



The State Bar *of California*

# Approval of Interest on Lawyers' Trust Accounts (IOLTA) Grant Distribution for 2023

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

Board of Trustees Meeting, July 21–22, 2022

# Agenda

- Timeline
- Background
- Reserve Policy
- IOLTA Revenue Projections
- Additional Potential Sources of Funding
- Staff Recommendation
- Potential Motion



# Timeline

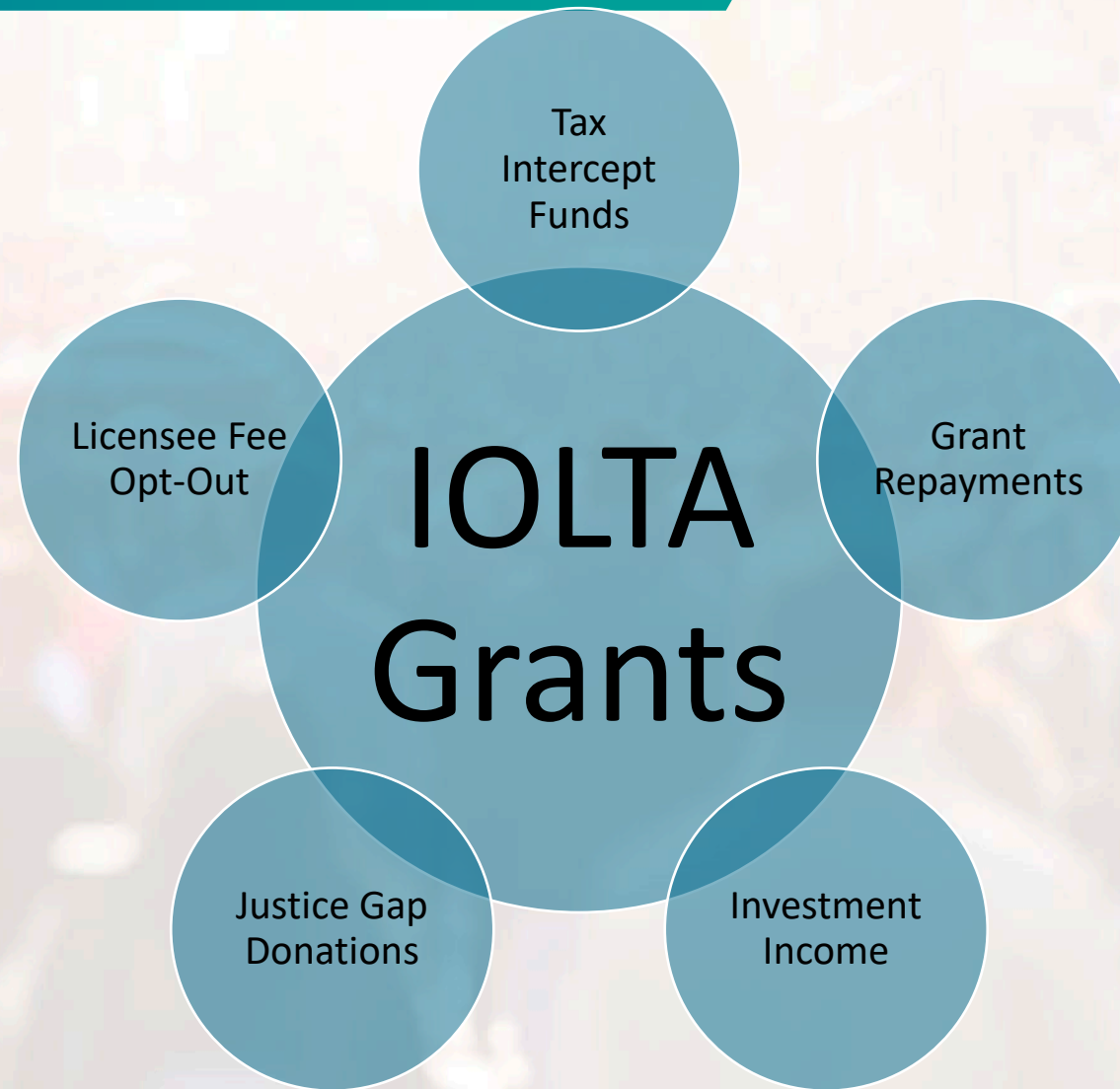


## IOLTA Statute [Business and Professions Code section 6210 et seq.]

- IOLTA only applies to nominal or short-term funds
- Statute regulates attorneys, not banks
- Amended effective 2008 to require banks to treat these accounts fairly—the “comparability” rule:
  1. Establish IOLTA Accounts as comparable-rate products;
  2. Pay comparable-product rate on IOLTA deposits accounts, less chargeable fees, if any; or
  3. Pay Established Compliance Rate (ECR) determined by LSTFC
- Leadership Bank Program → established 2019
  1. Banks volunteer to pay at least the ECR on all IOLTA accounts; and
  2. Waive any fees or charges on these accounts.



# IOLTA Grants



# Reserve Policy

- **1984 to 1992** → Distribute **total** money projected to be “on hand” as of end of prior year (less admin)
- **1992 to 2006** → The program aimed to have a specific amount of cash on hand, ranging from 75% of the prior year’s revenue at the beginning of this period to 30% in subsequent years
- **2006 to Present**
  - **Rising Income Environment** (4 Step Calculation)
    1. Previous year’s distribution is base amount
    2. The distribution is allowed to increase by 5% from prior year before the reserve is increased
    3. If there is additional income, the next 10% of the base amount goes to increase the reserve
    4. If there is additional income, the remainder is split equally between reserve (up to 75% of base) and distribution
  - **Declining Income Environment** → target 30% to 75% reserve
- **Rules Committee:** Working to revise policy

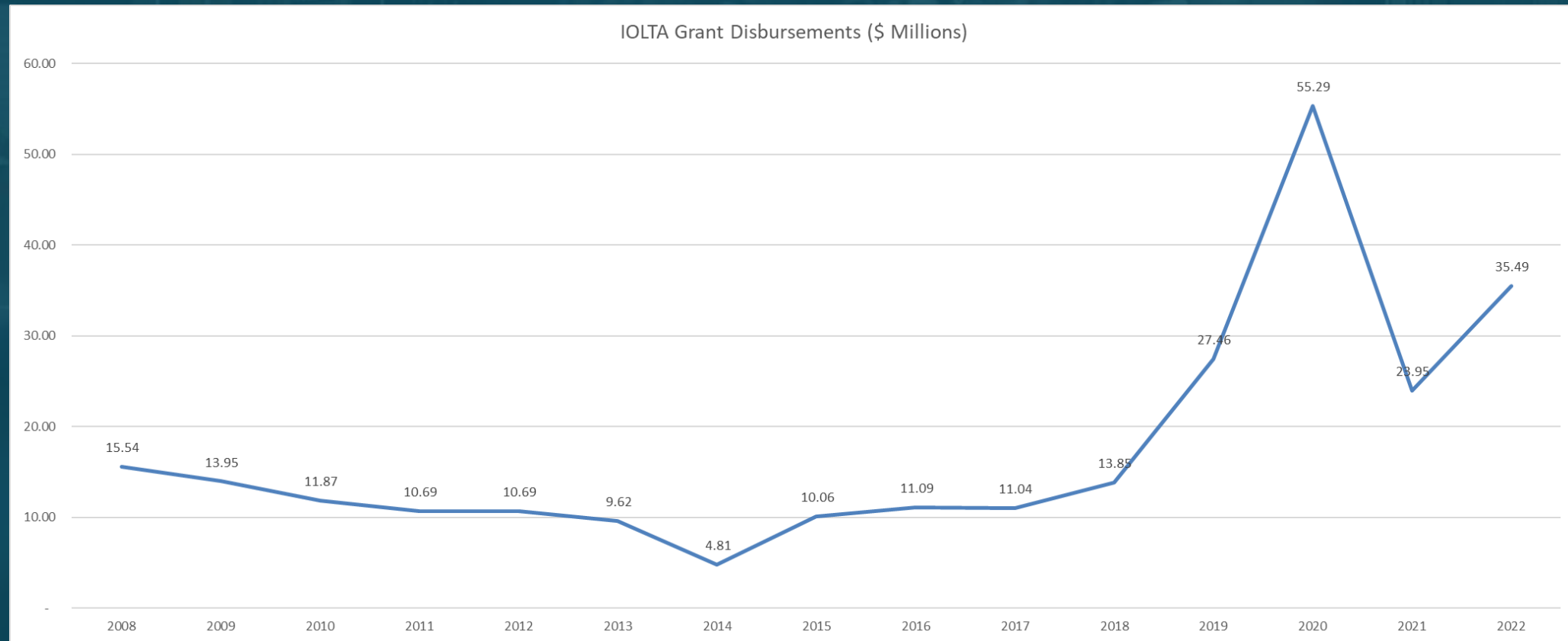


# Federal Funds Rate and IOLTA Grant Distributions

Year	Federal Funds Rate at Year End	Total IOLTA Revenue (including donations)	Percent Change Over Prior Year	IOLTA Grant Distribution	Percent Change Over Prior Year
2017	1.50%	\$15.6M	10.6%	\$11M	(.9%)
2018	2.25%	\$28.7M	84%	\$13.8M	25.5%
2019	2.50%	\$55.1M	92%	\$27.5M	99.3%
2020	0 - 0.25% (beginning 3/16)	\$36.3M	(34.1%)	\$55.3M	101.1%
2021	0 - 0.25%	\$31.3M	(13.8%)	\$24M	(56.6%)
2022	2.75% (projected)	\$32.9M (projected)	4.96%	\$35.5 M	47.9%



# IOLTA Grant Disbursements (2008–2022)





# IOLTA – Projections vs. Actuals (2019–2020)

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>	\$	36,262,978	\$ 23,495,000	\$ 31,336,050
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>	\$	57,708,479	\$ 26,051,697	\$ 27,259,527
C. Net Revenue less Expenses	\$	(21,445,501)	\$ (2,556,697)	\$ 4,076,523
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>	\$	28,397,037	\$ 25,840,340	\$ 36,671,428



# IOLTA Revenue Projections in Current Market

**Actual IOLTA Revenue  
Jan–Mar 2022:  
\$3,173,159**

- **Assumptions Used for Projecting Total 2022–2023 IOLTA Revenue**
  - Period of declining Net IOLTA revenue
  - Interest rates will rise to at least 2.25% by the end of the summer and potentially to 2.75% by the end of 2022
  - Interest rates for ECR and Leadership Banks rise to 1.87% at the end of 2022
  - State Bar will not generate more revenue through recertification process or Leadership Bank Program
  - Voluntary donations through fee statements and Justice Gap donations will slightly decrease
  - Total amounts on deposit in banks that pay interest at the ECR or Leadership Bank level will decrease by 35%



# 2022–2023 Revenue Projections

- Reflects 0.75% increase in FFR on 6/15/22
- 2022 IOLTA interest revenue of \$24.3M and total revenue of \$32.9 million
- 2023 IOLTA interest revenue of \$38.8M and \$46.4M in total revenue



# IOLTA – 2022 Projections and Ending Net Assets

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.</b>	<b>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



# IOLTA – Projections for 2023 Distribution and Reserves

Projection for Distribution and Reserves		2023
		Projections for 2023 Distribution
E. Projected Revenue & Administration Expenses		
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
F. Grants		
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%
G. Reserve/Cash on Hand/Net Assets		
<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%





## Potential Motion

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.

