



# The State Bar *of California*

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## **OPEN SESSION AGENDA ITEM 705 JULY 2022**

**DATE:** July 21, 2022

**TO:** Members, Board of Trustees

**FROM:** Richard Reinis, Co-Chair, Legal Services Trust Fund Commission  
Kim Savage, Co-Chair, Legal Services Trust Fund Commission  
Doan Nguyen, Program Director, Office of Access & Inclusion

**SUBJECT:** Approval of Interest on Lawyers' Trust Accounts Grant Distribution for 2023

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### **EXECUTIVE SUMMARY**

Annually, the Board of Trustees sets the grant amount available for distribution from Interest on Lawyers' Trust Accounts (IOLTA) to qualified nonprofit legal aid organizations in California. Interest revenue generated by these accounts is the main source of funding for these grants, referred to as IOLTA grants. Over the years, these funds have been supplemented by Justice Gap Fund donations and optional contributions from State Bar licensees as part of their annual licensing fee payments.

After careful review of the revenue projections and consideration of the needs of low-income Californians and legal aid programs, the Legal Services Trust Fund Commission recommends a calendar year 2023 grant distribution of \$50,585,254, which is a 43 percent increase over the 2022 grant distribution of \$35,487,856. This distribution amount would yield a projected reserve of \$24,667,500 at the end of the 2023 calendar year. All grant funds are exempt from the State Bar's reserve policy.

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## **BACKGROUND**

### **IOLTA STATUTE**

In 1981, the Legislature authorized the IOLTA program under Business and Professions Code sections 6210–6228 (IOLTA Act). The purpose of the program was to increase access to justice and improve the administration of justice through expansion of legal services. The IOLTA Act requires lawyers to place nominal client funds, or funds that are on deposit for short periods of time, into interest- or dividend-bearing accounts in which the interest or dividend is paid to the State Bar.<sup>1</sup> Such accounts can only be kept at approved financial institutions certified by the State Bar to ensure compliance with the IOLTA Act.

The interest earned from pooled IOLTAs is remitted to the State Bar. The State Bar subtracts its costs in administering the program and then distributes the approved fund amount (based on the IOLTA statutory formula) to organizations that provide free civil legal aid in California to indigent persons,<sup>2</sup> or legal training, legal technical assistance, and advocacy support to the organizations that directly serve indigent persons. The Office of Access & Inclusion administers the grant program for the State Bar under the oversight of the commission and Board of Trustees.

### **DISTRIBUTION OF IOLTA FUNDS**

Each year, the commission recommends for approval to the Board of Trustees the amount of IOLTA grants to be made available for distribution in the following calendar year. In 2021, Senate Bill 211 added section 6210.5 to the Business and Professions Code, effective January 1, 2022, providing the commission with greater autonomy and policy-making power. While the Board previously had the discretion to adopt or reject many commission recommendations (as it does for recommendations from other subentities), now, the Board must approve all recommendations from the commission, including the IOLTA distribution, unless it “makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar.”<sup>3</sup>

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<sup>1</sup> If there is a large sum of money involved, or it will be held for a long time, and thus could yield meaningful interest, attorneys are instructed to hold the client's funds in an individual account, designated as a Client Trust Account, and the interest earned goes to the client.

<sup>2</sup> Per the IOLTA Act, an “indigent person” is an individual (1) whose income is not higher than 200.00 percent of the federal poverty threshold, or (2) eligible for Supplemental Security Income or free services under the Older Americans Act (seniors 60-plus) or Developmentally Disabled Assistance Act (Business and Professions Code section 6213(d)).

<sup>3</sup> Business and Professions Code section 6210.5(e)(3).

In determining annual distribution levels, the commission applies a cash-on-hand policy. Under this policy, the following methodology is applied in years where revenue has increased from the previous year: <sup>4</sup>

1. The previous year's grant distribution is established as the planned grant distribution base amount;
2. Increased revenue is used to increase grant distribution by 5 percent over the prior year's amount;
3. If additional funds remain, 10 percent of the prior year's grant distribution is added to the reserve/cash on hand;<sup>5</sup>
4. Any additional projected funds remaining are split equally, increasing both grant distribution and reserve/cash on hand, up to a reserve cap of 75 percent of the prior year's revenue.

This prudent planning to build a reserve proved essential during the Great Recession of 2008 as well as in the latest 2020 recession. In 2019, IOLTA interest revenue reached a record high of \$46.5 million. Then, due to the pandemic and a precipitous drop in interest rates beginning in March 2020, IOLTA revenue decreased to \$26.2 million for 2020, a reduction of \$12.8 million from original projections for 2020. Funds put aside because of the reserve policy (and additional revenue from sources such as voluntary donations through the Justice Gap Fund and attorney licensing fees) supplemented low IOLTA revenue and prevented the State Bar from having to reduce grants midyear in 2020.

Unfortunately, the cash-on-hand policy does not provide a similar step-by-step formula for calculating the distribution amount when revenues are declining, rather than increasing, setting only the target that reserves remain between 30 and 75 percent of the prior year's projected revenue.

### **IOLTA Compliance, Recertification Efforts, and Leadership Bank Program**

Financial institutions participating in the IOLTA program have three interest rate options for IOLTA accounts:

1. Comparable rates, where financial institutions treat IOLTAs the same as similarly

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<sup>4</sup> Staff carefully reviewed the 2006–2007 IOLTA Grants Distribution memo which outlined the formulaic approach for the current cash-on-hand policy and determined that the formula approach can only be applied during periods where the prior year projection is a net surplus (higher revenue than distributions and expended). Where revenue is projected to increase, but the prior year projection is higher distributions than revenue, the formula cannot be applied as it would result in a negative figure.

<sup>5</sup> The 2006 memo states that 10 percent of the prior year's revenue should be added to the reserve; however, the example included in the memo illustrating the application of the formula used 10 percent of the grant distribution.

- situated accounts by offering comparable interest rates;
2. Established Compliance Rate (ECR), which was set by the commission in 2009 and required financial institutions to provide interest rates for IOLTAs at 68 percent of the Federal Funds target rate or at 0.68 percent, whichever is higher net of reasonable fees; or
  3. Leadership Bank, which set interest rates at ECR or higher with a waiver of all charges and fees.<sup>6</sup>

In the past several years, the State Bar has engaged in an intensive bank recertification and negotiation effort, which proved to be especially helpful during the pandemic when interest rates have remained low. Through March 2022, the State Bar received interest revenue from 166 banks offering IOLTAs. The recertification process confirms bank compliance with the IOLTA Act, provides an opportunity for staff to discuss rate options with the banks, and ensures that banks provide the agreed upon interest rates on IOLTAs.

### **CHANGES TO THE FEDERAL FUNDS RATE AND ONGOING FUNDING CHALLENGES**

Through most of 2019, the Federal Funds Rate (FFR) was 2.5 percent, the highest it had been in over 10 years. In March 2020, the FFR fell precipitously to 0.25 percent in an attempt to offset the dramatic impact of COVID-19 on the economy.<sup>7</sup> The FFR remained at 0.25 percent until recently.<sup>8</sup>

In the first quarter of 2022, increased economic rebound from pandemic levels coupled with the Russian invasion of Ukraine created additional inflationary pressure. To combat rising inflation, the Federal Reserve has raised interest rates three times to date in 2022:

1. On March 16, 2022, the Federal Reserve raised rates 0.50 percent;
2. On May 4, 2022, the Federal Reserve raised rates an additional 0.50 percent to a target rate of 1 percent;
3. On June 15, 2022, the Federal Reserve raised rates another 0.75 percent to a target rate of 1.75 percent.

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<sup>6</sup> To develop a stable source of interest revenue and in recognition of banks' commitments to increase funding for legal aid, the State Bar established the Leadership Bank program in 2019. The State Bar's ongoing efforts to maintain enrollment in the Leadership Bank program has successfully mitigated some of the loss in IOLTA revenue that would have otherwise occurred over the past two years.

<sup>7</sup> The FFR represents a target range of interest rates, in this case zero to 0.25 percent. When negotiating with financial institutions, the industry standard is to use the higher end of the range as the target.

<sup>8</sup> In the case of the recession starting in 2008, interest rates did not increase for seven years—until December 2015—and then the increase was gradual.

The Federal Reserve has four remaining meetings scheduled for 2022 (July, September, November, and December), and it is anticipated that interest rates will increase several more times during that period, with the FFR potentially rising to 2.75 percent by December 2022. An increase of the FFR to 2.75 percent would lead to an increase in the ECR for IOLTA banks from the current level of 0.68 percent to 1.87 percent, which will impact Leadership Banks and other banks paying ECR. However, even with an increasing rate environment, IOLTA revenue may not increase dramatically in 2022 due to other market conditions. Additionally, there is concern that with rising interest rates, Leadership Bank participation may decrease as banks seek to recertify at lower rate amounts.

## **DISCUSSION**

### **RECOMMENDED 2023 IOLTA DISTRIBUTION AND TARGET RESERVE**

After careful review of the revenue projections and consideration of the needs of low-income Californians and legal aid programs, the commission and staff recommend a 2023 grant distribution of \$50,585,254, leaving a projected reserve of \$24,667,500 at the end of 2023. This reserve represents 75 percent of prior year's (2022) revenue and 50 percent of the 2023 grant distribution.

#### **Forecasting IOLTA Revenue**

Based on the current revenue trends and analysis of bank remittances in the past 15 months, the commission adopted a moderate approach to revenue projections. For 2022, the commission forecast IOLTA interest revenue of \$24.3 million and total revenue of \$32.9 million, which is 5 percent above 2021 levels. For 2023, the commission projects \$38.8 million in IOLTA interest revenue and \$46.4 million in total revenue. In addition, the commission projects interest rates for ECR and Leadership Banks rise to 1.87 percent at the end of 2022 with no further increase in 2023. The commission also projects a 35 percent reduction in deposit balances from ECR and Leadership Banks. Based on revenue collected in previous years, the commission projects \$6.15 million from voluntary donations from attorney licensing fees and \$1.44 million from Justice Gap Fund donations in both 2022 and 2023.

To arrive at its revenue projections, the commission anticipates that interest rates will rise to 2.25 percent by the end of the summer and potentially 2.75 percent by the year end. However, the commission's projections also assume a reduction in participation at the ECR and Leadership Bank level.<sup>9</sup> In addition, there is excess liquidity in banks' balances that will result in a lag in revenue increases. The commission also assumes that interest rates will remain at their high point for the entirety of 2023.

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<sup>9</sup> Currently, 76 percent of the aggregate assets in IOLTA certified banks resides with ECR or Leadership Banks.

Furthermore, the commission's recommendation incorporates cash flow considerations while noting that if cash-on-hand from remitted revenue is insufficient to cover the projected grant distribution, the State Bar has no obligation to fund the grants beyond the revenue received. However, the commission recognizes that it would be an immense hardship to grantees were the State Bar to be unable to meet grant obligations. For this reason, the commission strongly encourages the Board to adopt a moderate approach along with the net reserve amount of \$24,667,500 at the end of 2023. The net reserve amount also represents 33 percent of the total funds (\$75.3 million) available in 2023 and 50 percent of the recommended 2023 grant distribution.

### **Recommended 2023 IOLTA Distribution and Projected Reserve**

As noted in the Background section, the reserve policy describes a four-step formula for determining the distribution in years of increasing net revenue. Since IOLTA revenue projections in 2022 are less than the recommended grant amount, application of the target reserve of 30 to 75 percent of the prior year's revenue applies. The commission recommends maintaining a maximum reserve of 75 percent, which results in a 2023 distribution of \$50,585,254. With so much economic uncertainty and the potential for a recession looming, the commission seeks a slightly higher reserve to buffer against any revenue shortfalls. The commission hopes that the reserve will provide more funding stability for grantees in the next few years as the need for legal services continues to rise. More importantly, a \$50,585,254 distribution is still a significant increase of 43 percent over the 2022 grant distribution of \$35,487,856, and it would stand to be the second largest IOLTA distribution since the inception of the IOLTA program.

### **Recommendation to the Board of Trustees**

The commission recommends a calendar year 2023 IOLTA distribution of \$50,585,254, leaving a projected reserve of \$24,667,500 at the end of 2023. The Board must approve the commission's recommendation unless it makes a finding in writing that the recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar.

### **FISCAL/PERSONNEL IMPACT**

Administration of the IOLTA program is fully funded through IOLTA revenue. The recommended distribution is net of the \$2.1 million projected cost to administer the program; the actual amount distributed to grantees in 2023 will be the same as the distribution amount stated herein. Should staff determine that the amount is insufficient to cover the share of staff salaries and other expenses necessary to administer this program, staff will return to the commission and Board to request approval to allocate additional amounts from the cash on hand. This recommendation does not affect the general fund budget. No additional staff or other expenses will be incurred as a result of this recommendation.

## **AMENDMENTS TO RULES**

None

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

Updates are being made to this section of the agenda item template to reflect the 2022–2027 Strategic Plan.

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees approve the 2023 IOLTA distribution in the amount of \$50,585,254, with a projected reserve of \$24,667,500 at the end of 2023.

## **ATTACHMENTS LIST**

- A.** State Bar 2006 Cash-On-Hand Policy/Reserve Policy
- B.** Distribution Spreadsheet of Revenue and Expenses Since 2008
- C.** IOLTA 2021 Revenue Projections vs. Actual Detail
- D.** IOLTA 2022–2023 Revenue Projections and Grant Distribution Detail
- E.** History of Legal Aid Grants

# AGENDA ITEM

MARCH 54-166

Legal Services Trust Fund Program:  
Set Amount for Distribution for  
2006-2007 IOLTA Grants

BCSR

03/17/06

Open / Action  
Item III.B.

DATE: February 23, 2006

TO: Members of the Board of Committee on Stakeholder Relations  
Members of the Board of Governors

FROM: Judy Garlow, Director, Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program:  
Set Amount for Distribution for 2006-2007 IOLTA Grants

## Executive Summary

Each year, the Board of Governors sets an amount for distribution in Legal Services Trust Fund Program grants from interest on lawyer trust accounts ("IOLTA"). Since 1992, the method for setting the amount has been to allocate for the grants the amount of prior year revenue less administrative costs, adjusted by an amount by which cash on hand as of June 30 is projected to be more or less than a specific percent of the prior year's net revenue. Most recently, this cash-on-hand target has been 30 percent. After consultation with the Legal Aid Association of California, the Legal Services Trust Fund Commission is recommending adjusting this target for this year upward to approximately 50 percent, so as to take advantage of increased IOLTA revenue to put us in a position to cushion the effects of lower interest rates as needed in the future. Using this system will result in 2006-2007 grants of \$12.7 million, up about 6 percent from the \$12 million distributed in the 2005-2006 grant year.



## BACKGROUND

The Board of Governors each year sets an amount for distribution in IOLTA grants to be administered by the Legal Services Trust Fund Program. That amount is distributed for the grant year beginning July 1. The amount is set in March or April, depending on the board meeting schedule, so that the Trust Fund Commission can notify each recipient program of a grant amount, give them 30 days to prepare proposed budgets, review the budgets and still get grant agreements signed and the checks mailed in July.

For each of the first eight grant periods (fiscal years 1984-1985 through 1991-1992), the amount approved for distribution was the total money projected to be on hand June 30. This amounted to the total revenue of the program in the year preceding the grant period, less administrative costs during the same period. In other words, the program collected money for a year and then gave it out in the following year.

At the beginning of the grant year, 100 percent of the money for grants was on hand. Grants were disbursed in quarterly payments. At the same time, money came in that would become the next year's grants, so the program always had on hand about one full year's revenue.

In 1992, the Board of Governors changed that system on the recommendation of the Legal Aid Association of California and the Trust Fund Commission. We moved away from a system where grants were made up only of money already in hand, and to a system of paying part of the grant out of income as it came in. The motivation for this change was the view that the program did not need to keep such a large amount of cash on hand, especially in times of low interest rates and correspondingly lower revenue.

The basic distribution method remained, as before, to allocate for grants the amount of prior year revenue less administrative costs. To determine the amount for distribution, this net prior year revenue amount was adjusted by the amount by which cash on hand as of June 30 was projected to be more or less than a set percentage of the prior year's revenue amount. When the original change was made in 1992, interest rates had begun to drop and the target was set at 75 percent, in order to increase grants by 6 percent over the previous year even though revenue was down about 7 percent. Subsequently, interest rates fell dramatically. The cash-on-hand target was reduced to 60 percent and then to 30 percent, where it has remained for the last 12 grant years.

In years when revenue is increasing, the money coming in exceeds the grant amount going out, and cash on hand builds up above 30 percent. That "extra" amount is added onto the grants for the next year, resulting in a larger increase. In years when revenue is decreasing, the money coming in is less than the grant amount going out, and cash on hand drops below 30 percent. We make up for that by holding back money to increase the cash on hand for the next year, resulting in a greater decrease in grants.

This system has had the desired effect of putting the money in the hands of grant recipients quickly, and has minimized the amount of the program's cash on hand. Because of the swings in interest rates in the last several years, however, it has also meant there were somewhat unpredictable swings in the amount of grants from year to year. As just one example, the total grant amount went up 22 percent in 2001 and then back down 38 percent the following year. Although the grants on average represent a small share of each recipient's total income, in many cases, the ups and downs have been significant. In a time of increasing revenue, the Trust Fund Commission decided to explore whether there might be a better approach.

## PROPOSED CHANGE

The Commission has now discussed its proposed change with the Legal Aid Association of California, which consulted with all of the recipients of Trust Fund Program grants. LAAC came back to the Commission in support of the proposal, with a few relatively small suggestions that the Commission has incorporated into this recommendation.

The proposal is to increase cash on hand above 30 percent with the goal of decreasing the fluctuation in grants caused by sizable increases and decreases in interest rates. In years of increasing revenue, grants would be held to a smaller increase than is currently provided for, so as to increase cash on hand. Then in years of decreasing revenue, the cash on hand will be spent down again, to keep grants larger than they would otherwise have been.

The recommendation of the Commission and the legal services community involves a three-step calculation for years in which income is increasing:

- The amount for distribution will be allowed to increase by 5 percent before increasing cash on hand above the current 30 percent. For 2006-2007, this means an increase from \$12 million to \$12.7 million in total grants.
- The funds that would represent the next 10 percent increase--in this case, \$1.2 million--will go to increasing the cash on hand.
- In years when revenue increases more than that, the additional amount will be divided equally between increased grants and increased cash on hand, up to a cap of 75 percent of the previous year's available funds. For this year, there is \$229,520 to be shared equally between grants and increased cash on hand.

Two elements of this change will require ongoing discussion between the Legal Services Trust Fund Commission and the Legal Aid Association, to arrive at further recommendations as needed by this time next year. The first of these two elements is the system for distributing the funds held back when we come upon years of declining income. It is much more difficult to come up with an automatic formula for that. It is likely that a policy will be developed after consultation with the Legal Aid Association.

A second issue for ongoing discussion is the cap on the amount held back to increase cash on hand. LAAC suggested limiting the cash on hand to a specific target, in the range of 50 to 75 percent. The Trust Fund Commission has agreed to a 75 percent cap, and also agreed to discuss whether it should be smaller (or larger) than that. The amount for this year will be 53 percent. Between now and the next time the board goes through this process, a year from now, we can explore the most effective cap. This is a decision that must in any case be made annually, based on the particular income in that year.

#### **CURRENT AND PROJECT REVENUE AND CASH ON HAND**

Using this revised system for determining the grant amount will result in setting the grant amount for 2006-2007 at \$12.7 million. This grant amount is larger than the 2005-2006 distribution, due primarily to increased income from substantial increases in the balance on deposit in attorney-client trust accounts and also to small increases in the interest rates on checking accounts.

We currently expect net IOLTA revenue (income less expenses) for the period July 1, 2005 through June 30, 2006 to be \$14 million. At this income level, the program expects to have on hand as of June 30, 2006 about \$7.5 million, which is 53 percent of last year's net revenue. To calculate the grant amount for the coming year, we have added to last year's grant amount a 5 percent increase, plus half of the amount by which net revenue is greater than 15 percent of last year's grants.

#### **RECOMMENDATION**

The attached schedule shows the calculation, based on actual experience to date and projections through the rest of the grant year.

Because money will continue to be disbursed as it is received, the Trust Fund Commission will continue to monitor revenue closely and will return with recommendations if there are significant variances from the projections. The agreements signed with grant recipients will continue to include language to make clear that payment of these grants is contingent upon the Legal Services Trust Fund Program having sufficient money on hand from IOLTA revenue to make the scheduled payments. In addition, the Trust Fund Commission will meet with LAAC over the coming months to evaluate the effectiveness of the procedures used this year and what changes should be made for the future.

**BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:** None.

## **PROPOSED RESOLUTION**

The Board Committee on Stakeholder Relations will have a recommendation at the time of your meeting. If you agree with this proposal, the following resolution would be appropriate:

**RESOLVED**, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows

- (1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006, totaling \$15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.
- (2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.
- (3) To be subtracted from the total amount prior to distribution shall be \$1,200,568, 10 percent of prior year net revenue reserved for cash on hand.
- (4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

**FURTHER RESOLVED** that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

**FURTHER RESOLVED** that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

STATE BAR OF CALIFORNIA  
Legal Services Trust Fund Distribution  
Available Funds for Grant Period 2006-2007

DATE: FEBRUARY 21, 2006

AMOUNT

A. Revenue: 7/1/05 – 6/30/06

2005:	3rd Quarter	\$	3,726,984
	4th Quarter		3,679,345
2006:	1st Quarter (Projected)		3,900,000
	2nd Quarter (Projected)		<u>3,950,000</u>
Total Revenue		\$	15,256,329

B. Administrative Costs: 7/1/05 – 6/30/06

7/1/05 – 12/31/05	\$	734,972
1/1/06 – 6/30/06 (Budgeted)		815,308
Less Projected Equal Access Fund Reimbursements		<u>(330,000)</u>
Total Administrative Costs	\$	1,220,280

C. Cash-on-Hand Calculation

Cash on Hand 6/30/05	\$	5,547,400
Add: Net Revenue 7/1/05 – 6/30/06		14,036,049
Less: 2005-2006 Grants (Net of amounts from past years redistributed)		<u>(12,005,677)</u>
Projected Cash on Hand – 6/30/06 (53 percent of prior year net revenue)	\$	7,577,772

Grant Amount Calculation

2005-2006 Net Revenue	\$	14,036,049
Less 10 percent reserved for cash on hand		( 1,200,568)
Less one-half of amount over 15 percent reserved for cash on hand	\$	<u>( 114,760)</u>

Total Grant Amount for 2006-2007	\$	12,720,721
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Prior Year Distribution (2005-2006)	\$	12,005,677
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Percent Increase from Prior Year Distribution	6%
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ATTACHMENT

### Selection Guidelines for State Bar Appointments to the ABA House of Delegates

The State Bar will strive to appoint members from its applicant pool meeting the following guidelines:

- One (1) delegate who qualifies as the young lawyer representative;
- Up to two (2) delegates to include the most immediate past member of the ABA Board of Governors and any immediate past officer of the ABA from the California ABA Delegation;
- Two (2) members who have not had substantial volunteer experience but do possess the leadership and other skills to be successful delegation members; and
- Six (6) delegates who have substantial bar experience, especially with the ABA, and are typical of other State Bar appointments.

Unless otherwise authorized by the Board of Governors, Each each member of the State Bar's ABA delegation would be eligible for reappointment to no more than three (3) consecutive two-year appointments or a maximum of six (6) consecutive years of service with the delegation. Delegates who have completed such service may apply in the future after a period of not less than two years from the date of the expiration of the delegate's last term of service with the State Bar.

All members will be encouraged to become broadly participant in ABA activities in order to fully represent the interests of California attorneys.

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**RESOLVED**, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows:

- (1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006, totaling \$15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.
- (2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.
- (3) To be subtracted from the total amount prior to distribution shall be \$1,200,560, 10 percent of prior year net revenue reserved for cash on hand.
- (4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

**FURTHER RESOLVED** that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

**FURTHER RESOLVED** that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

**RESOLVED**, upon recommendation of the Committee on Group Insurance Programs, that the Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby approves the formal acknowledgment of Raphael Cotkin's 25 years of service to the State Bar of California; and it is

**FURTHER RESOLVED**, that that Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby authorizes the Committee on Group Insurance Programs to formally present this Board Resolution to Raphael Cotkin at it's Planning Session dinner on Monday, March 13, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 - 6, 2006, between regularly scheduled Board meetings.]

**RESOLVED**, upon the recommendation of the Los Angeles County Bar Association, that the Board Committee on Operations, acting on behalf of the Board between meetings, approves the resolution adopted by the Los Angeles County Bar Association; and it is

**FURTHER RESOLVED**, that the Board Committee on Operations, acting on behalf of the Board between meetings, authorizes participation in this resolution in the Tribute Book by March 15, 2006, to be presented to the Chief Justice at the dinner in his honor on April 4, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 - 6, 2006, between regularly scheduled Board meetings.]

Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Operations, that the Board hereby rejects the Foundation's proposed change to the at-will termination clause, accepts the Foundation's change to the revenue, and modifies Article 2.3 of the MOU along the lines discussed, and delegate to the Executive Director the authority to communicate a final proposal to the Foundation; and it is

Bank Settlement, Equal Access, Justice Gap, Homlessness Prevention II, & Legal Services Trust Funds

Average FFR Interest Rate	1.92%	0.16%	0.18%	0.10%	0.14%	0.11%	0.09%	0.13%	0.39%	1.00%	1.79%	2.16%	0.38%	0.08%
<b>Income</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Bank Trust Account Revenue</b>	<b>\$ 22,268,850</b>	<b>\$ 6,540,851</b>	<b>\$ 6,793,426</b>	<b>\$ 6,077,611</b>	<b>\$ 5,007,709</b>	<b>\$ 4,992,897</b>	<b>\$ 5,225,763</b>	<b>\$ 5,584,435</b>	<b>\$ 6,439,199</b>	<b>\$ 7,036,095</b>	<b>\$ 20,910,031</b>	<b>\$ 46,454,116</b>	<b>\$ 26,276,804</b>	<b>\$ 22,526,029</b>
Licenses Fee Statement-Opt out	-	-	-	1,670,370	3,304,600	3,280,250	4,843,352	6,347,184	6,332,929	6,863,038	6,030,730	6,255,553	6,417,677	6,158,012
Justice Gap Donations	-	609,392	1,040,068	868,382	2,214,528	1,041,706	969,523	1,022,211	1,161,470	1,409,276	980,045	1,537,668	1,820,706	1,175,151
Transfer from Affinity & Insurance	-	-	-	-	2,000,000	-	-	400,000	-	-	463,845	-	-	-
Transfer from Legislative Activities	-	-	-	-	-	2,000,000	-	-	-	-	-	-	-	-
Transfer from Justice Gap	-	-	-	-	-	-	-	-	-	-	-	-	1,000,000	1,500,000
Tax-Intercept Funds	-	-	-	-	-	-	178,289	99,134	75,822	119,584	154,868	177,141	914	-
Grants & Grant Repayments	6,128	13,993	5,417	7,353	5,867	-	-	-	-	46,753	5,000	-	-	-
Investment Income	634,273	177,417	51,655	18,128	14,242	14,648	13,594	14,193	56,941	77,687	143,834	661,740	696,142	(21,590)
<b>IOLTA Sub-Total</b>	<b>24,718,174</b>	<b>7,341,653</b>	<b>7,890,566</b>	<b>8,641,844</b>	<b>12,546,946</b>	<b>11,329,501</b>	<b>11,230,521</b>	<b>13,467,157</b>	<b>14,066,361</b>	<b>15,552,433</b>	<b>28,688,353</b>	<b>55,086,218</b>	<b>36,212,243</b>	<b>31,337,602</b>
Equal Access-CA General Funds	12,215,898	10,979,325	10,605,450	10,070,700	10,002,050	10,392,000	10,392,000	10,392,000	12,642,000	17,642,000	20,392,000	35,242,000	16,215,600	20,392,000
Equal Access-AB145 Filing Fees	6,104,395	5,696,068	6,323,433	5,818,791	5,706,445	5,617,106	3,806,328	3,701,281	3,800,000	4,433,556	4,926,673	4,864,180	3,138,445	5,482,000
Equal Access-State Bar Admin	514,575	566,446	526,379	528,451	527,199	525,120	498,910	442,413	457,500	550,626	487,904	593,540	228,880	486,000
Grant Repayments	15,682	5,866	4,321	7,737	57,735	8,123	-	-	-	-	116,876	134,591	168,263	-
Investment Income	80,673	18,861	12,802	3,355	(1,514)	(7,332)	(4,429)	(1,324)	2,392	10,073	(45,597)	52,697	226,708	(7,018)
<b>EAF Sub-Total</b>	<b>18,931,223</b>	<b>17,266,566</b>	<b>17,472,385</b>	<b>16,429,034</b>	<b>16,291,915</b>	<b>16,535,017</b>	<b>14,692,809</b>	<b>14,534,370</b>	<b>16,901,892</b>	<b>22,636,255</b>	<b>25,877,856</b>	<b>40,887,008</b>	<b>19,977,896</b>	<b>26,352,982</b>
Bank Settlement Awards	-	-	-	-	-	-	-	6,085,197	44,778,670	-	-	-	-	-
Grants & Grant Repayments	-	-	-	-	-	-	-	-	-	15,976	11,928	601	-	-
Investment Income	-	-	-	-	-	-	-	-	155,347	287,025	658,219	497,098	321,855	(9,955)
<b>Bank Settlement Sub-Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>6,085,197</b>	<b>44,934,017</b>	<b>303,001</b>	<b>670,147</b>	<b>497,699</b>	<b>321,855</b>	<b>(9,955)</b>
Homlessness Prevention II <sup>2</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	9,923,704
<b>Total Income</b>	<b>\$ 43,649,397</b>	<b>\$ 24,608,219</b>	<b>\$ 25,362,951</b>	<b>\$ 25,070,878</b>	<b>\$ 28,838,861</b>	<b>\$ 27,864,518</b>	<b>\$ 25,923,330</b>	<b>\$ 34,086,724</b>	<b>\$ 75,902,270</b>	<b>\$ 38,491,689</b>	<b>\$ 55,236,356</b>	<b>\$ 96,470,925</b>	<b>\$ 56,511,994</b>	<b>\$ 67,604,333</b>
<b>General &amp; Administration Expenses</b>														
Employees as of December	10	10	10	10	10	10	9	8	10	10	9	15	14	12
Personnel	\$ 902,007	\$ 1,034,490	\$ 970,071	\$ 1,037,705	\$ 1,042,168	\$ 1,092,472	\$ 1,077,398	\$ 1,094,524	\$ 1,111,466	\$ 1,225,475	\$ 1,447,230	\$ 1,532,509	\$ 1,380,131	\$ 1,378,256
Operating	217,838	84,046	101,381	115,291	105,593	105,135	148,573	130,371	47,013	85,894	113,241	153,741	308,347	429,962
Equal Access-OneJustice/LAAC	193,205	202,867	192,888	174,548	169,748	226,699	154,222	229,296	198,865	197,740	178,615	212,910	199,573	284,367
Indirect Costs	327,116	312,876	354,496	462,773	493,622	469,861	398,910	578,654	663,120	806,376	829,804	901,200	810,034	1,072,578
<b>General &amp; Administration Sub-Total</b>	<b>1,640,166</b>	<b>1,634,279</b>	<b>1,618,836</b>	<b>1,790,317</b>	<b>1,811,131</b>	<b>1,894,167</b>	<b>1,779,103</b>	<b>2,032,845</b>	<b>2,020,464</b>	<b>2,315,485</b>	<b>2,568,890</b>	<b>2,800,360</b>	<b>2,698,085</b>	<b>3,165,163</b>
<b>Grant Expense Sub-Total</b>														
<b>Legal Services Trust (IOLTA)</b>	<b>15,543,372</b>	<b>13,952,109</b>	<b>11,866,435</b>	<b>10,685,785</b>	<b>10,685,783</b>	<b>9,617,213</b>	<b>4,808,577</b>	<b>10,064,288</b>	<b>11,088,089</b>	<b>11,035,486</b>	<b>13,849,656</b>	<b>27,463,024</b>	<b>55,294,144</b>	<b>23,951,697</b>
Equal Access	16,158,761	16,158,554	17,831,833	18,245,360	16,142,680	16,264,319	12,020,468	17,610,257	14,837,423	20,804,644	25,677,762	34,567,326	25,006,696	24,396,022
Bank Settlement	-	-	-	-	-	-	-	-	4,872,790	7,089,925	9,891,289	9,452,789	11,111,629	2,272,758
Homlessness Prevention II <sup>2</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	9,865,683
<b>Grant Expense Sub-Total</b>	<b>31,702,133</b>	<b>30,110,663</b>	<b>29,698,268</b>	<b>28,931,145</b>	<b>26,828,463</b>	<b>25,881,532</b>	<b>16,829,045</b>	<b>27,674,545</b>	<b>30,798,302</b>	<b>38,930,055</b>	<b>49,418,707</b>	<b>71,483,139</b>	<b>91,412,469</b>	<b>60,486,160</b>
<b>Total Expenses</b>	<b>\$ 33,342,299</b>	<b>\$ 31,744,942</b>	<b>\$ 31,317,104</b>	<b>\$ 30,721,462</b>	<b>\$ 28,639,594</b>	<b>\$ 27,775,699</b>	<b>\$ 18,608,148</b>	<b>\$ 29,707,390</b>	<b>\$ 32,818,766</b>	<b>\$ 41,245,540</b>	<b>\$ 51,987,597</b>	<b>\$ 74,283,499</b>	<b>\$ 94,110,554</b>	<b>\$ 63,651,323</b>
<b>General &amp; Admin Exp/Total Expenses</b>	<b>4.92%</b>	<b>5.15%</b>	<b>5.17%</b>	<b>5.83%</b>	<b>6.32%</b>	<b>6.82%</b>	<b>9.56%</b>	<b>6.84%</b>	<b>6.16%</b>	<b>5.61%</b>	<b>4.94%</b>	<b>3.77%</b>	<b>2.87%</b>	<b>4.97%</b>
<b>Year-End Net Position (Net Assets)</b>														
<b>Legal Services Trust (IOLTA)<sup>1</sup></b>	<b>\$ 16,048,383</b>	<b>\$ 8,401,696</b>	<b>\$ 3,269,770</b>	<b>\$ (49,922)</b>	<b>\$ 500,717</b>	<b>\$ 922,462</b>	<b>\$ 4,914,889</b>	<b>\$ 6,787,029</b>	<b>\$ 10,260,650</b>	<b>\$ 11,171,340</b>	<b>\$ 24,082,586</b>	<b>\$ 49,842,538</b>	<b>\$ 28,397,036</b>	<b>\$ 32,594,905</b>
<b>Percentage Net Assets to prior year revenue</b>		<b>34%</b>	<b>45%</b>	<b>-1%</b>	<b>6%</b>	<b>7%</b>	<b>43%</b>	<b>60%</b>	<b>76%</b>	<b>79%</b>	<b>155%</b>	<b>174%</b>	<b>52%</b>	<b>90%</b>

<sup>1</sup>Legal Services Trust (IOLTA) Net Position includes Justice Gap Fund balance.<sup>2</sup>Accounting segregation by Fund for Homlessness Prevention did not begin until 2012, thus financial activity for Homelessness Prevention I (HPI) is included in Equal Access. Financial activity for Homlessness Prevention III (HPIII) began in 2022.



Legal Services Trust Fund (IOLTA) 2022-2023 Grants Distributions

Revenue, Expenses, and Assets		2020	2021	
A. Revenue		Actual	Projection	Actual
Jan-Mar IOLTA Revenue		\$ 9,545,822	\$ 7,137,789	\$ 5,378,986
April-December IOLTA Revenue		\$ 16,730,982	\$ 8,612,211	\$ 17,147,043
IOLTA Revenue		\$ 26,276,804	\$ 15,750,000	\$ 22,526,029
Justice Gap, Legal Services Donations, and other revenue:				
Justice Gap Fund Donations		\$ 1,820,706	\$ 1,440,000	\$ 1,175,151
Legal Services Voluntary Fee Donations		\$ 6,417,677	\$ 6,300,000	\$ 6,158,012
Justice Fund Gap (JGF Transfer)		\$ 1,000,000	\$ -	\$ 1,500,000
Combined LSTF & JGF Interest & Tax Intercept Funds		\$ 747,791	\$ 5,000	\$ (23,142)
<b>Total Revenue:</b>		<b>\$ 36,262,978</b>	<b>\$ 23,495,000</b>	<b>\$ 31,336,050</b>
B. Expenses		Actual	Projections	Actual
IOLTA Grant Distributions		\$ 55,294,144	\$ 23,951,697	\$ 23,951,697
IOLTA Administration		\$ 1,410,109	\$ 2,100,000	\$ 1,794,111
Justice Gap Fund (Transfer Out)		\$ 1,000,000		\$ 1,500,000
Justice Gap Fund Administration		\$ 4,226		\$ 13,719
<b>Total Expenses:</b>		<b>\$ 57,708,479</b>	<b>\$ 26,051,697</b>	<b>\$ 27,259,527</b>
<b>C.</b>	<b>Net Revenue less Expenses</b>	<b>\$ (21,445,501)</b>	<b>\$ (2,556,697)</b>	<b>\$ 4,076,523</b>
D. Net Assets				
Net Position for Prior Year (Both JGF and LSTF)		\$ 49,842,538	\$ 28,397,037	\$ 32,594,905
Net Revenue less Expenses for Prior Year		\$ (21,445,501)	\$ (2,556,697)	\$ 4,076,523
<b>Total Ending Net Assets:</b>		<b>\$ 28,397,037</b>	<b>\$ 25,840,340</b>	<b>\$ 36,671,428</b>

Legal Services Trust Fund (IOLTA) 2022-2023 Grants Distributions

Revenue, Expenses, and Assets		2022
		Projections for 2023 Distribution
<b>A. Revenue</b>		
Jan-Mar IOLTA Revenue	\$	3,173,159
April-December IOLTA Revenue	\$	21,126,842
IOLTA Revenue	\$	24,300,000
Justice Gap, Legal Services Donations, and other revenue:		
Justice Gap Fund Donations	\$	1,440,000
Legal Services Voluntary Fee Donations	\$	6,150,000
Justice Fund Gap (JGF Transfer)	\$	1,000,000
Combined LSTF & JGF Interest & Tax Intercept Funds	\$	-
<b>Total Revenue:</b>	\$	32,890,000
		Projections for 2023 Distribution
<b>B. Expenses</b>		
IOLTA Grant Distributions	\$	35,487,856
IOLTA Administration	\$	2,100,000
Justice Gap Fund (Transfer Out)	\$	1,000,000
Justice Gap Fund Administration		
<b>Total Expenses:</b>	\$	38,587,856
<b>C. Net Revenue less Expenses</b>	\$	(5,697,856)
<b>D. Net Assets</b>		
Net Position for Prior Year (Both JGF and LSTF)	\$	36,671,428
Net Revenue less Expenses for Prior Year	\$	(5,697,856)
<b>Total Ending Net Assets:</b>	\$	30,973,572
Projection for Distribution and Reserves		2023
		Projections for 2023 Distribution
<b>E. Projected Revenue &amp; Administration Expenses</b>		
IOLTA Revenue	\$	38,789,182
Justice Gap Fund Donations - Based on 2022	\$	1,440,000
Legal Services Voluntary Fee Donations - Based on 2022	\$	6,150,000
Interest Income & Tax Intercept Funds - Based on 2022	\$	-
<b>Gross Income:</b>	\$	46,379,182
Administration, Net of EAF & Bank Settlement - Based on 2022	\$	(2,100,000)
<b>Gross Income less Administration Expenses:</b>	\$	44,279,182
<b>Prior Year Ending Net Assets:</b>	\$	30,973,572
<b>Funds Available:</b>	\$	75,252,754
<b>F. Grants</b>		
Prior Year Grant distribution (baseline) for reference only	\$	35,487,856
<b>Total Grants:</b>	\$	50,585,254
<b>Percentage Change vs Prior Year Grant Allocation:</b>		42.54%
<b>G. Reserve/Cash on Hand/Net Assets</b>		
<b>Projected Reserve/Ending Net Assets*:</b>	\$	24,667,500
Reserve as Percentage of Prior Year Revenue(2022):		75.00%
Reserve as % of 2023 Funds Available		32.78%
Reserve as a % of 2023 Grants		48.76%

# ATTACHMENT E

The State Bar of California  
June 2022  
History of Legal Aid Grants by Year

Grant Year	GRANTS								Totals
	IOLTA	EAF Formula	EAF Partnership	EAF Homelessness Prevention	HP II	HP III	Bank Settlement	PLL	
1984-85	\$ 6,881,000								\$ 6,881,000
1985-86	10,425,942								10,425,942
1986-87	12,360,011								12,360,011
1987-88	14,894,864								14,894,864
1988-89	15,648,532								15,648,532
1989-90	18,384,261								18,384,261
1990-91	21,581,165								21,581,165
1991-92	21,428,612								21,428,612
1992-93	22,729,133								22,729,133
1993-94	15,200,001								15,200,001
1994-95	5,756,477								5,756,477
1995-96	6,611,789								6,611,789
1996-97	9,275,796								9,275,796
1997-98	10,322,491								10,322,491
1998-99	12,062,740								12,062,740
1999-00	11,316,009	8,550,000	950,000						20,816,009
2000-01	11,048,167	8,550,000	950,000						20,548,167
2001-02	13,502,192	8,550,000	950,000						23,002,192
2002-03	8,334,637	8,550,000	950,000						17,834,637
2003-04	7,540,236	8,550,000	950,000						17,040,236
2004-05	8,355,983	8,707,820	950,000						18,013,803
2005-06	12,005,677	8,563,521	950,000						21,519,198
2006-07	12,720,721	12,574,041	1,397,120						26,691,882
2007-08	13,827,156	14,399,980	1,600,000						29,827,136
2008-09	15,543,372	14,399,971	1,600,000						31,543,343
2009-10	13,952,109	14,400,000	1,625,000						29,977,109
2010-11	11,866,435	18,000,000	2,000,000						31,866,435
2011-12	10,685,785	14,580,000	1,570,000						26,835,785
2012-13	10,685,783	14,665,872	1,624,000						26,975,655
2013-14	14,425,869	14,462,200	1,518,000						30,406,069
2015	10,098,108	16,263,394	1,441,604						27,803,106
2016	11,088,089	12,750,000	1,419,000				4,872,790		30,129,879
2017	11,035,486	17,199,506	1,702,000				7,089,925		37,026,917
2018	13,849,656	22,889,072	2,845,710				9,891,289		49,475,727
2019	27,463,024	22,923,100	2,575,000	14,800,001			9,452,789		77,213,914
2020	55,294,144	23,520,554	2,666,000	5,049,999			11,111,629		97,642,326
2021	23,951,697	21,163,881	2,423,413		9,865,671		2,272,758	647,000	60,324,420
2022	35,487,856	58,147,328	2,580,574		9,865,671	25,999,994	2,272,084	617,000	134,970,507
Totals	\$ 567,641,005	\$ 372,360,240	\$ 37,237,421	\$ 19,850,000	\$ 19,731,342	\$ 25,999,994	\$ 46,963,264	\$ 1,264,000	\$ 1,091,047,266

Notes: 1) 2013-14 IOLTA grants include 18 month period from July 2013 to Dec 2014.  
2) 2015 EAF grants include 15 month period from Oct 2014 to Dec 2015.