

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE FINANCE COMMITTEE
OPEN SESSION

Saturday, July 31, 2010

9:00 a.m.

Hyatt Regency Milwaukee
333 W. Kilbourn Avenue
Milwaukee, Wisconsin 53203

COMMITTEE MEMBERS PRESENT:

Robert J. Grey, Jr., Chairperson
Thomas A. Fuentes (by telephone)
Martha L. Minow
Hon. Sarah M. Singleton (by telephone)
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Sharon L. Browne
Jonann C. Chiles (by telephone)
Victor B. Maddox
Thomas R. Meites
Laurie I. Mikva
Charles N.W. Keckler

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Interim President and General Counsel

Kathleen Connors, Executive Assistant to the President

Patricia Batie, Acting Corporate Secretary and FOIA Officer, Office of Legal Affairs

Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs

Karen J. Sarjeant, Vice President for Programs and Compliance

David L. Richardson, Treasurer and Comptroller

Charles Jeffress, Chief Administrative Officer

Linda Mullenbach, Senior Assistant General Counsel, Office of Legal Affairs

Jeffrey E. Schanz, Inspector General

Laurie Tarantowicz, Assistant Inspector General and Legal Counsel, Office of the Inspector General

Ronald "Dutch" Merryman, Assistant Inspector General for Audit, Office of the Inspector General

David Maddox, Assistant Inspector General for Management and Evaluation, Office of the Inspector General

Thomas Coogan, Assistant Inspector General for Investigations, Office of the Inspector General

John Constance, Director, Office of Government Relations and Public Affairs

STAFF AND PUBLIC PRESENT (Continued):

Stephen Barr, Media Relations Director, Office of
Government Relations and Public Affairs

Danilo A. Cardona, Director, Office of Compliance
and Enforcement

Alice C. Dickerson, Director, Office of Human Resources

Janet LaBella, Director, Office of Program Performance

Bristow Hardin, Program Analyst III, Office of Program
Performance

Glenn Rawdon, Program Counsel III (Technology), Office
of Program Performance

Jonathan D. Asher, Executive Director, Colorado Legal
Services

Nan Heald, Executive Director, Pine Tree Legal
Assistance

Harry Korell, LSC Board Nominee (by telephone)

Julie Reiskin, LSC Board Nominee

Gloria Valencia-Weber, LSC Board Nominee

The Reverend Pius Pietrzyk, O.P., Board Nominee

Thomas Smegal, Smegal Law Firm

Don Saunders, National Legal Aid and Defenders
Association (NLADA)

Linda Perle, Center for Law & Social Policy (CLASP)

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1 P R O C E E D I N G S

2 (9:00 a.m.)

3 CHAIRMAN GREY: I'd like to call the Finance
4 Committee meeting to order. I'd like to recognize
5 Harry Korell, who is also on the phone and is a board
6 nominee. Harry, are you there?

7 MR. KORELL: I am here, thank you.

8 CHAIRMAN GREY: Welcome.

9 MR. KORELL: Thank you very much.

10 CHAIRMAN GREY: Thank you for joining us.
11 Could I have a motion to approve the agenda?

12 M O T I O N

13 DEAN MINOW: So move.

14 CHAIRMAN GREY: It's been moved.

15 MR. FUENTES: Second.

16 CHAIRMAN GREY: Second. Without objection,
17 the agenda has been approved.

18 The minutes of the April 17th meeting, is
19 there a motion for their approval?

20 M O T I O N

21 DEAN MINOW: So move.

22 CHAIRMAN GREY: Is there a second?

1 JUDGE SINGLETON: I'll second it. This is
2 Singleton.

3 CHAIRMAN GREY: Thank you. Any objection?

4 (No response.)

5 CHAIRMAN GREY: Without objection, the minutes
6 are approved.

7 There was a discussion at a prior committee
8 information meeting about the opportunity for us to
9 have a member of the Finance Committee who is a
10 financial expert.

11 And in my past activities as chairman of the
12 Chamber of Commerce and other civic activities, I know
13 a gentleman by the name of Robert Henley, who is in
14 Richmond and is a retired managing partner of Ernst &
15 Young. And he has offered to assist us as a member of
16 the Finance Committee if we so desire.

17 For those on the phone, I would just -- what
18 I'd like to do is just read what is a brief
19 biographical sketch from him. He joined Ernst & Young
20 on a full-time basis in '71, became a partner in '83,
21 and retired as managing partner of the Central Virginia
22 practice in June 2007.

1 In addition to management and administrative
2 responsibilities, he served as coordinating partner,
3 senior advisory partner, or independent review partner
4 on a variety of clients, public, private, large, and
5 small entities.

6 He currently serves on the board and the
7 executive committee of what is in our community called
8 the Maymont Foundation, and he is chair of the audit
9 committee. The Maymont Foundation manages and raises
10 money to operate Maymont Park, which is a very large
11 park in our city that has a zoo and community
12 facilities and is sort of the crown jewel of our -- one
13 of the amenities in our community.

14 He manages and raises money to operate Maymont
15 Park. Maymont was a private estate of an old Richmond
16 located in the central city on the James River. He
17 also serves on the board of trustees of Virginia
18 Commonwealth University School of Business Foundation,
19 and is on the audit committee. And he served on the
20 Greater Richmond Chamber of Commerce.

21 We had an initial discussion about him.
22 Here's the recommendation that I'd like the board to

1 consider because I invited him to meet with David and
2 Jeff in Richmond. And so we've had this preliminary
3 discussion. And I think I would like for them, David
4 and Jeffrey, to share with you their observation of him
5 as well before we talk further about his relationship
6 with the committee.

7 So David or Jeffrey, any comments? Thoughts?

8 MR. RICHARDSON: As Robert said, we met on
9 July 20th with Mr. Grey and Mr. Henley, and we looked
10 at the financial documents that we are presenting to
11 the board. We also looked at and talked about some
12 modifications that may need to be made or he would like
13 to see as far as the possibility of changing some of
14 the reporting.

15 We looked at the budgeting process of a couple
16 of offices, just how we report from a basis up to build
17 our budget. Robert offered some assistance there as to
18 the information he thought was thorough. He thought
19 there was a few things that might enhance our reporting
20 somewhat.

21 We looked at the 990. He pointed out a couple
22 of things there that we would -- in his expertise, that

1 we should address. And quite honestly, I was real
2 impressed with the information, with the dialogue, and
3 would welcome any assistance, any help that he would be
4 willing to give us.

5 CHAIRMAN GREY: Jeffrey?

6 MR. JEFFRESS: I would concur with that. This
7 is Charles Jeffress. I would concur with that. I
8 think his background will tell you he's very familiar
9 with financial statements, very familiar with reading
10 them and analyzing them, and he's very quick to pick up
11 on what LSC presents in the course of its statements.

12 I think his advice would be welcome,
13 particularly for a committee that I think we don't have
14 any CPAs on. We don't have on this board financial
15 expertise. And I would suspect his expertise would be
16 very helpful.

17 CHAIRMAN GREY: Any questions from the
18 committee?

19 JUDGE SINGLETON: Mr. Chairman, this is Sarah
20 Singleton. I do recall asking that someone check into
21 the bylaws to make sure it's okay to have a non-member
22 serve on a committee, either as an advisor or in some

1 other capacity, as a full member. Has anybody done
2 that?

3 CHAIRMAN GREY: I will defer to the president.

4 PRESIDENT FORTUNO: Yes. Sarah, we have taken
5 a look at the bylaws, and it's Article 5 of the bylaws
6 on committees does provide that the membership of a
7 committee which will not exercise the authority of the
8 board, that is, non-executive committees -- and all of
9 our committees are non-executive committees -- it
10 provides that such committees, the membership of such
11 committees, may include non-directors as well as
12 directors.

13 JUDGE SINGLETON: Thank you.

14 CHAIRMAN GREY: Two other thoughts. One is
15 that part of the recommendation that we as a
16 Corporation make to our grantees is that they consider
17 such an appointment to their finance committee in an
18 effort to further add to the integrity and credibility
19 of their analysis of finances.

20 It seems to me we would be leading by example
21 here. And it would demonstrate a positive image of how
22 we conduct our own operations, and therefore give us a

1 little leverage going out to the field asking if they
2 might consider the same thing.

3 Plus there are lots of folks that will
4 volunteer if you know them and if you have an ability
5 to contact them. And we could absolutely help
6 facilitate some of that if we were asked.

7 So, having said that, I would -- unless there
8 are other questions --

9 MR. FUENTES: Robert, I'd like to give a
10 little input here.

11 CHAIRMAN GREY: Sure.

12 MR. FUENTES: This is Tom Fuentes. Can you
13 hear me?

14 CHAIRMAN GREY: Yes. Go ahead.

15 MR. FUENTES: Thanks so much. I can certainly
16 see the benefit of wise counsel and advice of
17 professionals in finance to the benefit of the Finance
18 Committee to have input, to have somebody from the
19 private sector share with us comment or input.

20 I have been an advocate, I think as colleagues
21 would tell you, for all my years on the board to
22 solicit a broader input from more perspectives and

1 comment on the work of the LSC board.

2 I do not, though -- and I feel very strongly
3 about this -- I do not believe that a board member,
4 membership with a vote, is appropriate at all. The
5 members of the board and of the Finance Committee have
6 been appointed by the President of the United States
7 and confirmed by the Senate of the United States. This
8 is a democratic process that gives us authority, and
9 that authority comes from the people.

10 There are many matters that come before the
11 Finance Committee that are voted on on a two to three
12 or one vote margin. I certainly would not want my vote
13 to be overcome by a non-duly appointed and confirmed
14 outside volunteer member.

15 I think the input is great. I think I want to
16 have the benefit of not only this gentleman, but
17 others, but certainly not to put an appointee in a
18 position of having a vote on the Finance Committee
19 countermand mine or yours or any of our colleagues
20 appointed by the President and duly confirmed by the
21 Senate.

22 CHAIRMAN GREY: I appreciate that, Tom.

1 Here's a thought, and I would ask the committee to
2 consider it. First of all, this person does not vote
3 as a board member, and so any action taken on behalf of
4 the Corporation is going to be taken by the board and
5 not the committee. That's the first --

6 MR. FUENTES: But the recommendations of the
7 Finance Committee are oftentimes deferred to by the
8 board. This is very influential and significant
9 actions that the Finance Committee takes in conveying
10 opinion, its opinion and its position, to the board.
11 And that should be duly appointed and confirmed
12 members.

13 CHAIRMAN GREY: Well, I think this is a great
14 point for us to agree that we might disagree. And the
15 point is this, that this is information. And it is an
16 analysis that would aid the board's consideration of
17 financial matters where we have the experience and
18 expertise of someone who has been doing this all their
19 lives.

20 We have not. And while we are appointed by
21 the President and given the authority and
22 responsibility to administer the affairs of the

1 Corporation, this is an advisory function. It's an
2 opportunity for us to excel at that function by having
3 the expertise necessary to create the analysis to
4 advise the board.

5 And so I offer that as a consideration as we
6 talk about the status of this particular person.

7 MR. FUENTES: Robert, what is the gentleman's
8 politics? What is his registration?

9 CHAIRMAN GREY: You know, I did not ask him
10 his registration. But if you would like --

11 MR. FUENTES: In the creation of the board,
12 since the day that President Nixon signed this
13 legislation to allow the creation of legal services
14 boards here in Orange County, California, my home town,
15 there was a very significant interest given to this in
16 terms of six members of the President's party and five
17 members not of the President's party, so it would be
18 representative and balanced and have a reflection of
19 the great two-party system.

20 And our membership is partisan, for a very
21 significant reason, and that balance is supposed to be
22 reflected in the committees as well. And I think we're

1 playing with very serious game-changing here,
2 rule-changing, by giving a vote to somebody not
3 appointed by the President, not confirmed by the
4 Senate, without the democratic authority as its basis
5 of motivation.

6 Happy to have his input and the input of
7 others. Maybe we can find another person of some
8 knowledge and skill to pay in such a role, too. But
9 I'm not prepared to give away the importance and
10 significance of my vote granted by the President of the
11 United States, and I don't think any member on our
12 board should do that, either.

13 CHAIRMAN GREY: Well, it's not a board vote,
14 Tom. You mix a little apples and oranges, but I if
15 guess that's what you want to do, that's fine.

16 JUDGE SINGLETON: Mr. Chairman, may I ask Mr.
17 Fuentes a question? He said that the committees were
18 also to reflect a balance between the political
19 parties. I was not aware of that, and I'm wondering
20 where that requirement is.

21 MR. FUENTES: Sarah, I do not suggest it was a
22 requirement. I suggest that it has been the protocol

1 reflected during all our service, to have members from
2 both parties on the board; and that it takes its
3 grounding from the nature of the bipartisan
4 appointments in the general board; and that to add,
5 yet, from the outside a member of one party or another
6 can put that askew.

7 CHAIRMAN GREY: Martha?

8 DEAN MINOW: Martha Minow. I don't have a dog
9 in this fight. I don't have a strong view about it.
10 It does strike me that, actually, it might reduce the
11 power of the one person involved in the discussion who
12 has the technical expertise to treat that person as a
13 voting member rather than a consulting expert, which he
14 would be if he did not have a vote.

15 So it just -- it would seem to me possible
16 that he presents what his point of view is. If we
17 disagree, we take a vote. He only has one vote, as
18 opposed to he doesn't have a vote, but he's the only
19 person in the room who understands certified accounting
20 practices. I think that would give him more power.

21 And so, as I understand it -- tell me if I'm
22 wrong, Mr. Chairman -- this committee makes no votes

1 that are binding, ever. It's only a recommendation to
2 the full board. The full board would know who voted
3 which way. And I may be wrong, but my intuition is it
4 would reduce the influence to give him a vote rather
5 than to treat him as an expert.

6 JUDGE SINGLETON: Mr. Chairman, I have a
7 further inquiry.

8 CHAIRMAN GREY: Yes.

9 JUDGE SINGLETON: This committee, probably
10 less than the other committees, goes into closed
11 sessions. But if it were to go into a closed session,
12 would a person who was in an advisory capacity be
13 allowed to attend?

14 CHAIRMAN GREY: That's a good question.

15 PRESIDENT FORTUNO: Yes. The
16 committee -- even if the person were not a member of
17 the committee, it's the committee that determines who
18 they have in that session with them.

19 CHAIRMAN GREY: The answer is he could.

20 JUDGE SINGLETON: And if for some reason,
21 let's say, there was some issue, say, that might
22 involve litigation, Vic would -- we would not be

1 waiving the privilege to ask an advisory person into
2 the session?

3 PRESIDENT FORTUNO: That's a different
4 question. And it would, I think, hinge on whether he
5 was an agent of the Corporation. I think folks might
6 differ, but I'm inclined -- my initial reaction is
7 inclined to be that if he is brought in for purposes of
8 facilitating the decision and the discussion with
9 counsel, it seems to me that he would be covered by the
10 privilege.

11 JUDGE SINGLETON: Okay. Thank you.

12 CHAIRMAN GREY: Is there a motion?

13 M O T I O N

14 DEAN MINOW: Well, I move -- it's Martha
15 Minow -- I move that we appoint -- tell me his name
16 again?

17 CHAIRMAN GREY: Robert Henley.

18 DEAN MINOW: -- Robert Hilton (sic) to --

19 CHAIRMAN GREY: Henley.

20 DEAN MINOW: -- Hillen (sic) to be a member of
21 this committee who has a voting power. Again, I don't
22 feel strongly about it, but I've offered my

1 interpretation of what that would mean.

2 CHAIRMAN GREY: Is there a second? The motion
3 is that Robert Henley be made a member of the committee
4 of finance as a voting member. Is there a second?

5 (No response.)

6 MR. FUENTES: Order of the day, Mr. Chairman.
7 The matter dies for lack of a second.

8 CHAIRMAN GREY: Is there a substitute motion?

9 M O T I O N

10 DEAN MINOW: A substitute motion is that I
11 move that we appoint Robert Henley to be a member who
12 does not have a vote.

13 CHAIRMAN GREY: Is there a second?

14 JUDGE SINGLETON: Second.

15 CHAIRMAN GREY: All in favor say aye.

16 MR. FUENTES: Mr. Chairman, I wish to amend
17 the motion. I wish to strike the word "member" and add
18 the word "advisor."

19 CHAIRMAN GREY: There's a motion to amend the
20 motion. Is there a second?

21 (No response.)

22 DEAN MINOW: As I understand it --

1 CHAIRMAN GREY: Dies for lack of a second.

2 DEAN MINOW: As I understand it, the bylaws
3 allow us to appoint.

4 CHAIRMAN GREY: Is there any other discussion?
5 (No response.)

6 CHAIRMAN GREY: All in favor say aye.

7 (A chorus of ayes.)

8 CHAIRMAN GREY: Mr. Chairman, there will be a
9 recommend for you to appoint Mr. Henley.

10 Next item.

11 MR. FUENTES: Excuse me. Excuse me, Mr.
12 Chairman. Here in California -- I don't know if it's
13 the case in Chicago -- but we call for no votes as well
14 as aye votes.

15 CHAIRMAN GREY: How would you like your vote
16 recorded?

17 MR. FUENTES: No.

18 CHAIRMAN GREY: So noted.

19 MR. FUENTES: And more importantly, I'd like
20 to see both aye and nay votes requested by the chair.

21 CHAIRMAN GREY: Next item, a presentation of
22 LSC's financial report for the eight-month period. Mr.

1 Jeffress.

2 MR. JEFFRESS: I think David's going to take
3 the lead on this one.

4 CHAIRMAN GREY: David's going to do it?

5 MR. RICHARDSON: Page 102 of your board book
6 is the information that we discussed during the
7 telephone briefing on July 21st. At that meeting, I
8 went through the budget and the variances, the expenses
9 to date, and I also laid out what made up the variances
10 in each line. I discussed in very general detail the
11 amount of carryover within management and grants
12 oversight, and that is laid out on page 103 and 104 at
13 the top.

14 Rather than go through the information, since
15 we've already had the telephone briefing, I'd just like
16 to ask if there's any questions about the information
17 and present the report to you, and ask that you approve
18 the report as presented.

19 CHAIRMAN GREY: Any questions of the
20 treasurer?

21 (No response.)

22 CHAIRMAN GREY: Is there a

1 recommendation -- is there a motion that we
2 recommend -- is this an action item?

3 MR. RICHARDSON: It is not.

4 CHAIRMAN GREY: Okay. Item 5?

5 MR. RICHARDSON: Item 5 is our consolidated
6 operating budget review. As we've discussed in the
7 telephone briefing, the president has authority to make
8 certain budgetary adjustments, which he has approved.
9 That is shown on page 111 of your board book.

10 There are two items that require board
11 approval. We have been looking at videoconferencing
12 equipment. This equipment will provide a limited basis
13 for us to be able to do some videoconferencing with the
14 board, for training, and other activities around the
15 around the Corporation as we see a need for it.

16 We originally put a very small amount in the
17 budget, just sort of to get started with the process.
18 Our Office of Information Technology has solicited
19 input from different people in the area who are
20 specialists in this field, and feels that he would need
21 approximately \$130,000 for this endeavor.

22 To be able to do that, we're going to need a

1 transfer of money from our contingency fund to the
2 capital expenditure line within Office of Information
3 Technology, and that's \$95,000. That is above the
4 president's limit, so we're going to ask that the board
5 in the resolution approve that reallocation of funds,
6 that internal budgetary adjustment, as we term it our
7 technology -- or terminology.

8 Additionally, this time each of year we're
9 looking at the Technology Initiative Grants. And we
10 have entered into a partnership the last few years with
11 the State Justice Institute where they have provided us
12 additional funds. Last year it was over \$300,000.
13 Before that, it was over \$300,000.

14 This year it looks like it's going to be
15 \$270,000. However, the amount could be changed. So
16 what we're asking in the resolution that's before you
17 is to increase the budget \$270,000, but also give us
18 the authority if that number changes either to increase
19 or decrease, as may be needed, so that we can make the
20 appropriate amount of grants, is that we adjust the
21 budget.

22 And of course, that would be reported to you,

1 but it would give us the opportunity to be able to
2 respond to changing priorities and changing amount of
3 monies that would come in to the Corporation from the
4 State Justice Institute.

5 The resolution is set out on page 115 of your
6 board book. The first "Whereas" provides you the
7 information as to what makes up our budget at this
8 point, with the appropriation and the carryover, the
9 Court of Veterans Appeals money. It is broken out by
10 budget line. It asks that you move the \$95,000 in the
11 third "Whereas."

12 I should go back to the second one. It talks
13 about the videoconferencing materials, the capital
14 equipment that's needed. And we then talk about the
15 \$95,000 adjustment. It also then talks about the State
16 Justice Institute funds, the \$270,000, and the
17 "Resolved" asks that you approves that, approve the 270
18 and also approve giving us the authority to make
19 whatever adjustment that may be needed so that we can
20 respond appropriately in making our grants.

21 CHAIRMAN GREY: Questions?

22 DEAN MINOW: I have a question. Is there a

1 reason why, on the second adjustment, we wouldn't
2 simply adopt a resolution permitting an increase of the
3 budget to \$300,000 should there be an increase of
4 funding from the State Justice Institute, rather than
5 leave it an ambiguous and open-ended provision?

6 MR. RICHARDSON: The only reason that I asked
7 that it be done this way is a couple years ago they
8 said they were going to give us \$300,000 and it ended
9 up being \$320,000. So we had to end up doing a
10 telephone meeting to have board approval to make the
11 change and then to be able to make the appropriate
12 awards.

13 DEAN MINOW: Well, why can't we have it then
14 specify to the number that the Justice Institute gives
15 us? I mean, I just don't understand why we would have
16 an open-ended resolution.

17 MR. JEFFRESS: We don't know the number yet.

18 DEAN MINOW: I understand. We could use the
19 language that says "to the number that the authorize."

20 MR. JEFFRESS: Oh, okay.

21 CHAIRMAN GREY: Is that a friendly amendment?

22 DEAN MINOW: Yes. So I propose that as an

1 amendment.

2 MR. JEFFRESS: Allocate in the amount of
3 whatever is provided by the State Justice?

4 DEAN MINOW: Correct. Correct.

5 CHAIRMAN GREY: Further discussion on the
6 resolution?

7 (No response.)

8 CHAIRMAN GREY: All in favor of the resolution
9 as it's proposed to be amended say aye.

10 (A chorus of ayes.)

11 CHAIRMAN GREY: Opposed?

12 (No response.)

13 CHAIRMAN GREY: Okay. Continue.

14 MR. JEFFRESS: I think that's the end of item
15 6 -- item 5, excuse me. Next is item 6, consider and
16 act on proposed 2010 pay increase. The president sent
17 you a memorandum on the proposed pay increase. It is
18 in your board book at page 118.

19 Vic, do you want to take the lead or do you
20 want me to --

21 PRESIDENT FORTUNO: Why don't you go ahead.

22 MR. JEFFRESS: I'll give you the background on

1 it; then if others want to chip in, they may.

2 There was no pay increase awarded to LSC
3 employees so far in calendar year 2010; When the board
4 approved the budget in November, the board approved up
5 to 4 percent in the budget for pay increases, but
6 reserved that until further consideration of a
7 recommendation by management and approval by the board.

8 The recommendation that comes to you is based
9 on being comparable to what the federal government has
10 paid, with consideration to where LSC stands with
11 respect to the federal government on locality pay.

12 In considering what kind of pay increase was
13 appropriate this year, the across-the-board increase
14 which the federal government received -- look at the
15 attachment to the memo, which is on page 20 -- the
16 general across-the-board increase the federal
17 government received in 2010 was 1.5 percent, and the
18 federal government is our -- kind of sets the standard
19 for the marketplace in the Washington, D.C. area. So
20 that's what we use as a reference point.

21 So the recommendation from the president is to
22 also have an across-the-board increase for LSC

1 employees of 1.5 percent, the same as the federal.

2 When it comes to the locality pay component of
3 LSC pay, LSC currently is paying 17.1 percent in
4 locally pay. The federal government is paying 24.22
5 percent We don't propose to come up to the same amount
6 that the federal government is, but we do note that we
7 are significantly behind and lower than the federal
8 government in terms of locality pay.

9 So the president has proposed to you that we
10 increase locality pay this year by 2 percent to bring
11 it to 19.1. So there would be an across-the-board
12 increase of 1.5 and locality pay increase of 2 percent.

13 It looks like that's a 3.5 percent increase.
14 Because locality pay is actually a percentage of your
15 base pay, it calculates for employees to about a 3.23
16 percent increase in pay for calendar year 2010. That's
17 the recommendation from management to you.

18 The inspector general, of course, is required
19 to be consulted with in any kind of pay increase to
20 you. We did consult with the inspector general. We
21 went through a lot of discussions over performance pay,
22 whether that should be a component of this. We looked

1 at our handbook.

2 After considering all of the various concerns
3 and options, we felt like this was the best proposed
4 policy for this year. Performance pay continues to be
5 something that the president and the Corporation
6 believe in and support. With an across-the-board
7 increase of only 1.5 percent, it really doesn't allow
8 it to be split up into smaller percentages very well
9 for performance pay and really mean anything.

10 So it didn't seem that it would be useful at
11 all, and as a matter of fact, might be
12 counterproductive to try to divide that 1.5 percent
13 into smaller increments for performance pay.

14 And as I say, this was discussed thoroughly
15 with the inspector general at the time before it was
16 presented to you. I know he may have had some further
17 thoughts on the subject, and certainly want to invite
18 him to comment on it at this time.

19 MR. SCHANZ: This is Jeff Schanz, for the
20 record, the inspector general. I agree with rewarding
21 employees. They're the ones that do the tough work
22 that we all take credit for. And I will state

1 emphatically, like I have in the past two years since
2 I've been here, the need for performance-based pay.

3 Regardless of the amount and whether the pie
4 is small, I think that is a tremendous way to motivate
5 employees. I agree with as much as we can possibly get
6 for the employees within the legislation and with the
7 statutory restrictions placed on the Corporation.

8 So I agree with the total amount that LSC is
9 asking for. I would get there a different way. I
10 would take locality pay and then the other pay on point
11 5. I would like to divide that into what has
12 traditionally, at least in my 30-plus years in
13 government, been outstanding, fully successful, and
14 excellent -- not in that order, but you could have a
15 percent of that 1.5 pie divvied up by your best
16 performers.

17 And I honestly don't think that your weakest
18 performers deserve a performance-based pay. That just
19 is intuitively sound to me, that the best people get
20 recognized.

21 So my bottom line, to clarify, is just that I
22 believe, yes, in the amount that we can get to our

1 employees in this competitive job market, and
2 we're -- in Washington where we're all headquartered,
3 there's tremendous competition for jobs. So I'd like
4 to make sure that our outstanding performers are
5 recognized as outstanding. And it's an increment -- a
6 very small increment, but it's something.

7 Thank you.

8 CHAIRMAN GREY: So what -- is there any
9 proposed difference in the language of the resolution?

10 MR. SCHANZ: Let me take a look at the
11 resolution, Mr. Chairman.

12 MR. JEFFRESS: Mr. Chairman, while he's doing
13 that --

14 CHAIRMAN GREY: Mr. Jeffress?

15 MR. JEFFRESS: Thank you, Mr. Chairman. While
16 he's doing that, if I might point out -- and Jeff and I
17 have had this conversation -- in our employee handbook,
18 there is also a provision for bonuses for employees who
19 have exceptional performance.

20 So if in fact there are some people who have
21 done exceptional work, taken on a special project
22 beyond their normal assignments, if they've done

1 something special, there is a provision whereby the
2 president on behalf of management, or the inspector
3 general for the Office of the Inspector General, can
4 award a bonus up to \$5,000 for that exceptional work.

5 That would be in addition to performance pay.

6 It has not been used -- I mean, in addition to the
7 across-the-board increase. That has not been used on
8 the management side of the house in past years. It has
9 been used on inspector general side of the house in
10 past years. And it would be available this year as
11 well.

12 CHAIRMAN GREY: Does that sound compatible
13 with your thoughts, Mr. Inspector General?

14 MR. SCHANZ: To a degree, Mr. Chairman. I
15 honestly think that in order to run an organization,
16 there has to be a performance modality to that. In the
17 federal government, it's called the Government Results
18 and Performance Act that has been instituted and
19 requires performance measures of programs, of
20 functions, and of employees. And that's my historic
21 background that I'm very used to and familiar with.

22 But I would like to go on the record to say

1 that I believe that performance-based pay is the wave
2 of the future and is something that LSC is behind on.
3 But I will agree with the dollar amounts as presented,
4 yes.

5 CHAIRMAN GREY: You have no comment on the
6 resolution itself?

7 MR. SCHANZ: Well, I don't see a resolution,
8 Mr. Chairman. I see a memo on page 118 from the
9 president of the Corporation to the board. I don't
10 believe there's a resolution appended to that.

11 CHAIRMAN GREY: Your only comment is that we
12 consider performance-based pay based on the criteria
13 that you outlined?

14 MR. SCHANZ: I'd like that to be presented to
15 the full board. Yes, sir.

16 CHAIRMAN GREY: Mr. Jeffress?

17 MR. JEFFRESS: Again, we had lengthy
18 discussions on this with the inspector general prior to
19 making this recommendation to you. And treat,
20 actually, we thought we were all in agreement.
21 Obviously, the inspector general has had some second
22 thoughts on this subject.

1 But I think the president's recommendation
2 stands, even having heard these second thoughts this
3 week from the inspector general, that we think the best
4 and most appropriate policy for the Corporation for
5 this year is that it cross the board at 1.5 and the
6 locality at 2 percent.

7 CHAIRMAN GREY: Martha?

8 DEAN MINOW: Martha Minow. I myself think
9 that performance pay is an important principle in
10 managing any organization. And I'm struck by the fact
11 that last year there was no across-the-board raise,
12 only an increase in the locality.

13 And I wonder, since we are still well below
14 the Washington, D.C. locality average that the
15 government uses, if we could take the amount -- so it's
16 in some sense similar to what the inspector general is
17 saying -- have the same bottom line in terms of the
18 budget hit, but have it all appear in the locality pay
19 increase this year pending the appointment of a
20 permanent president.

21 I think it might make sense not to go down the
22 road of having an across-the-board raise and preserve

1 the option of turning to the performance pay, which as
2 I understand is something we have one in the past. So
3 that's what I would propose. I don't think there's a
4 resolution involved.

5 CHAIRMAN GREY: No.

6 PRESIDENT FORTUNO: Just for a motion.

7 CHAIRMAN GREY: MR. President?

8 PRESIDENT FORTUNO: I should note that the
9 plan at this point is to return to the performance pay
10 model next year for this year. It is of course being
11 discussed with the union representatives because we now
12 have a union and are mindful of the need for certain
13 things to be negotiated and bargained over.

14 But our plan is to continue to resume the
15 performance-based model starting next year, next year's
16 evaluations for this year. And I think that in terms
17 of accomplishing this, that you've heard the
18 recommendation. You've heard, I think, the very wise
19 suggestion of Dean Minow. And I think all it would
20 required is a motion.

21 And you can provide direction to us,
22 authorization to proceed, however you decide. I think

1 Mr. Jeffress has something.

2 CHAIRMAN GREY: Mr. Jeffress?

3 MR. JEFFRESS: Mr. Chairman, just one point in
4 response to Dean Minow, if I may. Having the entire
5 raise in locality pay was considered this year as it
6 was last year, and carried out last year.

7 One of the concerns, I think, on behalf of the
8 staff was because, again, for better or worse, we're
9 often compared to the federal government and tracked by
10 the federal government. In a year when the cost of
11 living and locality pay did not increase very much on
12 the federal side -- 1.1 percent is what they increased
13 on the federal side -- the increase to LSC looking to
14 pay about 4 percent seemed to stand out to us as an
15 anomaly.

16 Admittedly, we'd still be 4 or 5 percent
17 behind the federal locality pay. But it still stands
18 out as a substantial jump, more than what the federal
19 government offered this year. And I think in terms of
20 presenting our best face on Capitol Hill, there was a
21 concern that we not stand out as an anomaly.

22 So tracking the federal 1.5 percent across the

1 board, which is the same as they did, and limiting our
2 locality to something less than 4 percent seemed to put
3 us in the best posture with respect to our funders in
4 Congress.

5 So I don't at all dispute the value in what
6 you say in terms of not raising the performance pay
7 issue. As Vic said, I think the Corporation is
8 committed to doing performance pay, and as the
9 inspector general would like to do. It is the right
10 thing to do.

11 For this year, with delayed appraisals, for
12 the fact that we're in negotiations with the union, it
13 seemed like the better decision was to go ahead with
14 across-the-board compatible to the feds rather than get
15 into the performance pay issue.

16 CHAIRMAN GREY: This, I think, is a timing
17 issue. This is about catching up right now. Is that
18 right?

19 MR. JEFFRESS: Yes, sir. I would hope that in
20 future years the Corporation would do this in January
21 rather than in July.

22 CHAIRMAN GREY: So I think this is not to

1 disregard the idea of performance pay. This is an idea
2 to try to get us back to square one. And for that
3 reason, I think it is all consistent, what everyone has
4 said, to the point. So I think we are on track that it
5 is important for this particular round that we get
6 everybody back to square one and that, looking forward,
7 that we think about the importance of the evaluation of
8 performance-based incentives for future budgets.

9 Any other thoughts or --

10 MR. FUENTES: Mr. Chairman, this is Tom
11 Fuentes. I certainly concur that the Corporation ought
12 to give emphasis to performance evaluations and
13 rewarding performance, and to get away from
14 across-the-board increases.

15 But this conversation began with sort of a
16 naturalness of Washington-speak that we just give
17 raises because the time of year comes along to give
18 raises.

19 Out here in the provinces, law firms are
20 laying off people. It was announced yesterday that the
21 recession is far deeper than the government has
22 previously announced. Taxpayers are in the streets

1 because government people are rewarded while people in
2 the private sector are stuffing.

3 I just don't think that it's appropriate at
4 all to be talking about raises this year in this
5 national recession and these difficult times. So I'm
6 going to be voting no if something comes up because I
7 just think it's inappropriate to be talking about
8 raises for government workers or government-related
9 workers in this time in our nation's history. Thank
10 you.

11 CHAIRMAN GREY: Item No. 7.

12 MR. SCHANZ: Before we move on, Mr. Chairman,
13 I'd like to correct the record from a statement that
14 Mr. Jeffress made. The IG has never had second
15 thoughts on performance-based pay. I came in the door
16 with that notion, and today, I have not wavered from
17 that position one iota.

18 CHAIRMAN GREY: Thank you.

19 MR. SCHANZ: Thank you.

20 CHAIRMAN GREY: Item 7?

21 MR. RICHARDSON: Temporary operating budget.

22 This is the -- this series of meetings is the last

1 scheduled meeting before the beginning of the new year.

2 There's no resolution for the last item, but there
3 should be a recommendation from the committee as to
4 which way to move forward for the board to vote on.

5 CHAIRMAN GREY: Yes. All right. Is there a
6 motion on the recommendation by the CAO?

7 (No response.)

8 CHAIRMAN GREY: Item No. 7.

9 MR. RICHARDSON: Okay. This is the last
10 series meetings before October 1, the beginning of the
11 new fiscal year. Because of that we come to you asking
12 for temporary operating authority to begin the fiscal
13 year on October 1, and then when we have our meetings
14 in October, we will present to you a temporary
15 operating budget which will include a projection of
16 carryover and the appropriation or the continuing
17 resolution, if that's what we are operating under, at
18 that time.

19 The resolution for this is set out on page
20 122. And basically, what I have already done is last
21 year we had an appropriation of \$420 million. I have
22 estimated at this point that we're going to have

1 carryover of \$6 million. So we're asking for temporary
2 operating authority with a budget of \$426 million to
3 begin the year so that we can then come back to you in
4 October with a full temporary operating budget.

5 CHAIRMAN GREY: Any questions on the
6 resolution?

7 (No response.)

8 CHAIRMAN GREY: All in favor say aye.

9 (A chorus of ayes.)

10 CHAIRMAN GREY: All opposed?

11 (No response.)

12 CHAIRMAN GREY: Item No. 8.

13 MR. JEFFRESS: Thank you, Mr. Chairman. This
14 is Charles Jeffress. At the telephone briefing of the
15 committee last week, we discussed the process for
16 management coming to you in September for a recommended
17 request to Congress for fiscal year 2012.

18 That meeting is currently scheduled for
19 September 21st in Washington, and at that meeting
20 management will make a recommendation to you as to how
21 you should proceed, or what management recommends for
22 the fiscal year 2012 budget request.

1 However, management is considering how to
2 present that to you. One of the things that I pointed
3 out was in the past few years, based on the Justice Gap
4 report and discussions by the previous board, there
5 seemed to be a pretty clear direction that the board
6 was going in terms of what kinds of budget requests to
7 make to Congress.

8 And so management came to the board the past
9 four years with a very specific number for basic field
10 grants, a specific number for management, a specific
11 number for LRAP, for TIG, and the inspector general
12 came forward with a number for the Office of the
13 Inspector General.

14 This year, considering that it's a new board,
15 you may have new priorities. The Justice Gap is not
16 your document, even though it's clearly the
17 Corporation's document. It appeared that perhaps this
18 wasn't the time to come forward with one number, but
19 rather that management should come to you with a couple
20 of -- two or three different options, depending on
21 which direction you wish to take the Corporation.

22 And I requested during that telephone briefing

1 that if you all had thoughts on the best way for
2 management to come forward, this would be a good time
3 for you to express them to us and give us some
4 direction. I think the president will have to make
5 that final decision as to how to come to you, but if
6 you had any thoughts on how you would like to have the
7 proposed budget request presented to you, we would
8 welcome your input and advice at this time.

9 CHAIRMAN GREY: Any comments from the
10 committee?

11 (No response.)

12 CHAIRMAN GREY: Mr. Jeffress, I think it's
13 important that the committee, inasmuch as it is new, be
14 given the opportunity to see a full menu of options
15 rather than be directed down one road or another. And
16 so unless my committee members object, I would like to
17 see us given a menu of options with which to consider
18 so that we might be better informed about which to
19 pursue.

20 MR. JEFFRESS: It certainly makes sense to me
21 as well. In the course of that, typically options come
22 in with -- and let's take basic field because that's

1 the big number and that's where the most difficulty
2 lies in deciding what the right amount is to ask for.

3 You heard the executive directors say
4 yesterday they would hate to see this board back off of
5 the posture that the previous board had taken with
6 respect to trying to close the justice gap and getting
7 more appropriations. Clearly, hearing that from the
8 field, management, I think, would feel like one of the
9 options that you should consider is something
10 consistent with the past.

11 The White House is sending signals that this
12 is a terrible budget year, and maybe for the next few
13 years. And clearly, the Corporation would have to
14 consider what would a stand pat or slight increase
15 budget look like? I mean, clearly there would have to
16 be options as well. There may be others to be
17 presented.

18 But I could see management coming to you with
19 those kinds of different options. But that would
20 require you all to have some debate and reach some
21 consensus. And I would encourage you to be giving some
22 thought to that so that we don't come to September 21st

1 without having had some thoughts added.

2 MR. LEVI: Well, let me just also remind you,
3 in addition to the field, Senator Harkin and his
4 committee have signaled, and so have Bobby Scott and
5 their committee, what they think about where this
6 number ought to be five years from now.

7 And you and management ought to be considering
8 that, too, that we don't undermine folks who are also
9 championing our -- and I also should say that this
10 is -- while I recognize it is a tough budget year, it
11 is also, therefore, a very tough year for people in the
12 country and who need legal assistance. And more and
13 more of them need legal assistance.

14 And the cause of access to justice is
15 not -- while we heard some discussion about
16 partisanship earlier, I do not regard it as a partisan
17 issue. I believe it is an issue that, across the
18 country, there is gathering support across a whole wide
19 range of folks. And it's our responsibility to also
20 think about what we need to do. And as a part of your
21 process, I hope you consider that.

22 MR. RICHARDSON: Additional, from the last

1 couple of years, we've actually put in the Federal
2 Register a notice asking people to respond to what they
3 feel the need that we should ask for also. We receive,
4 each year, information from the ABA, the Standing
5 Committee on Legal Aid and Indigent Defendants. They
6 provide information to us. And of course, the national
7 NLADA provides information to us.

8 MR. LEVI: But anybody else could, too.

9 MR. RICHARDSON: Absolutely. We've solicited
10 AARP and other folks to come forward. It's just
11 usually these that will respond and provide us some
12 information.

13 In setting this up, perhaps again we can have
14 some telephone dialogue, provide some ranges of
15 information, provide you some history as to what they
16 provided us last year as far as their budget request,
17 and provide you more information in your
18 decision-making to come forward with a budget request
19 or a budget mark at the September meeting.

20 And that's what we're hoping to do at this
21 point, is to solicit your guidance. And we'll be
22 providing you some information also.

1 CHAIRMAN GREY: I think that would be very
2 helpful. And in furtherance of the chairman's
3 thoughts, it is important -- and I think, based on the
4 conversations that we had with the directors yesterday,
5 it's important for us to be very clear about the
6 importance of the funding necessary for the delivery of
7 services through this Corporation.

8 MR. RICHARDSON: Another thing that would
9 impact the management and grants oversight budget is
10 initiatives that you as a board would like to
11 undertake. We build our budget based on the
12 information we know, the activities that we know we're
13 going to undertake -- the travel to the programs,
14 whether it be the program performance staff or the
15 compliance and enforcement staff.

16 But if there's a new initiative that you would
17 like to do -- a training initiative, or I heard
18 information in regards to a vets project -- we need
19 that type of information so that we can include what it
20 would cost to run those projects and get that money so
21 that we can move forward with those.

22 I'm not saying that we'll get it when it comes

1 appropriation time. But yet we can make the case for
2 it.

3 CHAIRMAN GREY: Vic?

4 MR. MADDOX: Thank you, Mr. Chairman. I just
5 want to respond to Chairman Levi's comments a moment
6 ago.

7 I also don't believe that our work is in any
8 way a partisan effort or that the mission of the Legal
9 Services Corporation is partisan. However, I'd want to
10 make a note for the record that I believe the history,
11 the 40-year history prepared by the Legal Action of
12 Wisconsin group and presented to the board yesterday by
13 Mr. Ebbott was a highly partisan document.

14 And I read it in total yesterday. I was
15 surprised and, to some extent, offended by it. I
16 believe it was insulting to the higher leadership and
17 management of the Legal Services Corporation, including
18 its prior boards, and most of its executive leadership,
19 at least through the period of the '80s and most of the
20 '90s.

21 And I think that that's the sort of thing that
22 we really need to stay away from as we go through these

1 meetings. Frankly, it was very much a surprise to me,
2 and I just encourage everyone on the board to read it
3 at their own leisure. Thank you.

4 CHAIRMAN GREY: Thank you. Any further
5 comments?

6 (No response.)

7 CHAIRMAN GREY: I think you have the
8 direction, and we appreciate your pursuing it in that
9 regard.

10 Item No. 10?

11 MR. JEFFRESS: Action No. 9, I think we're on.

12 CHAIRMAN GREY: Well, on the --

13 MR. JEFFRESS: 403(b)?

14 CHAIRMAN GREY: Yes.

15 MR. JEFFRESS: On the 403(b) plan, I'll ask
16 Alice Dickerson to come forward, our director of the
17 Office of Human Resources, on this; and also alert you,
18 I believe, that Mark Friedman from the Office of Legal
19 Affairs was to be on the telephone.

20 Mark, are you present?

21 MR. FRIEDMAN: I am here. This is Mark.

22 MR. JEFFRESS: Thank you very much. There are

1 actually two 403(b) issues to present to you this
2 morning. One will require your action. The other
3 doesn't require your action, but we wanted to let you
4 know where we stood on it.

5 The first one, with respect to requiring your
6 action, regards the amount of loans, the number of
7 loans that LSC employees are permitted to take against
8 their own investment, their own contributions and the
9 Corporation's share of the contributions to the 403(b)
10 plan.

11 Our plan policy document that was adopted when
12 we changed providers to AUL effective at the beginning
13 of 2009 -- actually, it was adopted in 2008, I
14 guess -- provided that there be a maximum of five loans
15 that individuals could take against their investments.

16 And that is currently in our plan document, that there
17 be a maximum of five loans that individuals take.

18 However, we had a previous plan with Mutual of
19 America that allowed employees to take an unlimited
20 number of loans. Now, there are some IRS rules as to
21 how much you can take -- I'm going to say to
22 thousand -- and the percentage of your investment that

1 you can take out as loans. And we continue to make
2 sure that employees don't take out loans greater than
3 allowed by the IRS rules.

4 However, because the previous plan allowed
5 unlimited loans, we have not been checking -- we will
6 now -- we have not been checking the number of loans
7 that an individual actually had. And earlier this
8 year, an individual, we discovered, who had been a
9 participant of the previous Mutual of America plan got
10 a sixth loan against their investments.

11 So we now have one employee who has six loans,
12 whereas the plan document says employees may only have
13 five loans. We would like not to be out of compliance
14 with our own plan document. We have instituted a
15 process within the Office of Human Resources not only
16 now to check the amount, the total amount of loans, and
17 to check the percentage of loan against what's
18 invested, but also to check the number of loans that an
19 individual may have.

20 However, since we are out of compliance at
21 this point with our purchase document, we are asking
22 that you amend the plan document for this year to allow

1 employees to take a maximum of six loans, and make this
2 effective for this plan year, which began January 1,
3 2010.

4 CHAIRMAN GREY: The plan would be also that we
5 could and might be encourage to go back to five. Is
6 that correct?

7 MS. DICKERSON: Yes.

8 MR. JEFFRESS: Yes. Let me ask Alice to
9 comment a little on this.

10 CHAIRMAN GREY: That would be great.

11 MS. DICKERSON: Okay. Yes. We spoke with
12 outside benefits counsel on this issue, and he agreed
13 that for this year, the best course of action is to
14 increase the number of loans so that when the plan is
15 audited next year, we are not found to be out of
16 compliance with our plan document.

17 We can at any point we choose to after this
18 make another amendment and take the number back to
19 five.

20 CHAIRMAN GREY: Any questions on behalf of the
21 committee?

22 (No response.)

1 CHAIRMAN GREY: Is there a motion to adopt the
2 resolution to amend the plan?

3 M O T I O N

4 DEAN MINOW: I so move.

5 CHAIRMAN GREY: Is there a second?

6 MR. FUENTES: Second the motion.

7 CHAIRMAN GREY: Thank you. All in favor?

8 JUDGE SINGLETON: May I make a friendly
9 amendment, that we change our motion to read that we
10 recommend that the board adopt the resolution?

11 MR. FUENTES: Accept the amendment.

12 CHAIRMAN GREY: Yes.

13 MR. JEFFRESS: Okay. Thank you. And the
14 second --

15 CHAIRMAN GREY: Let me just -- all in favor
16 say aye.

17 (A chorus of ayes.)

18 CHAIRMAN GREY: All opposed, no.

19 (No response.)

20 CHAIRMAN GREY: The amendment's adopted. The
21 resolution is adopted.

22 MR. JEFFRESS: Thank you, Mr. Chairman. The

1 second 403(b) issues does not require your action, and
2 it will be briefing -- it's on the agenda for the audit
3 committee as well. But I want just for the record,
4 since it may involve some action in the future,
5 depending on the resolution, I would give you just a
6 heads-up briefing on this.

7 And that is, our 403(b) plan provider,
8 American United Life, has changed their investment
9 advisors. They were using a firm called Ibbotson;
10 they're now using a firm called Mesirow. So Mesirow is
11 now providing the advice to AUL in terms of what funds
12 to include in our plan.

13 With that switch, AUL is also proposing a
14 change in their fiduciary duty to us from what had been
15 in the plan. Currently, AUL shares fiduciary
16 responsibilities with us.

17 With their switch to Mesirow, they are
18 proposing to switch the fiduciary responsibility to
19 Mesirow. Mesirow is proposing to accept only a limited
20 part of the fiduciary responsibility, and we are still
21 working with AUL and Mesirow to try to define this in
22 the best possible light for the Corporation.

1 And I give you that heads up because Mark
2 Friedman, who's on the telephone with us from the
3 Office of Legal Affairs, is leading the discussion with
4 the AUL representatives on this issue. It's not ripe
5 for action at the moment, but in the interests of
6 keeping the board informed, we wanted to let you know
7 that should this discussion lead to, in fact, a change
8 in the 403(b) plan regarding fiduciary responsibility,
9 it will be the finance committee that will have to make
10 the decision on what changes to the plan, if any, to
11 make.

12 So I give you that heads up. Again, it's
13 going to be more fully briefed to the Audit Committee.

14 If you'd like more information at this time, we can
15 provide it. But it's more in the nature of a heads up
16 for the next meeting than anything that I'd ask your
17 action on at the moment.

18 MR. MEITES: Let me remind the new board
19 members that an argument can be made that we as board
20 members are, personally, fiduciaries of this plan. So
21 listen up when the word "fiduciary" is mentioned.

22 DEAN MINOW: I have a question. Martha Minow.

1 If Mesirow will not assume the full scope of the
2 fiduciary duties, is there another candidate who's also
3 being considered that would?

4 MR. JEFFRESS: And I'm going defer to Mark in
5 one minute. Let me just give you a kind of overview of
6 that. In previous plans, our plan provider did not
7 accept any fiduciary responsibilities, and the
8 Corporation had its fiduciary responsibility wholly
9 itself. So this move, with AUL, we welcomed. We
10 thought it was a wonderful thing. I'm not surprised to
11 see AUL now trying to in fact shift some of it.

12 But Mark, let me ask you to comment briefly,
13 if you will, on are there other options for additional
14 fiduciary assistance should -- once AUL divests itself
15 of the responsibility?

16 MR. FRIEDMAN: Thank you, Charles. With
17 regards to this particular issue, there isn't another
18 candidate, as it were. But this is also fairly narrow
19 in that it involves what's called a 321 investment
20 advisor fiduciary, which is kind of a new add-on.

21 And in our conversations with AUL, AUL has
22 informed us that they're offering separate

1 indemnification regarding the investment options that
2 they provide to us. So I think that we might
3 characterize this as we're entering an area where the
4 folks who are providing us with the investment options
5 are a little more likely to put their money where their
6 mouth is in terms of accepting some potential liability
7 for those choices, moreso than with at least the
8 official position in the past.

9 But exactly how that's going to shake out is
10 what we are trying to figure out. And I get the
11 feeling they're also trying to figure out what they
12 think is the best business model for this. And as we
13 get more information, we'll be able to pass that along.

14 Does that respond to your question?

15 DEAN MINOW: Yes. Thank you.

16 MS. DICKERSON: I would like to add to that,
17 our investment advisor has been working with us on this
18 as well. And he did find that there is fiduciary
19 insurance that was available to us, and that would cost
20 somewhere in the range of \$3,000 a year. So that is
21 another option.

22 CHAIRMAN GREY: Yes?

1 DEAN MINOW: I think we would want to be
2 covered one way or the other.

3 CHAIRMAN GREY: Anything else?

4 MS. DICKERSON: I think that's all.

5 CHAIRMAN GREY: The LRAP?

6 MR. JEFFRESS: Yes, sir, Mr. Chairman. I'll
7 ask Bristow Hardin to come forward. At the last
8 committee meeting in April, the committee wanted more
9 information on the LRAP program, more information on
10 the students that -- not students, the lawyers we
11 assisted with their loans.

12 And Bristow Hardin, in the Office of Program
13 Performance, has done some of our evaluations of this
14 LRAP program over the last few years, has prepared
15 both -- in your book, there is an overview of the
16 program that I know you've read. Some of you have seen
17 it before. There's also a summary of his evaluation
18 findings from past years, and he's prepared a brief
19 presentation, PowerPoint presentation, for you today on
20 it.

21 MR. HARDIN: Thank you, Charles. Again, for
22 the record, my name is Bristow Hardin from the Office

1 of Program Performance. Thank you, members of the
2 board.

3 Given the press of time, I will rather
4 accelerate this. I'm sure you will all understand the
5 value of that. And I will follow up by putting this in
6 a memo for the record.

7 Basically, I think you're familiar somewhat
8 with -- up here, you can see what I would propose to
9 cover today: The developing history of the program;
10 the current structure and eligibility; brief overview
11 of our findings and recent administrative refinements
12 that has been implemented to improve the program; our
13 administration; and also to the extent to which the
14 board would like to learn about them, the comparison
15 between the LSC LRAP, which is called the Herbert S.
16 Garten Loan Repayment Assistance Program -- that Mr.
17 Fuentes, under his recommendation, it was named for Mr.
18 Garten -- and finally, a comparison of these LRAPs if
19 you wanted to know the relative benefits and operations
20 thereof.

21 You know, perhaps, that it was established as
22 a pilot in 2006. It was institutionalized after the

1 data showed valuation -- showed clearly that an LRAP
2 substantially increased programs' ability to retain and
3 recruit staff.

4 Here I'll slip this slide because this lists
5 the annual appropriations and the number of
6 participants in each year. You can see appropriation
7 for the program, supporting the program, started in
8 2006. No appropriations in 2007 and 2008. Again, a
9 million dollars in FY '09 and FY '10 And you can see
10 in the right column the number of participants in each
11 year.

12 Next, just for the structure and eligibility,
13 the loans are \$5600 a year, renewable up to three years
14 total. So they can get a total loan of \$16,800. Loans
15 are forgiven when the attorney finishes a term of
16 service.

17 These are one-year annual renewable loans, so
18 one year in good standing, and in good standing is
19 certified by the program director where they work. The
20 loans are to repay law school loans and interest only.

21 No other loans.

22 Again, noted they must be a full-time employee

1 in good standing. Income and asset -- assets defined
2 as net worth -- ceilings are 55 grand and 35 grand,
3 respectively. And lastly, to be eligible, a person, a
4 participant, must have a law school loan debt of a
5 minimum of 50 grand.

6 We've done multiple evaluations after each
7 year. These were the evaluations of the initial class,
8 as we call them, and these were the individuals that
9 were first funded in fiscal year '06 or '07, which was
10 a total of 84 people.

11 The data sets we used to evaluate were
12 interviews of both the directors and the participating
13 attorneys -- I mean, surveys thereof; some interviews
14 of folks that dropped out of the program to find out
15 the reasons they dropped out; LSC administrative data
16 on loan amounts -- I mean, outstanding loan burdens
17 that people have; and finally, grantee employee
18 attrition data that compared the attrition rates from
19 programs of the employees that received an LRAP and
20 those that did not receive an LRAP. And those would be
21 people in the same programs that had the same levels of
22 experience, and also other programs that were, to an

1 extent, comparison programs of folks in those programs
2 that had a comparable level of experience.

3 Consistent findings: The attorneys reported
4 that the LRAP significantly increases the likelihood
5 they would join or remain with the program.

6 And something that we found in the most recent
7 go-round: Of those that had been with the program for
8 three years, over half of them that responded to our
9 survey indicated that it increased their retention
10 of -- to stay at a program after their LRAP assistance
11 ended because of factors such as, by that point, they
12 had a salary increase that enabled to better
13 maintain -- to meet their loan obligations and maintain
14 their -- have an adequate standard of living.

15 Because as you do know, our attorneys are much
16 less paid than any other attorneys, public or private.

17 And also in that time they were able to establish
18 relationships within the community and with their
19 colleagues, and to gain greater expertise.

20 The executive directors all reported that the
21 program was a great boon to them in recruiting and
22 retention. The attrition rates, as I indicated, were

1 fewer. Fewer attorneys that received LRAP left their
2 programs than those that had not an LRAP.

3 And then, finally, the factors that affected
4 retention and recruitment, I think, would not be
5 surprising -- first of all, financial factors, debt,
6 and low salaries, but also personal and family
7 considerations, that families would need to move
8 elsewhere, perhaps. The absence of job opportunities
9 and advancement opportunities in programs was a barrier
10 to some individuals, and those types of factors. But
11 overwhelmingly, it was the factors -- financial
12 factors.

13 Here, I'd just briefly note that the
14 participants total loan outstanding debt levels when
15 they join the program, close to \$80,000 was the median,
16 and the range was between, as you see, \$50,000,
17 slightly over \$50,000, and over \$217,000.

18 And you can see, secondly, their projected
19 loan payoff periods. Less than -- barely 17 percent
20 expected to pay their loans off within 10 years. And
21 then, going up, you can see that 62 percent projected
22 it would take them 21 years or more. Okay?

1 Annual loan payments, as you can see, 76
2 percent paid over \$5,000 in their loan amounts. The
3 reason that some paid less than that is because it
4 would have been a year that they were reconsolidating
5 their loans. And so that enabled them to pay more in
6 future years.

7 Here is one thing that I think that I've heard
8 raised as a concern by some members, and that is
9 whether the loan amount is sufficient to affect
10 recruitment and retention. And so we surveyed the
11 attorneys, and you can see that the question had to do
12 with what would be the loan amount, the minimum loan
13 amount that you would need to significantly increase
14 the likelihood that you would stay with your program
15 for more than three years.

16 So again, this is what would enable -- would
17 induce people to stay, significantly increase the
18 likelihood. And the responses varied from '08 to 2010
19 surveys for the simple reason that the cost of living
20 and impact of people's need for loan assistance
21 increased.

22 But in the first surveys, you can see that 73

1 percent would require the amount that was comparable to
2 or less than the amount of the LSC LRAP. In 2010
3 surveys, it showed approximately two-third of those
4 reporting the amount that they would need to
5 significantly increase the likelihood they would stay
6 would be comparable to the amount of the current
7 benefit level from the LSC LRAP.

8 MR. LEVI: Now, is that in a vacuum, though?
9 Because sometimes they could get that loan forgiveness,
10 and then they can get somebody else's --

11 MR. HARDIN: This is from all sources. This
12 is the total from all sources.

13 MR. LEVI: Oh, okay.

14 MR. HARDIN: Okay? Lastly -- or I should turn
15 to recent administrative refinements in the program.
16 The needs were at two levels. In the OPP, there's
17 been -- the data collection and oversight has been
18 significantly improved by a new online application
19 system. It enables people to apply online, submit all
20 the application information online.

21 This, of course, improves the data management
22 and documentation that we could have in our files.

1 It's easier for the participants and applicants to
2 submit that information. It enables staff to more
3 easily and effectively -- this goes to both the
4 efficiency and effectiveness of their work -- to review
5 and select applicants.

6 Also, the Office of Legal Affairs -- and I
7 should mention that Linda Mullenbach has really
8 contributed in this regard -- they've updated the
9 program description. They've recommended, and it's
10 been implemented, that there's a semiannual rather than
11 an annual disbursement schedule.

12 They've updated the program loan documents to
13 make the promissory note more enforceable, more
14 effectively enforceable, as well as the repayment
15 agreements to add clarity for -- the participants would
16 be clearer about what they were obligated to do. And
17 then finally, there is guidance to staff about
18 confidentiality issues.

19 Lastly, I would turn to the comparison of the
20 LSC LRAP and the LRAP from -- this is the College Cost
21 Reduction Act of 2007. This was the major act passed
22 for public service employees, including but not limited

1 to legal aid attorneys.

2 The eligible loans, as you can see, it's wider
3 for LSC LRAPs -- it covers all their law school
4 loans -- whereas with the federal program, it only
5 covers federally guaranteed loans. It's both
6 undergraduate and graduate; for the LSC program, it's
7 only for the law school loans.

8 The importance here is especially since the
9 law school tuitions have been escalating, more and more
10 attorneys have had to turn to private loans in order to
11 pay their law school tuition. So the LSC LRAP
12 recognizes that, and hence enables them to cover more
13 of their law school indebtedness. For example, some
14 law schools have a law school LRAP, and those would not
15 be covered under the federal program.

16 Secondly, the LSC LRAP, the impact on their
17 annual income, the LSC LRAP is effectively in some ways
18 a wage subsidy. It enables them to pay off their
19 loans, so that increases their income by \$5600. But
20 the federal program has the impact of reducing the
21 amount of your loan payment to no more than 15 percent
22 of your disposable monthly income. The annual

1 loan -- it's not 15 percent; it's a certain amount. It
2 slips my mind right now. Sorry about that; I'll put
3 that on the record.

4 The annual loan payment reduction is the
5 amount that you have to pay is capped. I confused
6 these two things. I'm sorry. It increases -- the
7 first one, I'm sorry -- it increases your net
8 disposable income, I meant to say. I can't even read
9 my own slide. Forgive me.

10 The annual loan payment reduction does cap it
11 at 15 percent of your disposable income. So that
12 is -- the federal program is a great benefit because
13 the LSC LRAP does not have that impact. It is a
14 smaller impact in most cases.

15 The loan forgiveness for the -- boy, I didn't
16 edit this slide. I can't understand this. The loan
17 forgiveness, it's on the correct slide in front of me.

18 It's actually the full amount is forgiven after one
19 year of service. So it's --

20 MR. JEFFRESS: Yes. That \$2800, we're giving
21 \$2800 every six months, but we forgive once a year.

22 MR. HARDIN: I can't imagine why someone

1 failed to make that change. I looked at it this
2 morning.

3 And with the federal program, however, the
4 entire balance is forgiven only after ten years of
5 service and payments. So at that point, if you've been
6 in the program, if you've been in public service for
7 that long, at that point any balance that's remaining
8 after that period is forgiven.

9 And then with the years in the profession
10 which we've had for LSC, traditionally it's essentially
11 covered folks with up to five years' experience in
12 programs, where with this College Cost Reduction Act of
13 2007, it only took effect in October 2007 for certain
14 classes, and not till July of '08 for some. So
15 effectively, it's only three years -- at this point
16 it's only been folks for up to three years of
17 experience. But over time, that will increase.

18 Finally, there is -- last year, a civil legal
19 aid assistance attorney student loan program was
20 instituted. And that is -- loan repayment program,
21 rather. And that is just for civil legal assistance
22 programs.

1 Again, the difference with that program is
2 it's only federally guaranteed loans. The loan amount
3 can be up to \$6,000, hence it has the annual income
4 impact of \$60,000 -- I mean, of \$6,000. The lifetime
5 maximum benefit is \$40,000 versus \$16,800, as you can
6 see. The loan forgiveness is \$5600 in our program
7 versus six grand in the other program.

8 And the service commitment -- we have, in
9 effect, a non-enforceable moral commitment of three
10 years to remain with the program, whereas with the
11 federal program, there's a three-year term of service
12 after the end of the loan repayment, the loan amounts
13 have been provided. And if they do not stay three
14 years after the term of service, they are required to
15 pay this back through federal loan procedures, federal
16 collection procedures.

17 Yes, sir?

18 MR. MEITES: I have in the past raised the
19 question of whether the Garten program, other than as a
20 pilot program will continue to make sense when these
21 two federal programs are up and running.

22 Are these two federal programs both fully

1 appropriated and fully in force now?

2 MR. HARDIN: Well, the Harkin program is not.

3 MR. MEITES: Which is the Harkin program?

4 MR. HARDIN: The Harkin -- I mean, the second
5 program, which has been modeled on things that --

6 MR. MEITES: That is not --

7 MR. HARDIN: This is -- this only this year
8 will only serve probably four to five times as many as
9 the LRAP program. It's funded this year at 4- to \$5
10 million.

11 MR. MEITES: What about the slide before this?

12 MR. HARDIN: That, as many people at this
13 point, as many people are eligible, can receive
14 benefits.

15 MR. MEITES: And it's fully appropriated and
16 working?

17 MR. HARDIN: Yes.

18 MR. MEITES: So given that that will -- can
19 you go back to the prior slide?

20 MR. HARDIN: Yes, sir.

21 MR. MEITES: Given that that amounts a
22 forgiveness of the entire amount of your federal

1 guaranteed loan with ten years of service, and an
2 ongoing forgiveness of 15 percent of your disposable
3 income, which means if you're making \$50,000 a year,
4 it's \$7500 a year, I raise again for the board what
5 role the Garten program plays.

6 The Garten program is small. It requires us
7 to go to Congress every year for a special
8 appropriation. It has proven that, in fact, loan
9 repayment is important for moral and retention, and
10 Congress has listened to our program and done the right
11 thing.

12 Why, then -- and this is for the new board to
13 decide -- why, then -- what role does the Garten
14 program continue to serve in light of the fact that
15 Congress has stepped up and done the right thing? So
16 I'll leave that for all of you to decide.

17 I was strongly of the opinion that once this
18 program became effective, the Garten program should be
19 phased out. I do not know enough to say with any
20 authority that this program and the next slide fully
21 covers everything that the Garten program does. But it
22 strikes me, just from looking at these two slides, that

1 it's a lot better deal than we can offer.

2 MR. HARDIN: Mr. Chair, if I could just make
3 two comments?

4 CHAIRMAN GREY: Go ahead.

5 MR. HARDIN: To correct an administrative
6 error I put up there, a factual error, the program
7 does -- CCRA has not been -- does not have a fiscal
8 impact for ten years out. So it has -- the funds have
9 not been appropriated, per se, because they don't have
10 to have a fiscal impact in terms of loan forgiveness
11 until ten years out.

12 MR. MEITES: But it says it's forgiven 15
13 percent every year.

14 MR. HARDIN: No. That's the cap of the
15 payment reduction. So there's a cap on the amount of
16 loan payment that people have to make in that
17 particular year in paying off their loans.

18 MR. MEITES: Well, but that has an impact on
19 how much money goes --

20 (Interruption from speakerphone)

21 MR. MEITES: No. But that means the Treasury
22 is getting less money.

1 MR. HARDIN: No. This is to the private
2 lenders. This is to whomever they owe the money to.

3 MR. MEITES: Oh, I see. It's a federally
4 guaranteed loan to private lenders. So every year I
5 pay \$7500 less.

6 MR. HARDIN: Correct.

7 MR. MEITES: And the lenders -- the federal
8 government doesn't make up the difference?

9 MR. HARDIN: Would you like her to
10 answer -- were you raising that question?

11 DEAN MINOW: My understanding is it simply
12 adds what's not yet paid to the balance.

13 MR. MEITES: I see. So there's no impact.

14 DEAN MINOW: Correct.

15 MR. MEITES: But at the end of ten years, the
16 federal government --

17 DEAN MINOW: If the person is still in
18 government service.

19 MR. MEITES: -- pays off the lenders entirely.
20 Someone has to pay the lenders.

21 DEAN MINOW: If the individual is still in
22 government service.

1 MR. MEITES: But the fact --

2 DEAN MINOW: But my understanding is that
3 that's not yet appropriated.

4 MR. JEFFRESS: That's right. The impact is
5 not until the person has been working for ten years.

6 MR. HARDIN: So the money will not be
7 appropriated -- somebody have more about --

8 DEAN MINOW: And we'll see if it actually
9 happens.

10 MR. MEITES: Oh, yes. I understand that. But
11 every year I'm paying \$7500 less to the First Bank of
12 Memphis, Tennessee. Right?

13 DEAN MINOW: But you still owe if you leave
14 year nine.

15 MR. MEITES: But my yearly payments are
16 reduced?

17 DEAN MINOW: Right.

18 MR. JEFFRESS: Correct. But you will still
19 need to pay everything off, plus interest, if you do
20 fail to last ten years.

21 MR. MEITES: But if I do last ten years, I
22 cash in the big "I owe nothing" ticket.

1 Okay. Let's go to the next slide.

2 MR. HARDIN: And also, just one thing to
3 emphasize, and I could provide more information on
4 this, is the level over the last 15 years -- in terms
5 of factual information --

6 MR. MEITES: Please.

7 MR. HARDIN: -- over the last ten years, the
8 amount of law school students whose burden of
9 non-eligible loans has significantly increased. So the
10 amount of coverage is much less from this program than
11 from the current program, for what it's worth.

12 MR. MEITES: So you know about things like
13 thought.

14 DEAN MINOW: That was the basic thing I was
15 going to say. The way in which the LRAP program covers
16 a need that's not represented by the federal program is
17 regarding commercial loans, which a growing percentage
18 of students -- I think upwards of 50 percent of law
19 students now -- have commercial loans.

20 MR. MEITES: So to that extent, our program
21 does supplement.

22 DEAN MINOW: So to that extent, our program

1 does something that the other program does not do.

2 MR. MEITES: What about the next slide? What
3 about the Harkin program?

4 MR. HARDIN: Same thing.

5 DEAN MINOW: Same thing. Same thing.

6 MR. MEITES: But the Harkin program will
7 require an appropriate, unlike the --

8 MR. HARDIN: Yes. And there has been an
9 appropriation for that, a small appropriation. I think
10 it's \$5 million for this year. But again, as Dean
11 Minow said, it's only federally guaranteed loans. So
12 it's --

13 MR. LEVI: And, I mean, not that he's got all
14 the answers. Harkin and his staff are fully aware of
15 our program and how these two work together.

16 MR. JEFFRESS: Yes. And --

17 MR. LEVI: And is not interested in our
18 discontinuing our program.

19 MR. JEFFRESS: Yes. The version of the LSC
20 reauthorization bill that was first drafted mandated
21 that LSC continue this loan repayment assistance
22 program. The version that actually got introduced only

1 authorizes it, it doesn't mandate it. But the
2 sponsors' intent is very clear.

3 And I have been corrected. The \$5 that I've
4 mentioned is in the budget for this coming year. It is
5 not yet appropriated for this year.

6 MR. MEITES: All right. Well, if everyone
7 wants to keep giving us money and it serves some need,
8 I suppose that you all should take it.

9 (Laughter.)

10 MR. HARDIN: Thank you.

11 MR. JEFFRESS: Thank you, sir.

12 MR. LEVI: Can it handle that other problem,
13 the 403(b) program?

14 (Laughter.)

15 CHAIRMAN GREY: Before we go to -- thank you
16 very much.

17 MR. HARDIN: Thank you, sir.

18 CHAIRMAN GREY: Before we go to public
19 comment, I want to go back and revisit item No. 6. And
20 I think the chair let apples and oranges get in the
21 same basket. And so we're going to try to get the
22 apples and the oranges separated and see if we can have

1 a unified recommendation on behalf of the staff which
2 was there.

3 And so I want to allow the staff the
4 opportunity to do that because I think it's important
5 for the committee to provide advice to the board with
6 regard to this very important issue.

7 Mr. Jeffress?

8 MR. JEFFRESS: Well, again, I would put back
9 before you the recommendation from President Fortuno to
10 the board, which goes through the Finance Committee,
11 and asks for your recommendation to the board for a pay
12 increase for LSC employees for 2010. And management's
13 recommendation is that increase be comprised of two
14 elements, 1-1/2 percent across the board and a 2
15 percent increase in the amount of locality pay paid to
16 employees.

17 CHAIRMAN GREY: Is that your understanding,
18 Mr. Treasurer?

19 MR. RICHARDSON: Yes, sir, it is.

20 CHAIRMAN GREY: Is that your understanding,
21 Mr. IG?

22 MR. SCHANZ: Yes, sir. I agree with the memo.

1 MR. JEFFRESS: Thank you. Any questions from
2 the committee? I think it would be helpful if the
3 could -- having heard that, if it supports the idea of
4 a raise, that the staff has concurred in the method in
5 which this be proposed, I would ask the committee to
6 consider making that recommendation to the board.

7 Is there a motion?

8 M O T I O N

9 DEAN MINOW: May I move that we as a committee
10 recommend to the board the proposal to have a pay
11 increase, as indicated in the memo?

12 CHAIRMAN GREY: Is there a second?

13 JUDGE SINGLETON: Second.

14 CHAIRMAN GREY: Thank you. All in favor --

15 JUDGE SINGLETON: This is Singleton.

16 CHAIRMAN GREY: All in favor say aye?

17 DEAN MINOW: Aye.

18 CHAIRMAN GREY: Sarah? Aye?

19 JUDGE SINGLETON: Aye.

20 CHAIRMAN GREY: All opposed? Tom?

21 MR. FUENTES: That's no. Fuentes.

22 CHAIRMAN GREY: Thank you. The motion

1 carries.

2 Let's turn to item No. 11, public comment.

3 MR. FUENTES: Mr. Chairman?

4 CHAIRMAN GREY: Yes?

5 MR. FUENTES: Tom Fuentes here.

6 CHAIRMAN GREY: Yes?

7 MR. FUENTES: Hello?

8 CHAIRMAN GREY: Yes?

9 MR. FUENTES: Mr. Chairman, you moved from the
10 last item before I had the opportunity to make
11 comments. And I wonder if I could just add a word
12 related to the LRAP item on our agenda, for the record,
13 and that is that, of course, being privy to the
14 discussion, the creation, the formation, the
15 establishment, the evolution of the program since its
16 inception, I think it's always important for the board
17 to be reminded and to think about that this program not
18 only has a necessity for dollars, but it also has a
19 necessity for our continued efforts, not just through
20 the Finance Committee but through the board in general,
21 to address this imposition, this burden, with the law
22 schools of America.

1 In the formation of the LRAP program, which we
2 did name for Herb, it was certainly brought out that we
3 have to continue our dialogue with the law schools of
4 America to give some relief. As a part of all of this,
5 my service on the LSC board follows, in its early
6 years, concurrent with my service as the chairman of
7 the board of Whittier Law School in California, where I
8 saw the always-increasing cost of education from the
9 law school industry.

10 And we need to be aware of that. We need to
11 add that to our consciousness, to outreach in every way
12 that we can when we're thinking about the LRAP program.
13 And I just wanted to put that on the record so it
14 doesn't -- is not lost. Thank you.

15 CHAIRMAN GREY: That's very much appreciated.
16 Thank you very much.

17 Public comment?

18 MR. SAUNDERS: Thank you, Mr. Chairman. My
19 name is Don Saunders. I'm the vice president for civil
20 legal services of the National Legal Aid and Defenders
21 Association. Just a very brief comment, and we'll
22 elaborate on it in much greater detail at your

1 September meeting.

2 But we have testified before the prior board
3 with regard to the LRAP issue on a number of occasions,
4 and have been active in the Congress with regard to
5 both the CCRA and the Harkin bill.

6 Certainly, as Mr. Fuentes points out, we
7 admire Mr. Garten's commitment to this issue. It's one
8 of the biggest challenges we face in recruiting a new
9 generation of legal aid advocates.

10 However, the Harkin bill was appropriated at
11 half its authorized limit this year at \$5 million.
12 It's authorized for 10. There is an ongoing
13 application process that runs through August 16, and
14 we're going to see how many of your grantee lawyers
15 take advantage of that program. And it has also been
16 included in the Senate appropriation bill for the next
17 year.

18 So as you debate your future budget request,
19 to expand from a pilot program to a full-service
20 program out of the LSC budget is going to come out of
21 the basic field money. And we would just want to
22 preserve the right to discuss with you how all of these

1 programs would interplay as they become further and
2 further developed.

3 And not really making a recommendation one way
4 or the other, but I just wanted you to know they are
5 progressing. The Harkin program is funded out of the
6 Department of Education, not out of your budget. So I
7 just wanted to raise that today, and thank you for your
8 time.

9 CHAIRMAN GREY: Wait, wait.

10 MR. SAUNDERS: Uh-oh, I didn't mean to start
11 anything.

12 DEAN MINOW: Do you know if there's
13 any -- this is Martha Minow -- any consideration in the
14 bills or appropriation analysis of expanding the
15 coverage to include the commercial loans?

16 MR. SAUNDERS: I think, from our work with
17 Senator Harkin's staff, I think that's probably
18 unlikely. However, they have allowed for
19 consolidations of loans, as I'm sure you know.

20 DEAN MINOW: I do indeed.

21 MR. SAUNDERS: Some of the commercial loans
22 have been consolidated into eligible federal loans.

1 The Equal Justice Works website and others, there's
2 some wonderful expertise in there. I don't claim to
3 have it all. But I do know a number of the commercial
4 loans have been converted to federal subsidized loans.

5 DEAN MINOW: I don't think that there'll be
6 much growth in that area in the future.

7 CHAIRMAN GREY: Yes?

8 MS. MIKVA: I'm not on the committee, but can
9 I ask a question?

10 CHAIRMAN GREY: Absolutely.

11 MS. MIKVA: There has been some talk about the
12 Reggie program. Do you have any -- off the top of your
13 head, whether that is something that would further
14 help? And if it were competing with funds against
15 LRAP, how that you would recommend --

16 MR. SAUNDERS: Well, in terms of general
17 recommendations, it's always been our strong feeling
18 that as a basic rule, the field is better able to make
19 decisions with regard to LRAP or fellowships or
20 pensions or whatever. So we generally favor few
21 earmarks at the national level.

22 Certainly the Reggie program at its time and

1 for its purpose was a critical program. As we saw, the
2 governor of Wisconsin was a Reggie. I would suggest to
3 you that at least for purposes of the Reggie program,
4 it's much different right now than it was when that
5 program was created.

6 And as you think through where federal
7 fellowships would arise, particularly coming out of the
8 LSC budget, that any kind of program that deals with a
9 fellowship needs to work closely with the Equal Justice
10 Works program and needs to reflect today's reality, not
11 the reality that existed when programs really had
12 few -- had little access to really quality pools of
13 applicants. That situation is much different across
14 country.

15 MS. MIKVA: Thank you.

16 CHAIRMAN GREY: Comment? Yes, come up to the
17 microphone.

18 MR. HARDIN: I wanted to thank Don very much
19 for amplifying and correcting, perhaps, some of the
20 thing things I said, but -- or providing additional
21 information. But one of the -- there's a limit, there
22 are limits, on the degree to which private loans can be

1 consolidated and hence be eligible.

2 And so, henceforth, they will not be able
3 to -- private loans will not be able to be part of the
4 eligible loans. They cannot -- even if they're
5 consolidated, they will not be -- they'll be X'd out of
6 that.

7 CHAIRMAN GREY: Well, this has
8 been -- actually, this has been an extremely
9 conversation, through the board members and the public
10 comment and staff. So it'll give us food for thought
11 as we go forward and much needed information as we
12 consider these options.

13 Comment?

14 PROFESSOR VALENCIA-WEBER: Gloria
15 Valencia-Weber, board nominee.

16 I'd like to second Martha Minow's statement
17 about the large percent of commercial loans undertaken
18 by commercial generations of law students. As a chair
19 of admissions and financial aid committees, I've seen
20 that change, and we need to keep that in mind.

21 Secondly, responsive to Tom's question, given
22 what we had on the slide, why maintain the program, the

1 LRAP program? You'll note on I believe it was the
2 second slide that it said that we, under current LRAP,
3 do not require repayment after the service period time
4 has been satisfied; whereas on the other side, when the
5 debt has been cleared at ten years, you're still
6 obligated to three years of service.

7 The experience this country's had in funding
8 post-baccalaureate education and placing burdens of
9 service for that funding, particularly in the area of
10 the hard sciences and medical education, have
11 established that requiring payback requirements doesn't
12 work very well.

13 In the late '80s on, PhD hard science careers
14 disappeared. There was no way those graduates could
15 "satisfy" their requirement in the requisite field.
16 And likewise, people in M.D. and other public need
17 fields have had similar vacillation in market.

18 So I think the fact that you do not have a
19 payment requirement if you -- after payment of your
20 debt, it comes down to individual degrees of freedom
21 for the individual student. And having talked to such
22 students and having had one in my own family who

1 encountered those barriers, I think it's a distinct
2 advantage for the LRAP program.

3 CHAIRMAN GREY: Thank you.

4 I think that draws us to the end of the
5 agenda. Is there any other business?

6 (No response.)

7 CHAIRMAN GREY: If not, the chair would
8 entertain a motion to adjourn the meeting.

9 M O T I O N

10 JUDGE SINGLETON: So moved. This is
11 Singleton.

12 MR. FUENTES: Second. Tom Fuentes.

13 CHAIRMAN GREY: Any discussion?

14 (No response.)

15 CHAIRMAN GREY: All in favor say aye.

16 (A chorus of ayes.)

17 CHAIRMAN GREY: All opposed, no.

18 (No response.)

19 CHAIRMAN GREY: The meeting is adjourned.

20 Thank you.

21 (Whereupon, at 10:39 a.m., the committee was

22 adjourned.) * * * * *