief Justice is the administrative head of the Department. The Chief Justice also appoints the state court administrator. The Judicial Conference, comprised of all elected judges, and senior judges, serves an advisory role to the Chief Justice. As a constitutionally separate branch of government, OJD operates independent of the Governor and the Executive Branch and is exempt from many statutes that govern executive branch agencies but is expected to operate in reasonable conformity to such statutes.

OJD's budget consists of 80% General Fund, 20% Other Funds, and 0.2% Federal Funds. OJD is viewed as a core function of government and is not expected to operate from revenues produced by the court system. Major sources of Other Funds revenue are court filing fees, fees-for-service, assessments on state agencies, donations, and allocations from the Criminal Fines Account. Direct Federal Funds come from a grant for a Juvenile Court Improvement Project. Indirect Federal as Other Funds are received from the Department of Human Services for the Citizen Review Board and from the Department of Justice for Child Support case work. By statute, OJD retains any General Fund that remains unspent at the end of a biennium (i.e., reversions).

OJD does not retain most revenues collected by the courts, which are distributed to the General Fund (\$109.7 million), the Criminal Fine Account (\$89.8 million), cities and counties (\$20.8 million), the Public Defense Commission (\$3.5 million), and restitution to victims of crime (\$30.8 million). The Department will retain approximately \$7 million primarily for the State Court Technology Fund, which by statute

retains 8.85% of most major court filing fee collections and generate another \$6.1 million in subscription fee revenue from electronic access to court records (estimate as of March 2024).

BUDGET ENVIRONMENT

OJD operates in an increasingly complex budget environment at the intersection of state and county governments.

Trial, Appellate and Tax Courts

Circuit courts act as courts of general jurisdiction and adjudicate matters and disputes in criminal, civil, domestic relations, traffic, juvenile, small claims, violations, abuse prevention act, probate, civil commitment, adoption, and guardianship cases. Annual case filings for 2023 totaled 528,080 cases. Circuit court case filing have yet to return to pre-pandemic levels but are generally increasing for civil and criminal violations with anticipated increases in misdemeanor cases due to the recriminalization of certain drug offenses (HB 4002, 2024). Appellate and Tax Courts are also experiencing higher case filing but still below pre-pandemic levels.

The delivery of court service continues to evolve to meet in-person, remote, and hybrid docketing and the challenges of technological advances in the courtroom for both court participants and staff. Emphasis is being placed on a statewide Pre-Trial Release program, supporting self-represented litigants, alternate dispute resolution programs, integrating family and juvenile law cases, strengthening guardianship and conservatorship monitoring, and advancing specialty courts, among other initiatives. Eviction filings and resolving landlord/tenant disputes is another focus of circuit courts. The criminal adjudicatory process for those individuals with mental health and substance abuse disorders continues to represent a major challenge to circuit courts as well as the unrepresented defendant/person crisis.

Mandated Payments

The Mandated Payments program provides statutory payments for trial and grand jury jurors' service and interpreter services for non-English speakers, including crime victims. Meeting the demand for the number of cases requiring Oregon-certified contract court interpreters has become challenging, and specifically for certified Spanish language contract interpreters. This is driving up the cost for procuring such services in part due to the need to acquire such services from out-of-state providers.

Judicial Compensation

Judgeships are established by statute and OJD's proposed new judgeships are determined using a workload study. The establishment of a statutory judgeship is a function of the following: (1) state funding for a judgeship; (2) state funding for judge staff; (3) county provided chambers and office space for the judge and judge staff in the courthouse; and (4) county provided courtroom.

Judicial salaries are adjusted on an ongoing basis to match the cost-of-living adjustments (COLA) awarded to management service employees in the executive branch. Amounts beyond COLAs require legislative action. The last judicial salary increase was in 2019 when the Legislature approved a \$5,000 increase effective July 1, 2020.

Administrative and Central Support

The centralized administration support of the court system includes information technology, information security, data analytics, human services, procurement, budget, accounting, and internal audit and whose services are key to a unified court system. This program is critical to undertaking statewide initiatives such as complex legal support, the training of judges and court staff, the expungement of records, the sealing of eviction judgments under the “Fresh Start” program (HB 2001, 2023), developing and supporting behavioral health strategies, and the unrepresented defendant/persons crisis. On July 1, 2025, OJD will no longer provide information technology support to the Public Defense Commission, as the Commission will have transitioned to the executive branch of government.

State Court Facilities Security Account

The State Court Facilities Security Account (SCFSA) may be used for: (1) state court security emergency preparedness, business continuity, and physical security in buildings that contain or are utilized by the Supreme Court, Court of Appeals, Oregon Tax Court, or the Office of the State Court Administrator; (2) statewide training on state court security; (3) distributions to court facilities security accounts to each county; and (4) the funding of capital improvements for courthouses and other state court facilities. Security in circuit courthouses varies by circuit court and providing consistent base level security across the state is priority of the Chief Justice. With some exception, the SCFSA revenue has been insufficient to consistently support capital project funding and only for small scale projects.

External Pass-throughs

External pass-through payments are currently being made for: (1) counties operating law libraries or providing law library services; (2) county mediation and conciliation programs in circuit courts; (3) the Oregon Law Commission; (4) Council on Court Procedures; (5) Legal Services Program (“Legal Aid”); (6) one-time funding specific to legislative initiatives (e.g., Legal Aid immigration services (SB 1543, 2022), domestic violence, and eviction services; and (7) one-time payments to counties to fund circuit courthouse capital improvement or construction projects.

Capital improvements, and the funding of deferred maintenance, continue to be needed across circuit courts, especially for those that are not under consideration for replacement. Some circuit courthouses require renovation and/or expansion rather than replacement to accommodate court staff and the growing needs of courts. This is especially the case in rural jurisdictions where counties have struggled financially to maintain and improve county courthouses.

Third-Party Debt Collection

Court-imposed financial obligations are collected by court staff and by contracted third-party debt collectors. The cost of paying third-party debt collectors associated with the collection of fees, fines, and restitution is a key to the administration of justice. According to the most recent Report on Liquidated and Delinquent Accounts Receivable (June 30, 2024), OJD reported that \$1.5 billion was owed the state on 1.3 million accounts with an average balance of \$1,136. Of this total, \$583 million, or 39%, was in collections with the Department of Revenue (DOR) or private collection firms, \$328.5 million

or 22%, was being actively worked OJD, and \$583.3 million, or 39%, was inactive status pending assignment to collections after being returned from collections.

As an update since that report, \$367.6 million of that \$583.3 million that was pending assignment to collections has now been assigned out to DOR or a Private Collection firm (PCF). Due to the high volume of debt and the length of time it is legally enforceable, OJD must continually cycle outstanding debt between DOR and a PCF. Debt sent to either DOR or the PCF for collections must be returned after one year if collection efforts are unsuccessful. If court debt is not collectible now, it may be collectible at another point in time as circumstances change (new employment, sale of property, inheritance, etc.). While the total amount of liquated and delinquent debt is a negligible decrease from the prior year, the amount that is being actively collected fluctuates from month to month and new judgments for fines and fees are added each month. In fiscal 2024, third-party (DOR/PCF) collection revenue decreased 14.8% but overall collections increased by 3.4% during the same time period.

Oregon eCourt (State Court Technology Fund)

Statute requires the State Court Technology Fund (SCTF) be used to develop, maintain, and support state court electronic applications, services, and systems; provide access to and use of those applications, services, and systems; and provide electronic service and filing services. The program provides funding for the Oregon Judicial Case Information Network (OJCIN), which is connected to OJD's electronic case management system. The program supports public access to OJCIN, technology support services, electronic case filing, system maintenance, and limited equipment replacement. For the third consecutive biennia, the SCTF is projected to experience a revenue shortfall of \$2.3 million that may necessitate another backfill of General Fund.

Oregon Courthouse Capital Construction and Improvement Fund

Counties are responsible to provide suitable and sufficient court facilities for the statewide operation of the circuit courts (ORS 1.185). In 2013, the Legislature established the Oregon Courthouse Capital Construction and Improvement Fund (OCCCIF) to assist counties in replacing unsafe county-owned courthouse facilities housing the state's circuit courts. State matching funds support is primarily from the authorization of Article XI-Q general obligation bonds and whose repayment, or debt service, is funded by state General Fund. Over the course of the last six biennia (2013-15 to 2023-25) the state has issued \$280.4 million in Article XI-Q general obligation bonds for the OCCCIF and authorized the sale of another \$83.9 million for the 2023-25 biennium.

While the OCCCIF has supported the successful replacement of multiple county courthouses, some county governments have been challenged in their ability to generate matching funds, with at least one county resorting to an alternative long-term financing agreement through a public-private partnership in lieu of local bonding (Clackamas County). Additionally, counties who have benefited from an OCCCIF investment must plan and account for higher operational and maintenance costs associated with larger and more technologically complex buildings.

OJD and counties are beginning to recognize that pre-planning efforts and funding are critical to a OCCCIF project's success. Poor county cost estimating, and more recently cost escalations, have contributed to highly variable project costs and an underestimation of the state's matching funds requirement. There also does not appear to be standardized/scalable designs for new courthouses,

instead each being of unique design and cost. There is also a growing hybridization trend whereby traditional courthouses are now becoming “Justice Centers” that include both courtroom and court staff space, as well as space for county law enforcement. Some county governments are experiencing difficulty differentiating eligible OCCIF project costs from ineligible or non-circuit courthouse related standalone projects or project costs (e.g., county jails).

Nearly 16 years have passed since the Oregon Court Facilities Assessment was completed in 2008 and a re-assessment may be necessary, as well as a review, update, and possible permanent codification of the temporary statutory provisions governing this process that were first adopted in 2013.

Debt Service

The Debt Service program provides the funding to make payments on principal, interest, and financing costs associated with the issuance of general obligation Article XI-Q bonds. Debt service continues to become a larger budgetary component of the court system due to the obligations incurred under the OCCIF with the 2025-27 current service level totaling \$51.6 million General Fund. Debt service for the OCCIF represents a long-term commitment of funding for the public safety system.

CURRENT SERVICE LEVEL

The 2025-27 current service level budget totals \$895.2 million total funds, which includes \$845.5 million General Fund, \$47.9 million Other Funds, \$1.7 million Federal Funds, and 2,132 positions (2,085.42 FTE). The CSL is \$301.6 million, or 25.2%, less than the 2023-25 legislatively approved budget of \$1.2 billion total funds.

Revenue shortfalls totaling \$4.7 million Other Funds are projected in the eCourt Program, as operation and maintenance costs exceed a portion of court filing fee and subscription fee revenues (\$2.3 million), and in the Application Contribution Program (\$2.4 million and 10 positions (10.00 FTE)). The CSL phases in one circuit court judge for Clackamas County on July 1, 2025.

Major phase outs of the budget include: OCCIF state bond proceeds and local matching funds (\$337.8 million Other Funds); one-time pass-through payments to Deschutes and Columbia circuit courts (\$17 million General Fund); the Oregon State Bar (\$818,333 General Fund); American Rescue Plan Act (\$3.4 million Other Funds); one-time General Fund carried forward from the 2021-23 biennium (\$1.5 million); Statewide Pretrial Risk Assessment Tool development and release information technology project development (\$1.7 million General Fund); federal grants (\$1.2 million Federal Funds); and various cooperative grants primarily related to specialty courts (\$4.7 million Other Funds).

A standard inflationary adjustment of 6.8% inflation was made for various pass-through payments or non-contract providers (i.e., Oregon State Bar for Legal Aid Services, to counties for conciliation and mediation services; to counties for law libraries; Law Commission; Council on Court Procedures; and Local Court Security).

OJD has introduced four legislative concepts and has associated policy packages for those with a budgetary impact (e.g., judicial compensation, statutory judgeships, and authorization for counties to increase marriage license and domestic partnership fees, etc.). OJD will also introduce “housekeeping” or technical adjustment measure to make non-substantive changes to current law.

GOVERNOR'S BUDGET SUMMARY

The Governor's budget totals \$1.1 billion total funds, which includes \$843.8 million General Fund, \$243.9 million Other Funds, \$5.4 million Federal Funds, and 2,380 positions (2,299.22 FTE). The Governor's budget is \$103.6 million, or 8.7%, less than the 2023-25 legislatively approved budget of \$1.2 billion total funds. However, the Governor's budget needs to be qualified due to the following statement:

"The Governor makes no recommendation for this budget, as it is a separate branch of government. For statutory purposes, the Governor included \$843,843,470 General Fund, \$243,877,455 Other Funds and \$5,408,623 Federal Funds for total funds of \$1,093,129,548 in her budget as a placeholder."

In other words, the Governor's budget funded the Judicial Department's General Fund budget at the 2025-27 current service level, less standard adjustments. Policy option packages supported with Other and Federal Funds in the Chief Justice's Recommended Budget (CJRB), as well as position authority and associated FTE, were included in the Governor's budget as requested. The combination of these actions, while consistent with the actions of prior Governors, distort the budgetary view of OJD's budget and potentially the resourcing necessary to support the statewide budget. For example, the Governor's budget leaves unresolved the revenue shortfalls in OJD's budget.

The 2025-27 CJRB totals \$1.2 billion total funds, which includes \$978.8 million General Fund, \$243.9 million Other Funds, \$5.4 million Federal Funds, and 2,380 positions (2,299.22 FTE). The CJRB is \$31.4 million, or 2.6%, more than the 2023-25 legislatively approved budget of \$1.2 billion total funds. The CJRB includes 27 policy package requests with six packages dependent upon enabling legislation. Of note, is that the CJRB relates only to OJD, as the Chief Justice does not produce a unified judicial branch budget similar to what the Governor does for the executive branch of government.

Major policy package requests in the CJRB include: new statutory judgeships (\$6.9 million General Fund and 25 positions (21.96 FTE)); an increase in judicial compensation (\$1 General Fund placeholder); OCCCIF state bonding and local matching funds (\$216.5 million Other Funds); circuit court replacement planning funds (\$2.9 million General Fund); circuit court capital improvements (\$13.8 million General Fund); circuit court security (\$6.4 million General Fund, \$2 million Other Funds, and 31 positions (21.16 FTE)); mandated payments for court interpreters (\$7.5 million General Fund); increase to the Pretrial Release Program (\$4.7 million General Fund and 21 positions (18.48 FTE)); Technology Fund revenue shortfall and fund shift (\$19.6 million General Fund with a \$17.4 million Other Funds reduction); Application Contribution Program revenue shortfall and fund shift (\$5.1 million General Fund with a \$2.7 million Other Funds reduction and 10 positions (10.00 FTE)); technology software licensing and equipment replacement (\$13.3 million General Fund); statewide technology (\$6.9 million General Fund and 22 positions (19.36 FTE)); training for judges and staff (\$6.7 million General Fund and 23 positions (20.24 FTE)); management positions (\$4.6 million General Fund and 14 positions (12.23 FTE)); HB 4002 (2024) resources (\$4.2 million General Fund and 18 positions (15.46 FTE)); and unrepresented defendant/persons crisis (\$2.5 million General Fund and nine positions (9.00 FTE)), Legal Aid pass-through to the Oregon State Bar Association (\$9.9 million General Fund); domestic relations mediation pass-through to counties (\$3.2 million General Fund); among other requested investments.

OTHER SIGNIFICANT ISSUES

There are a number of challenges facing the state court system.

Unrepresented Defendant Persons Crisis

In overall numbers, and across sub-categories, the crisis has reached a record high. The crisis remains most severe in Multnomah, Jackson, Marion, Washington, Douglas, and Coos counties. The crisis will continue into the 2025-27 biennium, and at present, there is no clearly articulated plan to resolve the crisis, and therefore, no related cost estimate. The crisis will continue to challenge the docketing of circuit courts and most especially a circuit court judge's decision about whether to release defendants with conditions or on their own recognizance or dismiss the charges to avoid a violation of a criminal defendant/person's right to speedy trial under the Sixth and Fourteenth Amendments to the United States Constitution. Circuit courts are expected to continue collaborating with public safety partners to alleviate the crisis, including identifying attorneys for appointment, and conducting through early resolution/settlement conferences and docketing practice changes.

Criminal Fines Account

Criminal Fines Account (CFA) revenue is derived from court imposed on monetary obligations in criminal proceedings such as criminal fines, attorney fees, diversion fees, and other financial penalties imposed on violations other than parking infractions, misdemeanors, and felonies. CFA revenue is collected by state circuit courts, justice or county-based courts, and local municipal or city courts. Circuit courts account for approximately 73.5% of CFA revenues, justice courts account for approximately 12.7%, and local municipal courts account for approximately 13.8%. CFA revenues remain below historic averages (in part explained by legislative actions), allocations from the account are increasing, and therefore, distributions to the General Fund are declining. These trends warrant further investigation as to the intermediate-term financial viability of CFA. For what may be the first time in the account's history, the Governor's budget has no CFA revenues going to the General Fund and has reduced two statutory CFA allocations, which are then backfilled with General Fund. In general, there is growing concern about a reduction in court-generated revenues for the state from circuit, justice, and municipal courts.

The Application Contribution Program

The Application Contribution Program (ACP) was created with the intent to avoid some taxpayer costs related to providing court appointed counsel at public expense by an assessment of advance payment from people who could afford to make a monetary contribution toward the cost of representation and the administrative costs of determining their eligibility. Several statutes address an individual's right to, and financial eligibility for, the appointment of counsel at state expense. Income standards and processes for determining eligibility are uniform across all judicial districts pursuant to the Income Guidelines and Privately Hired Attorney Fee schedule adopted by the Public Defense Services Commission (PDSC). Individuals are eligible for court-appointed counsel when a person's income is less than 130% of the Federal Poverty Guidelines. Individuals making more than this threshold, however, may also be eligible for court-appointed counsel if the court finds substantial and compelling reasons why the applicant is financially unable to retain adequate representation without substantial hardship in

providing basic economic necessities to the applicant or the applicant's dependent family, ORS 135.050(2)(B).

The Public Defense Commission enters into an intergovernmental agreement with OJD for the use of these fees to fund court staff to verify eligibility for public defense services. For at least the second consecutive biennia, ACP is projected to experience a revenue shortfall of \$2.4 million with projected expenditures outpacing available revenues that may necessitate the backfill of General Fund. OJD is proposing in a policy package to shift court ACP staff to General Fund and transfer all ACP revenues collected to the Public Defense Commission. Legislative concern continues to exist around the determination of financial eligibility for those individuals being provided public defense. However, the number of cases with criminal defendants eligible for court appointed counsel has decreased significantly since 2020 when there were approximately 94,000 cases each year (2018 and 2019) with defendants eligible for court appointed counsel. In 2020, cases eligible for court appointed counsel dropped to 79,000 and from 2021 to 2024, there have been 68,000 – 72,000 cases each year with defendants eligible for court appointed counsel.

Specialty Court Task Force Report (HB 4001, 2024)

A 19-member task force on specialty court recently submitted a comprehensive report with recommendations related to the need to update statute, creating a permanent Chief Justice Advisory Committee on Treatment Courts, providing more stable funding for treatment court staff, as well as for the Specialty Court Case Management System (SCMS), conducting a formal cost study, expanding opportunities for treatment providers to bill for services, aligning existing treatment courts with national best practices, making changes to the Criminal Justice Commission's Specialty Court Grant Program award timeline, creating a statewide treatment assessment database, funding court liaisons for each treatment court, and exploring options to integrate disparate data sources into the SCMS. The budgetary impact of the Task Force's recommendations has yet-to-be determined.

KEY PERFORMANCE MEASURES

A copy of the Judicial Department's Annual Performance Progress Report can be found on the LFO website: [https://www.oregonlegislature.gov/lfo/APPR/APPR_OJD_2024-09-26.pdf].

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