

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

FINANCE COMMITTEE

OPEN SESSION

Friday, September 10, 2004

4:00 p.m.

The Best Western Helena  
835 Great Northern Boulevard  
Helena, Montana

**COMMITTEE MEMBERS PRESENT:**

Robert J. Dieter, Chairman  
Thomas A. Fuentes  
Herbert S. Garten  
Frank B. Strickland, *ex officio*

**BOARD MEMBERS PRESENT:**

Maria Luisa Mercado  
Florentino A. Subia  
David Hall  
Lillian R. BeVier  
Thomas R. Meites  
Ernestine P. Watlington (by telephone)

## STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary  
John C. Eidleman, Acting Vice President for  
Compliance & Administration  
David Richardson, Treasurer and Comptroller  
Richard "Kirt" West, Inspector General  
Laurie Tarantowicz, Assistant Inspector General & Legal  
Counsel  
Michael Genz, Director, Office of Program Performance  
Patricia Batie, Manager of Board Operations  
Karen Dozier, Executive Assistant to the President  
Anh Hoang-Tu, Program Counsel, Office of Program  
Performance  
David Maddox, Assistant Inspector General for Resource  
Management  
Linda Perle, Center for Law & Social Policy  
Don Saunders, National Legal Aid & Defender Association  
Honorable Richard Teitelman, Associate Justice, Indiana  
Supreme Court, and  
Other members of the public

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

2 MR. DIETER: Okay, I call the meeting of the  
3 finance committee to order.

4 And for the record, I am Robert Dieter,  
5 chairman of the finance committee. And with us today  
6 are Tom Fuentes and Herb Garten, who are members of the  
7 committee.

## 8 APPROVAL OF THE AGENDA

## 9 M O T I O N

10 MR. DIETER: I guess the first item on the  
11 agenda is approval of the agenda.

12 MR. FUENTES: Move to approve the agenda.

13 MR. DIETER: Second?

14 MR. GARTEN: Second.

15 MR. DIETER: That is unanimously approved.

## 16 APPROVAL OF THE MINUTES OF

## 17 COMMITTEE'S MEETING OF JUNE 4, 2004

## 18 M O T I O N

19 MR. DIETER: Approval of the minutes of the  
20 committee's meeting of June 4th?

21 MR. FUENTES: So moved.

22 MR. GARTEN: Second.

1 MR. DIETER: Okay, it passes unanimously.

2 Presentation of the financial reports of the  
3 10-month period ending July 31st. That's pages 18  
4 through 25, and David Richardson is going to make that  
5 presentation.

6 MR. RICHARDSON: Good afternoon, members of  
7 the finance committee. My name is, of course, David  
8 Richardson, and I'm treasurer and comptroller of the  
9 corporation.

10 There is a memo that begins on page 19 -- both  
11 19 and 20 -- for the 10-month review. I will highlight  
12 just quickly some of the key points there.

13 Through the 10-month period for the delivery  
14 of legal assistance, the grants that we provide to our  
15 grantees, we have contracts to date, \$320,312,000.  
16 This compares to -- this is increased \$392,000 from the  
17 prior month.

18 The annual budget is \$325,217,000, which gives  
19 us an amount of \$4,904,000 that has not been contracted  
20 or expensed to date, and it's a -- 1.51 percent of the  
21 budget is remaining.

22 As you see, this compares, when you look at

1 page 21, favorably with what was done the prior year,  
2 because the prior year the expenses for this period  
3 were 323 men, \$174,000, which shows that we have  
4 actually spent less \$2,861,000 than last year. Mainly  
5 this is because of less carry over, less technology  
6 grants that were given.

7           So, when you look at and compare the two,  
8 we're spending less money, there is less money  
9 available, and as far as the grants, we're well within  
10 the budget for this particular fiscal year through the  
11 10-month period.

12           On page 22 you will see that what I have  
13 prepared for you is a budget based on 10 months'  
14 spending, a 10-month budget. We have spent \$10,644,000  
15 to date. The budget is \$11,967,000, basically, so --  
16 there is a variance -- that we are \$1,323,000 under  
17 budget through this period.

18           And 11.5 percent of the 10-month budget is  
19 still remaining to be spent. A year ago, for this same  
20 period, we had spent \$10,913,000. We are now \$269,000  
21 under budget. This compares to last month also -- just  
22 to highlight -- in June we were actually \$249,000 over

1 budget.

2           So, we have had a reversal, because last year,  
3 when we did our 10-month review, there was a lot of  
4 expenses that come out -- when I say a 10-month review,  
5 a 9-month review -- we had a lot of contracts and  
6 expenses that were paid last July. We have stayed on  
7 top of them a little better this year. As far as I am  
8 aware, there are no contracts that are outstanding. At  
9 this point, everything is current. So, we see a  
10 reversal here. Now we are a large amount under budget  
11 for the year.

12           Also, in prior months you notice that our  
13 human resources budget was overspent. We are now,  
14 because of the additional monthly allocation of  
15 expenditures, we are under budget now for human  
16 resources. And when you look at one other item, there  
17 is shown on page 24, you will see that we are somewhat  
18 over budget when it comes to temporary employees,  
19 because with the open positions that we have had, we  
20 have continued to use some temporary staff to complete  
21 projects and have things continue on during the year.

22           I will address that a little bit further when

1 we get to our review and internal budgetary  
2 adjustments, because we have made some adjustments in  
3 that area, to move some of the personnel compensation  
4 benefits that would normally be paid to employees, but  
5 because of the open positions and we have hired the  
6 temporary employees, we will fund that so we are well  
7 within the budget there, also.

8           Within the Inspector General's budget,  
9 certainly at this office, is well within the spending  
10 guidelines. A budget of \$3,276,000 through a 10-month  
11 period, the amount spent is \$2,086,000, so there is  
12 \$1,190,000 that remains at this point. This compares  
13 to last year, where they spent \$1,654,000.

14           As you see, the IG's office has ramped up,  
15 they are more fully staffed than they were a year ago.

16       There has been some additional consulting spending,  
17 and of course, they are also sharing in the occupancy  
18 cost of the headquarters, so there is an amount there  
19 of \$174,000 paid for the occupancy of the building.  
20 But again, they are well within budget in the overall  
21 scheme of the annual budget.

22           I would ask, Mr. Chairman, that the committee



1 vote to accept the report, if there are no questions.

2 MR. DIETER: I have just one question. On the  
3 inspector general, page 25, the 10 months actual, \$2  
4 million, do you know what their projected spending  
5 level is for the year?

6 MR. RICHARDSON: Yes, sir. It's in the next  
7 section. We have their spending through the year.

8 MR. DIETER: Oh, in the temporary operating  
9 budget?

10 MR. RICHARDSON: That's correct. Well, in the  
11 temporary operating budget we have there the internal  
12 budgetary adjustments for the year, based on spending.

13 I can turn to it here. They are projecting a budget  
14 plan for the last quarter to spend \$867,000, so they  
15 are projecting a carryover of \$1,154,000 for the year.

16 MR. DIETER: Are there any questions?

17 MR. GARTEN: On the page 25, what is the big  
18 difference there, actual versus budget?

19 MR. RICHARDSON: The main thing, of course, is  
20 the occupancy cost. Last year, they paid no occupancy  
21 cost. This year they have paid basically \$175,000.

22 MR. GARTEN: We still have over \$1.1 million?

1           MR. RICHARDSON: That's correct.  
2   Additionally, the consulting expenses, you will see  
3   that the prior year they had spent \$218,000. This year  
4   they spent \$405,000. So there is a big increase in  
5   expenses there, also. And that's due to the projects  
6   that they have ongoing.

7           MR. GARTEN: Thank you.

8           MR. DIETER: Tom, do you have any questions?

9           MR. FUENTES: I do not.

10          MR. DIETER: Ernestine, are you with us?

11          MS. WATLINGTON: Yes, I have been with you  
12   from the beginning.

13          MR. DIETER: Okay.

14                                   M O T I O N

15          MR. FUENTES: Move to approve the  
16   presentation.

17          MR. DIETER: Okay. Second?

18          MR. GARTEN: Second.

19          MR. DIETER: Okay. And without objection, it  
20   is accepted, unanimously. We will present it to the  
21   board at tomorrow's summary meeting.

22                 You want to continue on, then, with the report

1 on the internal budgetary adjustments? I think it's  
2 pages 26 through 31.

3 MR. RICHARDSON: What I have done in the first  
4 paragraph of page 27 is just sort of highlight how the  
5 variance has been increasing month to month in the  
6 first period. If you will see that in March, this  
7 variance was \$812,000 under budget. April, it  
8 increased at \$817,000, just a small increase.

9 May, however, it went to \$976,000. June, the  
10 amount under budget was \$1,114,000, and July, what I  
11 just reported, it's \$1,322,000, and \$23,000 for the  
12 variance, the amount that we are under budget for the  
13 year.

14 The total that the directors are telling me  
15 that they're going to spend would show that we're going  
16 to have an amount of \$1,070,000 under budget. My  
17 projection is that it will be higher than that. I have  
18 actually used \$1,250,000 in doing this budget, and  
19 actually think it may be even a little higher than  
20 that.

21 The projections themselves, when we look at  
22 the delivery of legal assistance, the amount of money

1 that is being spent in that particular area, all that  
2 is earmarked. It can't be spent on other areas.

3 So, when you look at the basic field program  
4 where there is an amount of \$2,183,000 that's remaining  
5 -- and I'm looking at column 5 on page 29 when I speak  
6 of that figure -- the basic field programs are funded,  
7 of course, on a per capita level based on the census  
8 population.

9 The money that is not spent here are those  
10 programs that are only short-term funded, all of the  
11 money that's earmarked for a specific area. We are  
12 working with the appropriate performance people, and  
13 those people giving the grants, so that we can  
14 hopefully give all of that money out prior to October  
15 1st, so that we can have no carryover. Last year, that  
16 carryover was only, like, \$159,000, so we're hoping,  
17 actually, to make it zero.

18 I will drop down to line 4, same thing on  
19 column 5 of 29, you will see that the technology  
20 grants, there are 2, meaning \$655,000 is remaining. We  
21 are working diligently to try to get all of that  
22 awarded in this fiscal year. You have heard of one

1 award today. Much of that process is moving forward,  
2 so we are hoping to have no carryover there, also.

3           However, if there is any money that has not  
4 been contracted or spent as of October, hasn't been  
5 committed to that, this may change slightly. And if it  
6 does, it will stay in the technology initiative money  
7 for next year.

8           U.S. Court of Veterans Appeals, of course that  
9 is a pass-through grant. Last year we had \$50,000 in  
10 carryover. We are projecting that we are going to  
11 spend \$9,000 on the administration of that grant this  
12 year, so that additional \$41,000 will be spent for the  
13 administration of the court's grants next year, or we  
14 will actually get -- hopefully maybe give some larger  
15 grants so that we can decrease the carryover there,  
16 also. But we do need to keep some money back for the  
17 administration of the grant, albeit small that that is.

18           And then the grants from other funds, I have  
19 shown all of the money that is currently available, as  
20 far as being carried over. Certainly with what we have  
21 seen with the hurricanes in Florida and up the coast  
22 the last few weeks, there has been some calling from

1 our compliance group who handles this particular grant,  
2 to see what type of assistance that may be needed.

3 So, this figure may actually go down by giving  
4 some grants to help the needy people in those areas, to  
5 help our grantees assist those poor who have suffered  
6 loss during this particular two hurricanes.

7 Within the management administration, there is  
8 three adjustments that I should note here. The  
9 adjustments are for -- to increase the executive office  
10 \$30,000, also the human resources \$25,000. And that  
11 money is available in the office of program performance  
12 because of open positions and activities that have been  
13 delayed there. So that money is available.

14 I have tried to, on page 28, highlight the  
15 very key changes. Any adjustments over \$5,000 I have  
16 earmarked here. The \$30,000 that is in the executive  
17 office is mainly going to consulting and travel, to  
18 assist with some writing assignments that we have. We  
19 have hired two part-time researchers.

20 We also have had one loan repayment assistance  
21 program meeting. We had a very good meeting, trying to  
22 sort of flesh out how that money might be spent when it

1 is available. And that was a very good meeting that I  
2 participated in, along with our president and other  
3 members of our staff, along with some key people within  
4 the community who have experience in the loan repayment  
5 initiative.

6 And there has also been a meeting on program  
7 quality initiatives, and that will be something that  
8 will be ongoing also, along with the loan repayment,  
9 once that money is available next year. So we have to  
10 move a little bit of money into the executive office to  
11 accommodate for those needs.

12 We will move the \$25,000 into HR to assist  
13 with the hiring of an outside consultant. And the  
14 money, all of this money, is available through program  
15 performance. As you're aware, we have had open  
16 positions throughout the year. The temporary employees  
17 have been used to facilitate and keep the projects up  
18 and running.

19 But we have had to decrease the personnel  
20 benefits and compensation \$59,000. We have decreased  
21 the consulting \$15,000, and we have reduced travel and  
22 transportation \$55,000.

1           These increases went to the temporary employee  
2 pay for \$55,000, communications, because a lot of this  
3 stuff they have cut through travel, doing more  
4 teleconferencing, so you have had some communication  
5 needs. And then the other operating expenses was just  
6 to pay for some advertising and other needs that the  
7 office had there.

8           I would note that the office of information  
9 technology, we have had a reduction in personnel  
10 compensation and benefits because of the reassignment  
11 of some employees. But we have also, as we reported  
12 prior, we have looked at some of our computer costs,  
13 the way that we have been charging them, our Internet  
14 facilities and so forth, and we have been charging  
15 Internet access to our other operating expense.

16           We are now charging that to communications, so  
17 there is a little shift in there to help accommodate  
18 the reclassification of those expenses.

19           The compliance unit did get -- lose an  
20 employee recently. That has caused us to hire a  
21 consultant to help facilitate and continue the ongoing  
22 compliance and enforcement initiative. So there is a



1 \$20,000 adjustment between the personnel compensation  
2 benefits to consulting to help facilitate those and, as  
3 I say, keep the projects moving.

4           These, again, are items that are in the  
5 purview of the president to make these adjustments  
6 within management administration. So again, we're  
7 asking that you simply accept the report as presented.

8     Do I have a motion, Mr. Chairman?

9           MR. DIETER: Well, I have one question, just  
10 to clarify something. On page 29, that -- the item of  
11 grants from other funds, 1.216. At one time I remember  
12 we got a large amount of money from a Florida sale of a  
13 building or something.

14           MR. RICHARDSON: That is correct, sir.

15           MR. DIETER: Is that --

16           MR. RICHARDSON: That is reflected here. You  
17 see the \$808,000?

18           MR. DIETER: Yes.

19           MR. RICHARDSON: We received -- I don't have  
20 th exact figure, but it was in excess of \$900,000, and  
21 \$800,000 of that went back to Florida to help in the  
22 assistance of buying a building there.

1 MR. DIETER: And so that's concluded?

2 MR. RICHARDSON: That is concluded.

3 MR. DIETER: Pass through, whatever?

4 MR. RICHARDSON: Since you mention that, I did  
5 receive word on Monday, after all this was prepared,  
6 that there may be a resolution with another property  
7 that would net us a \$230,000 or so refund, due to a  
8 property settlement.

9 And hopefully, everything will be taken care  
10 of with that, and I will be able to report more fully  
11 on that at the November meeting. But we have some of  
12 these issues that are ongoing that hopefully will be  
13 solved very shortly.

14 MR. DIETER: And then the \$407,000 that is  
15 there, is that over and above what we would have in  
16 terms of contingency funds for emergencies, like I  
17 guess when the big floods came several years ago?

18 MR. RICHARDSON: No. This is the money that  
19 would go for that.

20 MR. DIETER: Okay. And I assume -- you  
21 mentioned that they're in communication.

22 MR. RICHARDSON: With the Florida --

1           MR. DIETER:  So if they need help with  
2 anything, we can provide that?

3           MR. RICHARDSON:  Yes, we have that amount of  
4 money to assist in those issues.

5           MR. DIETER:  Okay.  Any other questions?

6           MR. GARTEN:  Your projected carry-over on this  
7 schedule is \$2.6 million, approximately, on this  
8 schedule.  You said you expected it to be down to  
9 \$1,250,000?

10          MR. RICHARDSON:  I was speaking only of the  
11 management administration --

12          MR. GARTEN:  I see, all right.  But this, the  
13 total carry-over you're projecting now is this 2.6  
14 figure?

15          MR. RICHARDSON:  It's actually -- let me turn  
16 to it to make sure --

17          MR. DIETER:  It's on page 29.

18          MR. RICHARDSON:  I am aware of that, but what  
19 I have done is I have shown the projection here as to  
20 what the directors have given me.  And when you look at  
21 management administration, it's \$1,070,000.  I have  
22 actually used \$1,250,000 in the preparing of the

1 temporary operating budget for next year. And I think  
2 it will be up that additional \$180,000.

3           Actually, I think it will be more than that  
4 but, being conservative, that's what I have used so  
5 far.

6           MR. DIETER: Just one other point. On the  
7 inspector general carry-over, that 1.154, that includes  
8 the \$1 million that is contemplated to be transferred  
9 out from --

10           MR. RICHARDSON: Yes, it does.

11           MR. DIETER: All right. Okay, go ahead.

12           MS. MERCADO: I thought, Mr. Richardson, we  
13 had talked at one point about, in fact, noting in the  
14 budgetary process in this carry-over of the \$1,154,000,  
15 I know that we noted it as a resolution at the last  
16 board meeting, but in the actual budgetary documents it  
17 would show the \$1 million as being a pilot program, the  
18 loan repayment program.

19           So that, in fact, the budget doesn't look like  
20 the IG is carrying over this amount of money that was  
21 either used or not used for something else, but in  
22 effect it has already been earmarked as a loan

1 repayment that was transferred from that.

2 MR. RICHARDSON: That will be covered in the  
3 next section. We will be talking about the temporary  
4 operating budget.

5 MS. MERCADO: Thank you. Didn't go far  
6 enough.

7 M O T I O N

8 MR. DIETER: Okay. Well then, unless there is  
9 objection, we will -- the Chair will move that we  
10 accept the report on the internal budgetary  
11 adjustments.

12 MR. FUENTES: So moved.

13 CONSIDER AND ACT ON THE FISCAL YEAR 2005

14 TEMPORARY OPERATING BUDGET

15 MR. DIETER: All right. David, I want to  
16 continue on, then, with item five, which is the  
17 temporary operating budget, which I think is on 31A  
18 through 31G, and then there is a resolution that we  
19 will propose to the board on 31H.

20 MR. RICHARDSON: That's correct.

21 MS. MERCADO: Thirty-one what?

22 MR. DIETER: Thirty-one A.

1 MR. RICHARDSON: Thirty-one A.

2 MR. DIETER: Do you have those pages?

3 MR. RICHARDSON: It was mailed later.

4 MS. MERCADO: I didn't have it in my book.

5 MR. RICHARDSON: What I have done is with the  
6 pages 31A and what follows, is to try to present the  
7 key areas within the budget, dealing mainly with  
8 management administration because that's, of course,  
9 the one that we have the most flexibility using.

10 The monies that is available from the -- that  
11 we anticipate in the appropriation is going to be, we  
12 think, flat funding, which is \$335,282,000. It's  
13 actually a \$450,000 decrease from last year. If you  
14 recall, last year we were appropriated at \$338,848,000,  
15 and were hit with two recisions, one in government and  
16 then one within commerce state justice.

17 We figured it out, we checked everything with  
18 our commerce state justice, budget examiner, and the  
19 appropriation and everything worked out. And then this  
20 year -- they have a tendency of dropping dollars. So  
21 where they would not allow us to round it to the  
22 nearest \$500, or up to the next \$1,000, they have just

1 simply dropped the \$450 this year.

2           Within the appropriation on page 31E -- and I  
3 think it's the easiest way to look at how we're  
4 breaking up the delivery of legal assistance money --  
5 you see the \$335,282,000 is the total of column 1 that  
6 I was speaking about, \$316,604,000 would go to the  
7 basic field. The technology grants, \$2,945,000, giving  
8 us a total for the delivery of legal assistance of  
9 \$319,549,000.

10           The remainder of that money, \$13,160,000, is  
11 for management administration, and then the inspector  
12 general is \$2,573,000.

13           The allocation of the carry-over, which we  
14 were just talking about when we were looking at the  
15 adjustments, you will see the \$449,000 there, which is  
16 the U.S. Court of Veterans Appeals, and then the grants  
17 from other funds available that we have included.  
18 Again, this is where, if we have to, we will come back  
19 in November if we use some of that money to do a little  
20 adjustment to the temporary operating budget.

21           And this is also where I had shown you that we  
22 were -- the directors are showing me that there is

1 going to be a carry-over of \$1,070,000 -- I think it  
2 will be higher -- including \$1,250,000 for management  
3 and administration.

4           And then you see that we have \$154,029 for a  
5 carry-over, and \$1 million is now broken out for the  
6 loan repayment assistance program. And then next year  
7 we do anticipate flat funding for the U.S. Corps of  
8 Veterans Appeals and their adjustments, column three,  
9 and then we have got \$60,000 that we forecast in  
10 interest for next year. I have not yet projected any  
11 income for the Equal Justice Magazine. Once we get  
12 additional staff online, we will talk about that.

13           In the memo itself, I have broken out, again,  
14 the key issues that make up management administration.

15       We have budgeted five board meetings, four board  
16 meetings out of Washington and one in Washington, the  
17 January, maybe. We have forecasted 92 staff members at  
18 this point, 17 additional in the IG staff, for a total  
19 staffing of 107. There is an adding error there. It's  
20 actually 109 employees.

21           We forecasted 3.5 percent increases. Our  
22 litigation fund, we forecasted \$250,000 at this point.



1 And reprographics costs for the Equal Justice Magazine  
2 and the annual report at \$62,500, that's printing cost  
3 only. There is additional monies in there also for  
4 writers and so forth, but a smaller amount of money.  
5 Actually, \$30,000 is being budgeted for that.

6 The occupancy cost we hope to be sort of  
7 stagnant, the \$1,510,000 for M&A, 225 for the other  
8 operating cost. That includes the equipment rental,  
9 office supplies, payroll services. I have also  
10 included an increase for the directors and officers  
11 liability insurance they have been anticipating this  
12 year. Hopefully it's not as much as I have anticipated  
13 it to increase.

14 Within the office of information technology  
15 there is a few items noted there for telephone services  
16 and the network connections of \$98,800, \$120,000 is for  
17 the maintenance of the computer systems.

18 We have programs that we have purchased. We  
19 have to pay an annual subscription cost, and that's  
20 where this -- and that would be, for instance, for the  
21 financial systems, for our network administration that  
22 has to be paid.

1           We have got \$300,000 for new computer service,  
2 and we are trying to get to a system where we can share  
3 documents more readily, where people can have multiple  
4 access, work on the editing and creating documents so  
5 that it can be tracked. So we are looking at a  
6 document management system. Part of the cost is in  
7 this particular year. We have also included the  
8 completion of this project in the -- in 2006 funding.

9           The office of program performance would  
10 continue to work there with assuring quality in the  
11 diversity program and leadership. We have got a pilot  
12 project coming up for peer review and mentoring that's  
13 continuing. And all of this is supported by our 23-  
14 member staff there, but there is additional travel, and  
15 there is specialized consulting that is needed. So we  
16 have got consulting at \$199,000 and we have got travel  
17 to support these initiatives at \$250,000.

18           Within the office of compliance and  
19 enforcement we have got 40 trips planned, 14 of those  
20 are the case service reports, case management systems.  
21 There is also 14 proposed joint visits. That is,  
22 joint visits with the office of program performance

1 staff, where we combine a compliance visit and a  
2 quality review, just to see if we can maximize our  
3 efforts there, and combine some of those trips.

4           There is also additional trips for the -- a  
5 follow-up training and technical assistance that we're  
6 getting calls from different programs to come out and  
7 train them in different initiatives, and we're planning  
8 on doing that. Again, with the staff we have, we can't  
9 do it all with them, so we have got \$109,000 there for  
10 consulting, and of course the big cost here other than  
11 staff, and that's consulting, is \$317,000 for travel  
12 has been projected.

13           Within the inspector general's budget, page  
14 31, I have highlighted some of the things that have  
15 been going on there with the audit service reviews,  
16 program integrity audits, continuation of the mapping  
17 project.

18           This document was prepared before the new  
19 inspector general came into the office. He will have  
20 opportunity during the next three months, four months,  
21 to review his operations. January, when we come back  
22 -- and I'm actually thinking it may even be March

1 before we actually get a consolidated operating budget,  
2 because I think because of the elections and everything  
3 we're going to be under continued resolutions probably  
4 until February.

5           So, during that time he will have an  
6 opportunity to re-evaluate his office and his staff.  
7 And if there are new initiatives that Mr. West would  
8 like to undertake, then he can reformulate and change  
9 his budget to come within the parameters that is needed  
10 to do that.

11           I have noted here that we do have the new  
12 budget line of \$1 million for the loan repayment  
13 program. That money is not available to be spent until  
14 we get it properly transferred through legislation. It  
15 has to be done through legislation of Congress. So  
16 while it's there, it will not be able to be used until  
17 that is approved.

18           I have also given you a little comparison  
19 worksheet there, how it compares from -- for the two  
20 years. There is not a whole lot of difference there.  
21 I mean, we have got a budget this year of \$14,360,000.  
22 Next year we have got a budget of \$14,470,000. There

1 is a \$109,000 increase is what I am projecting for next  
2 year.

3           There is some little shifting because of  
4 movement of staff and changing priorities with the new  
5 president coming in that we have addressed here also.  
6 I know that's a very quick overview, and I think I have  
7 covered everything that I need to at this point. If  
8 you do have any questions, I would be glad to address  
9 those for you.

10           I will mention one additional thing. We have  
11 84 current staff members. We have 8 open positions at  
12 this point. So there are still a few open positions  
13 that we need to address in the next few months.

14           MR. DIETER: Tom?

15           MR. MEITES: It's a question I should have  
16 asked earlier. You indicated that you were not certain  
17 that all the grants would be actually awarded this  
18 year. What happens if a grant is awarded June 28th,  
19 but the money isn't physically sent out until July  
20 10th? Is that a carry-over, or is that considered done  
21 in this year?

22           MR. RICHARDSON: Done in this year.

1           MR. MEITES:  So it's when you award the grant,  
2 not when you made the disbursement.

3           MR. RICHARDSON:  That's correct.  We will pay  
4 grant checks on October 1.  We don't pay November, and  
5 then we pay a check on December 1.  All of that money  
6 that is already awarded is already expensed and in our  
7 books.

8           MR. MEITES:  Thank you.

9           MR. DIETER:  And I assume out of the -- what's  
10 left over, that's going to be allocated and spent,  
11 right?

12           MR. RICHARDSON:  That's what we are hoping to  
13 do, to make sure it's done and taken care of before  
14 September 30th.

15           MR. DIETER:  Maria?

16           MS. MERCADO:  Yes.  One of the things that I  
17 guess I would hope, since we have a new inspector  
18 general and his review or revision of his proposed  
19 budget for either the January or March board meeting,  
20 is that in the consulting line, where we have \$112,000  
21 going into consulting, whether some of those positions  
22 could actually be positions that could be retained in-

1 house as full-time employees, and whether or not they  
2 were really kind of cost-effective, and I guess that  
3 would be the same thing for our legal department.

4 I know that we contract out a lot of our legal  
5 work to our outside legal counsel. That may cost us  
6 more if we actually added some more staff to our  
7 operations. Just a thought. I mean, looking as far as  
8 outsourcing versus having someone on board.

9 MR. RICHARDSON: It's something that we  
10 balance and look at each time we do look at the budget,  
11 and it's something that we can pay a little closer  
12 attention to, to see if it can possibly help.

13 RESOLUTION 31H

14 M O T I O N

15 MR. DIETER: Okay. Well then, at this time I  
16 guess we need to act on resolution 31H. And since  
17 approving presentation and the resolution to the full  
18 board at the meeting tomorrow, is there a motion?

19 MR. FUENTES: Move to approve.

20 A PARTICIPANT: So submitted.

21 MR. GARTEN: Second.

22 MR. DIETER: Okay. And without objection,

1 then, the motion carries unanimously.

2           And I would just note, as I have done in the  
3 past each time, the 14,470 for management, you know, is  
4 more than the congressional appropriation figure of  
5 13,160, I think, that we would be going forward with.  
6 So it is reflected in the third "whereas" clause of the  
7 fiscal year 2004 carry-over clause in there.

8           So, moving then to item six, Don Saunders I  
9 know is here, and I don't believe the representative of  
10 the ABA has appeared yet. I understand that if he  
11 doesn't appear, that you are prepared to make that  
12 presentation as well, is that right?

13           MR. SAUNDERS: I think I can at least educate  
14 the board a bit on where they are.

15           MR. DIETER: Okay.

16           MR. SAUNDERS: My name is Don Saunders, I am  
17 the director of civil legal services for the National  
18 Legal Aid and Defendant Association. And thank you,  
19 Mr. Chairman, and members of the committee, the board  
20 -- Ernestine, I hope you're well -- President Barnett.

21           On behalf of NLADA and our many civil members,  
22 including most of your grantees, I want to thank you



1 for the invitation to speak to you briefly today about  
2 your budget request for the next fiscal year, and to  
3 make some recommendations to you in that regard.

4 Before I begin, I want to just take one step  
5 back. On behalf of our members, on behalf of the  
6 field, I want to congratulate this board for your  
7 actions in the last fiscal year.

8 I do understand that, in the past, the rule of  
9 OMB generally controlled where the LSC board went, and  
10 I think it showed a strong commitment to the field, it  
11 was a very good statement on your behalf, in seeking a  
12 budget that was greater than that provided by the  
13 administration, and I want to take a moment to  
14 congratulate you for that, as well as your real  
15 leadership in moving the loan repayment issue forward.

16 And I think those are very positive steps, and I think  
17 the field recognizes that.

18 Having said that, I want to present to you a  
19 somewhat startling figure, as I did last year, for our  
20 position for Fiscal Year 2006. We urge the board to  
21 adopt a figure of \$515,570,000. That figure, in  
22 essence, also underlies the argument that the American

1 Bar is making to you and presenting to you.

2           And I will do it today with a straight face,  
3 and I will sit here and I am fairly aware of the  
4 political realities you face, but I am also aware of  
5 the responsibilities and opportunity you have, as the  
6 leading spokesgroup for legal assistance in this  
7 country, to make a strong statement of what the need  
8 is. And I would urge you to make that statement in as  
9 clear and as strong a term as you can.

10           That figure, as I think you know from my  
11 presentation last year, simply represents the amount of  
12 money Congress appropriated to this program in 1995  
13 before the Congress -- not unilaterally, but just  
14 overnight -- lopped 25 percent of the federal  
15 commitment to equal justice off of the budget, and has  
16 not taken any step to restore that in as many years, in  
17 those intervening years.

18           That figure that I present to you today simply  
19 reflects the amount of the appropriation in 1995 that,  
20 even in those days, was not nearly sufficient to meet  
21 the need.

22           Now, there certainly has been a health growth

1 across the country, in terms of other sources stepping  
2 up -- state government in particular has stepped up in  
3 many places -- and I think that's appropriate. But you  
4 do remain, I think, the cornerstone of the civil  
5 justice system in this country, and adequate funding  
6 from the federal government is essential if we're going  
7 to move forward.

8 I am, as many of your staff are, in very  
9 regular contact with people across the country  
10 providing legal services. And I will tell you today,  
11 anecdotally, I cannot recall a time when I have talked  
12 to more programs, more directors, more people in the  
13 field who are really suffering, hurting, their programs  
14 are hurting, their clients are hurting from stagnant  
15 funding.

16 Montana is sort of my second home. I have  
17 been coming in for over 30 years. I know this state  
18 very well. They are making wonderful advances in  
19 technology with your help and others. But remember,  
20 Klaus told you today they have 16 lawyers serving this  
21 state.

22 I understand the geography out here. You

1 probably have heard the anecdote while you've been  
2 here, there is one attorney serving a geographic region  
3 larger than New England and most of the Mid-Atlantic.  
4 One attorney. We need people. We need bodies.

5           The State of Alabama, more than any other  
6 state in the country, depends on LSC funding. You're  
7 over 90 percent of the money available for civil  
8 justice in Alabama. Recently they just announced a  
9 layoff of one-fifth of the LSC staff in that program,  
10 20 percent of the staff were laid off, 3 of 13 offices  
11 in the State of Alabama, with its myriad of problems,  
12 had to be closed.

13           It should not matter where you live in the  
14 United States, whether or not you have access to our  
15 system of justice, whether you live in Alabama or a  
16 relatively well-funded system such as Massachusetts.

17           So, we urge you to be as bold as you can.  
18 There are plenty of people who will point out budget  
19 realities, fiscal realities, and things of that sort.  
20 But we recognize the political environment that you  
21 live in, but we do want to stress to you the importance  
22 of the federal component of this system, and we really

1 want to urge you to be as bold as you can, as stewards  
2 of this program.

3           A few specifics that I would like to point out  
4 in our request. Again, wonderful kudos on your work,  
5 the inspector general's commitment, and we are so  
6 excited about the LRAP program, and we look very much  
7 forward to working with Helaine and your staff in  
8 fashioning a program that you can be proud of, that  
9 will serve as an example for the whole country of ways  
10 in which we can get new and energetic attorneys doing  
11 this wonderful work, and keep them doing it.

12           We have asked that you seek additional funding  
13 for either a second year or so you don't have to dilute  
14 the scope of that \$1 million for LRAP, simply because I  
15 think you want to test as a board not just whether it  
16 helps recruit attorneys, but whether or not it helps  
17 keep them.

18           And I think if you have to divide the \$1  
19 million up over too big a period of time, your pilot  
20 will not be the strong model that it should be. And we  
21 do think, given the tremendous need, that that would be  
22 an important step for you to make.

1           If you recall, Mr. Chairman, we also asked  
2 last year, and have reiterated this year, that LSC take  
3 a look on the other end on what is clearly another  
4 detriment to both recruitment and retention. And now,  
5 unfortunately, retirement with dignity doesn't exist in  
6 many parts of your grantee community.

7           The pension issue we raised with you, I think  
8 you very appropriately directed your staff to survey  
9 the field. They did that, it's a wonderful piece of  
10 work. It found a couple of things -- I won't go into  
11 much detail at all, but it did find that while most  
12 programs have some sort of retirement planning program  
13 in place, they are, almost across the board, not  
14 sufficient to allow employees to retire with anything  
15 approaching security.

16           There are very few really well-funded defined  
17 benefit programs. They are mostly defined contribution  
18 programs. Most of them are keeping many in your  
19 workforce from retiring at ages when they should be  
20 doing so.

21           We are also learning that it's another barrier  
22 to people either coming to Legal Services or staying in

1 there. John Eidleman, myself, a number of us have  
2 looked at it. I don't have any magic answer for what  
3 you can do at the federal level, and I'm not proposing  
4 today anything other than a continuing recognition of  
5 the fact that this is a serious problem across the  
6 country, and one that if there is some way at the  
7 federal level -- and I think NLADA needs to join you as  
8 a partner in figuring out what that might be -- but  
9 that we try to do something to address that problem.

10           So, there is no specific request for either a  
11 program or appropriation, but I just wanted to  
12 reiterate today that certainly we hear from our members  
13 and from your grantees that this remains a real problem  
14 that they are facing.

15           We have also included a continued support for  
16 your technology initiative grants, as was aptly  
17 demonstrated today about what it's meant in this state  
18 and across the country. I really want to commend you  
19 for the innovation that's been created by it.

20           I do hope you can look at ways to support  
21 state and national infrastructures as you go forward,  
22 as well as the very important and vital local grants

1 that you're making. But we do support the continued  
2 funding and increased funding as your budget increases.

3 We have asked for a number of years, and  
4 continue to ask that you take a look at seeking funding  
5 to support general training, technical assistance,  
6 publications for the field. With the loss of our  
7 training infrastructure, with the loss of the kinds of  
8 programs that used to support your grantees, I think we  
9 have lost some of the capacity to really do the best  
10 and greatest legal work that we can do.

11 As you and Professor Hall look at quality  
12 issues, one quality issue, obviously, is access to the  
13 best research, the best technical assistance that you  
14 can get. And while the Shriver Center certainly  
15 remains a vital and wonderful resource for the whole  
16 community, there remains, I think, a need for some  
17 attention to be paid by LSC at the national level to  
18 those needs and those concerns.

19 Finally, I want to speak a moment about an  
20 issue that's not in our request, but would have been  
21 and should have been. It's my understanding that  
22 management later today is going to seek an increase in



1 -- or a request for a specific appropriation to support  
2 the programs that you fund to provide representation to  
3 Native Americans across the country.

4           We have been working with your staff, with the  
5 Native American rights funds, and with the National  
6 Association of Indian Legal Services, which is  
7 essentially your grantee community, for a number of  
8 years toward this very end.

9           There are a number of issues in that community  
10 that I don't want to detail today. The reason we  
11 didn't include it in our request is we were continuing  
12 negotiations with your staff and others about ways in  
13 which this money could be best used. But there is  
14 clearly 100 percent support at NLADA and among our  
15 grantee community, both the Native American community  
16 and the community at large, for that proposal.

17           And I want to congratulate management for  
18 bringing it to your attention. And if I could have  
19 sort of a codicil to our request, I would add that, Mr.  
20 Chairman.

21           The -- just a word about the American Bar  
22 Association. We work very closely with them in the

1 congress with regard to lobbying on behalf of your  
2 appropriation. They too, in their letter, take the  
3 position that we gave to you, that the benchmark -- as  
4 good a benchmark as we can come up with at this point  
5 is the 1995 level.

6           They take what may be a more political  
7 realistic position and suggest that you try to  
8 implement that over a three-year period. That's the  
9 major distinction between the NLADA request and the  
10 ABA's. I believe that the first year, which would  
11 correspond with Fiscal Year 2006, their request would  
12 be \$395.7 million. That would be one-third of the way  
13 toward ours.

14           Again, we are absolutely your partners in  
15 this. We recognize that you're unlikely to adopt our  
16 figure this afternoon. But I do want to say we're very  
17 serious about continuing to speak as loudly as we can  
18 about the need, and what it would take to even begin to  
19 approach it.

20           But we would urge you certainly to continue to  
21 be bold, to continue to seek what within the political  
22 realities that you operate in, the highest possible

1 figure. And we stand completely ready to support you  
2 in every way that we can, both through our grass roots  
3 networks and working with your staff and working with  
4 the American Bar. I am happy to answer any questions  
5 that you might have. Thank you.

6 MR. DIETER: I just have one question, I  
7 guess, and I appreciate your comments and your  
8 commitment to your members. And I can assure you that  
9 I think the board is committed to trying to do what we  
10 can to recognize and compensate the staff people who  
11 actually are on the ground delivering the services to  
12 the clients.

13 With regard to the retirement planning, I  
14 mean, we did do that survey. And I think, just  
15 speaking for myself, it seemed like it might have  
16 surprised people that there were so many grantees that  
17 had something in place.

18 MR. SAUNDERS: It surprised me, certainly.

19 MR. DIETER: Yes. What -- I guess what have  
20 you done, or -- to communicate to the grantees and the  
21 members what other people are doing?

22 And I'm thinking in terms of the, you know,

1 the justice's comments at the lunch, you know, that  
2 peer pressure is a great motivator, and that, I mean,  
3 realistically, it's hard for me to foresee that, you  
4 know, we're going to come up with a lot of money to  
5 fund that.

6           Just speaking for myself, I thought that we  
7 could do a lot in terms of educating and maybe  
8 providing some sort of management guidance or templates  
9 for people to follow that would save individual  
10 grantees from, you know, having to spend money to get a  
11 consultant, and that sort of thing. And maybe, you  
12 know, work with certain mutual funds, or whatever, some  
13 -- I was just curious as to what has happened on your  
14 end.

15           MR. SAUNDERS: Well, what you're suggesting is  
16 about where we have come down on our end as well. We  
17 have done a bit of educating. The biggest example of a  
18 success story is the Kentucky situation, where they  
19 were able to buy into the state retirement system, and  
20 even the state medical system. It's a wonderful -- two  
21 directors retired there and made more in retirement  
22 than they made as directors of the Legal Services

1 program.

2           But that model seemed to be almost peculiar to  
3 Kentucky, and because of the politics of where their  
4 state benefit system was. We have -- we, the  
5 management information exchange, and others have tried  
6 to educate folks about the importance of having a  
7 humane retirement plan, but we haven't been able to use  
8 -- to create the kind of peer pressure that you're  
9 suggesting.

10           We have learned that, obviously, they cannot  
11 become part of the federal retirement system, which is  
12 where -- your own staff can be a part of that, as I  
13 understand it. We understand, from talking to mutual  
14 fund managers, that we can't, either NLADA or LSC, we  
15 can't mass the size of the field and somehow get better  
16 investment opportunities, or something like that,  
17 because you have to have a common employer.

18           What we have done is find out a lot of things  
19 we can't do. And you know, I guess what I'm talking --  
20 I think your bully pulpit is a lot stronger than ours,  
21 in terms of generating peer pressure. So that's why I  
22 think LSC needs to be looking at it. Because if we're

1 talking about the importance of retirement planning,  
2 maybe that's all we can do.

3           If we had technical assistance, and we had a  
4 real expert -- we don't have the expertise; we ask the  
5 person who administers our very poor retirement plan,  
6 very frankly.

7           But what we need to do is get a little bit  
8 more background about what we should be educating  
9 people about. What we have in those 97 percent of the  
10 programs that have plans are mostly very under-funded  
11 employer contribution -- employee contribution plans.  
12 And that -- you know, it's got to be incumbent upon the  
13 employer community, if we're going to get anywhere, to  
14 commit funds from their -- you know, from their side.

15           I don't suggest to you that you should be  
16 seeking funds from the congress to pay for lawyers'  
17 retirement. That -- there might be a less popular idea  
18 you could float, but that might be, right there --

19           A PARTICIPANT: If they're criminal lawyers --

20           MR. SAUNDERS: Yes. But I do think, you know,  
21 it's really a frustrating issue, because there may not  
22 be a federal response. And I'm not suggesting you

1 devote a lot of time or resources to it. But I do  
2 think we need to do some education, and I'm just  
3 suggesting we should do it in partnership. And I'm not  
4 saying we don't have a role and responsibility in that  
5 regard, as well.

6 MR. DIETER: But were the results of that  
7 survey well circulated, or do you know at all, in terms  
8 of --

9 MR. EIDLEMAN: John Eidleman.

10 MR. DIETER: Yes?

11 MR. EIDLEMAN: We put it up on our website.

12 MR. DIETER: Oh, okay.

13 MR. EIDLEMAN: And I think all our recipients  
14 know about it. It's available. I'm sure they have  
15 looked at it.

16 MR. DIETER: Okay. Tom?

17 MR. MEITES: This is a backwards way of asking  
18 a question, but I will recreate my thought process. I  
19 have never understood this Veterans Affairs grant. It  
20 doesn't matter if I understand it or not.

21 But it seems to me, if we can take money from  
22 the Veterans Affairs, why don't we have a Bureau of

1 Indian Affairs put another \$1 million in its budget for  
2 legal assistance, and give us that to administer? Why  
3 should we do all the heavy lifting throughout congress?

4 Isn't there another committee we can offload this  
5 Indian matter on, get them to raise the money for us,  
6 and then we pass it out?

7 Or, am I just making this up and the federal  
8 budget process doesn't work this way at all?

9 MR. DIETER: I'm not sure, in terms of the  
10 sequence or the procedure, when we want to get into the  
11 budget mark details --

12 MR. MEITES: But I was just sitting here  
13 thinking why do we have to raise all the money for  
14 everybody? There is a lot of other committees in  
15 congress who are interested in parts of what we do, and  
16 maybe we can offload some of our budget onto them.

17 MR. DIETER: Well, I don't know. Maybe Don  
18 knows. I spoke to someone at NARF about a year ago  
19 that was -- and was informed that they were trying to  
20 get this \$1 million through some Senate subcommittee  
21 working with Ben Nighthorse Campbell, and so I'm not  
22 sure how that came back to us, or whether there is a



1 duplicative effort or not, or --

2 MR. SAUNDERS: I think adding your question to  
3 Mr. Meites' question, I can actually respond.

4 MR. DIETER: Okay.

5 MR. SAUNDERS: There was, indeed -- there was  
6 a bill, an authorization bill, in 2000 passed by the  
7 Indian Affairs Committee. Your then-president John  
8 McKay actually testified on behalf of that, sort of  
9 going to your point of being cognizant of other funding  
10 streams.

11 That was not funded until 2003. There was a  
12 \$2 million appropriation to the Bureau of Justice --  
13 Affairs and the Department of Justice directed  
14 primarily -- the one thing I want to be clear about,  
15 it's not -- I haven't seen management's -- the details  
16 of management's request. It's not what we would be  
17 asking you for. Your money would be to support the  
18 infrastructure that LSC funds to provide Native  
19 American representation.

20 This money primarily -- even though one of the  
21 authorized uses of this money was representing Native  
22 Americans, this primarily goes to tribal court systems

1 to support the tribal justice system across the  
2 country. And there is a clear understanding -- in  
3 fact, we did a training at our substantive law  
4 conference using that money, and it certainly helps  
5 your grantees.

6 But it is a different and distinct amount of  
7 money. And I would just suggest, Mr. Meites, that, you  
8 know, LSC needs to be up there making statements about  
9 the needs of your grantees as well, and unfortunately,  
10 your presentation goes to Commerce, Justice, and State,  
11 which doesn't have any jurisdiction over that.

12 I don't think the Indian Affairs Committee  
13 would fund the kind of programs that we're talking  
14 about here. They would say the same thing you're  
15 saying, "Why isn't LSC funding that?" Others may have  
16 a better answer.

17 MS. MERCADO: A couple of points. In the  
18 pension retirement system that you have and the survey  
19 that you did -- and I would assume that in looking at  
20 what the funding was -- I know for some of the programs  
21 in Texas, some of the people that have been in Legal  
22 Services for 15 years haven't got more than \$20,000 in

1 the retirement system, including the employer  
2 contribution and their maximum contribution they can  
3 put into it.

4           And if this is true across the nation, you're  
5 not ever going to have a populous of lawyers that have  
6 been with Legal Services that are going to retire  
7 because retirement is going to take care of them, if  
8 all they have in their pool after they have been there  
9 15 years is \$25,000, which is what we pay an untrained  
10 lawyer coming in for, you know, their first year of  
11 work.

12           And so, whether it means that somehow we get  
13 pulled into the federal retirement system as a national  
14 grantee just like the Department of Justice attorneys,  
15 you know, U.S. attorneys and other people might be able  
16 to get in. And obviously, it's not something that's  
17 going to happen now, but it is certainly something that  
18 we can look at at different avenues or different ways  
19 of doing it.

20           Because the reverse side of it, the loan  
21 repayment program, is that most of the young attorneys  
22 that we have coming in are already coming in at low

1 salaries, in the average between \$25,000 and \$30,000 a  
2 year, with more than \$50,000 debt, usually leave within  
3 a couple of years because they can't afford to be  
4 there.

5           And I mean, a perfect example in our own local  
6 office, an African American Spanish-speaking young  
7 attorney, been with Legal Services two years, leaves  
8 the program because she has almost \$100,000 in loans,  
9 college and law school, and goes to work not as an  
10 attorney, but as a housing authority administrator  
11 because they can pay her \$10,000 or \$15,000 more than  
12 we pay her as an attorney for Legal Services.

13           And so, what is the recruiting and the  
14 diversity and the quality of legal services that we're  
15 providing? And part of what I'm hoping, I don't think  
16 that in the -- doing the inflationary cost from 1995 to  
17 now is merely taking care of what you already have, as  
18 opposed to actually increasing the salaries of the  
19 attorneys that you have to even make them comparable  
20 with other public service attorneys.

21           And I don't know whether the ABA or NLADA, in  
22 their -- in looking at the loan repayment issue versus

1 comparable salary issues of young attorneys coming in,  
2 whether even that was a possibility.

3 MR. SAUNDERS: Well, we do know that the  
4 national -- we have been working with the National  
5 Association for Law Placement, which is the law school,  
6 that they are doing a comprehensive survey of salaries.  
7 And there is really nothing out there that shows a  
8 comparison.

9 I assume when we get it back, we are going to  
10 see salaries all over the board, and both for loan  
11 repayment and for this pension issue we cannot help but  
12 address the issue of disparity and salaries across the  
13 country. Another difficult one.

14 MR. DIETER: Just a minute, Herb. Mike, did  
15 you have something you wanted to say on the Indian  
16 Bureau --

17 MR. GENZ: Oh, thank you, sir. Just a  
18 clarification on the veterans affairs situation, if  
19 that would be helpful. The court of veterans affairs  
20 came to us to administer funds that they had to set up  
21 a pro bono program for veterans who were appealing to  
22 their court.

1           And so, that's what we're doing, we're acting  
2 as administrators for something that the court was  
3 entirely -- that was their initiative. In a sense, it  
4 fits in exactly with your suggestion, however, because  
5 it -- there are other organizations that could decide  
6 that there was that need, and raise those funds to do  
7 work that either we could administer or they could  
8 administer in parallel fashion. But I just thought  
9 that would be helpful.

10           MR. DIETER: Okay. Herb?

11           MR. GARTEN: Don, both the ABA and NLADA  
12 recognize the importance of technology. And the ABA  
13 and chair, Bill Whitehurst, does talk about increasing  
14 it.

15           In your proposal, as I read it, you are saying  
16 keep it at its current level unless you get an  
17 increase, and then only increase it pro rata. Why  
18 wouldn't you put more priority on increasing funds in  
19 the technology area?

20           MR. SAUNDERS: We strongly support TIG, and we  
21 -- it is a break, Mr. Garten, from a very powerful  
22 principle that exists in the field, which is that of

1 local control. This is one of the few times that the  
2 field has brought to you a specific request for a  
3 national earmark for anything. It was because of the  
4 recognition of the importance of having a national  
5 program for technology that we brought you this  
6 request.

7           There still remains a strong feeling that  
8 primarily the money should go to meet local needs, as  
9 determined at the local level.

10           I don't think -- we have a very active  
11 technology committee. I don't think we would certainly  
12 be at all offended if this were to grow at a more rapid  
13 rate than just pro rata, as the appropriation  
14 increases.

15           But really, what you see there is something  
16 less -- really, it responds more -- it responds less  
17 enthusiastically to TIG than probably is the feeling in  
18 the field. I think the field would not have a problem  
19 with a greater growth, but again, the principle has  
20 been so overwhelming that these should be local  
21 decisions.

22           If we want to spend money on technology, we

1 should make that decision in the mix of pensions and  
2 LRAPs, and all the other choices that a manager at the  
3 local level has to face.

4 MR. DIETER: Okay. Unless there are other  
5 questions, then I appreciate your appearing here for  
6 NLADA and also on behalf of the ABA.

7 MR. SAUNDERS: Thank you. Seldom do I get to  
8 do that.

9 (Laughter.)

10 MR. DIETER: Moving on to item 6C then,  
11 presentation by management of the recommended budget  
12 mark, is Dave Richardson going to do that presentation?

13 MR. RICHARDSON: You were sent a memo last  
14 week, a confidential memo. It is 79A. What I request  
15 is a 7.1 percent inflationary increase on what we are  
16 expecting to receive this year.

17 MS. MERCADO: I don't have 79A.

18 (Several people speak simultaneously.)

19 MR. DIETER: All right, go ahead.

20 MR. RICHARDSON: We are expecting to receive a  
21 \$335,282,000 appropriation this year. What we have  
22 done is looked at the last few years -- and Don has



1 mentioned -- that the administration has requested and  
2 OMB has included in their budget request the last four  
3 years, \$329,300,000.

4 Two years ago, we broke from administration,  
5 and we requested \$352,400,000. We did the same thing  
6 last year. What we are asking this year in the request  
7 is \$361,900,000.

8 This is an inflation rate that has been  
9 applied to what we feel will be appropriated this year,  
10 the \$335 million. That gives us an increase of  
11 \$26,681,000. There is three items that we have added  
12 to the inflationary increase.

13 The three items that we are seeking to obtain  
14 funding for is the loan repayment assistance program,  
15 the \$1 million, it's also the Native American  
16 adjustment of \$1 million.

17 And when you apply the 7.1 percent to the  
18 information technology grant, we felt that we wanted to  
19 increase that so we have added additional money there,  
20 a 7.1 percent increase on the expected appropriation of  
21 \$2,945,000 would give you an appropriation of  
22 \$3,154,000. We have increased that \$846,000, and that

1 is the adjustments that we have added to the 7.1  
2 percent inflationary factor.

3           The inflationary factor that we used, we went  
4 back to the Bureau of Labor Statistics, we looked at  
5 their website, and they provide that information as you  
6 go in and do your reviews and research, as to what they  
7 feel, or what the past inflation, cost of living  
8 adjustment, has been.

9           From January 2002 to June 2004, that was 7.1  
10 percent. We have not projected, even though we're  
11 talking about 2006 funding, what the remainder of 2004  
12 inflation will be, nor have we included any amount for  
13 2005. We have simply gone on past history to come to  
14 that.

15           We recognize that there is shrinking funding.  
16 When you sit still with your funding, less money is  
17 available for you because of increase and costs that  
18 you have, the increased airline, your supplies, your  
19 salaries, and your benefits increases. So, if you  
20 freeze funding, you actually have less money to spend  
21 on those real needs within the field.

22           We went back and did a little comparison, and

1 in 1990 we received \$316 million. Today, that amount  
2 of money would be worth \$239,000. We're looking to --  
3 only a small increase to try to work with the  
4 administration, with our grantees, to seek additional  
5 funding for their needs.

6           There is actually an article that was in the  
7 Washington Post a few weeks ago that talked about the  
8 number of people in extreme poverty -- that is,  
9 existing less than half the income -- is \$15.3 million,  
10 the highest in the history of the Bureau of Labor --  
11 the Census Bureau collecting these census figures. And  
12 that was, again, reported in the Washington Post.  
13 There is 28 years' worth of data there, and we are  
14 right now in the worst shape, as far as people in  
15 poverty, in this 28-year history.

16           You have heard a lot of talk about the  
17 technology initiative, and certainly today, with the  
18 Montana Legal Services, you see what great strides have  
19 been made with the technology grants and the technology  
20 monies that have been available.

21           We want to try to continue that program. We  
22 want to expand it. I have not heard the figures this

1 year, but last year was over \$6 million in requests  
2 that come in. A huge amount of people out there with  
3 innovative ideas, ways that they can go out and --

4 MR. DIETER: Yes?

5 MS. WATLINGTON: That was Ernestine; I pressed  
6 the wrong button.

7 MR. RICHARDSON: There is innovative ideas out  
8 there that, if we had the money, we could fund them,  
9 that could make an impact like you're seeing what is  
10 going on here in Montana today.

11 So, we are asking that we go from a \$2.945 up  
12 to a \$4 million budget for the technology initiatives  
13 in the future.

14 It's been with the hotlines and the Web access  
15 and the video conferencing, all those initiatives out  
16 there has helped tremendously with programs providing  
17 legal assistance to their communities.

18 And we brought in partnerships. We have major  
19 corporations that have come online and helped us and  
20 given us some free software to help in these  
21 initiatives. So it's a way of leveraging those dollars  
22 also with those additional dollars that are coming in.

1           The Native American we have talked a little  
2 bit about here today. When you look at Colorado, they  
3 receive \$136,000 a year in Native American grants.  
4 Idaho receives \$60,000 in Native American grants.  
5 Nebraska, where we were at just a couple of months ago,  
6 \$64,000. Wisconsin, \$140,000, and Nevada, \$120,000.

7           Texas was the shocker for me when I looked at  
8 this, \$28,000 to fund a Native American grant. I don't  
9 know that you can hire an attorney for \$28,000 there.  
10 So it's got to be somebody doing it part time.

11           What we're seeking to do with the first  
12 \$500,000 of this \$1 million is to bring these programs  
13 up to \$150,000. We feel that this is what's needed for  
14 them to support an attorney and the staff they need and  
15 the infrastructure that they need to continue the good  
16 works that they have before them.

17           The additional \$500,000 would be to give them  
18 additional help in providing the core capacities that  
19 are needed. We reiterate, much like what Don was  
20 talking about, this is something that we feel is  
21 necessary, but we don't want to take it out of the  
22 hide, we might say, of the basic field component. We

1 want additional funding, if at all possible, to provide  
2 this additional increase so that they can be more  
3 effective in their representation in tribal court,  
4 federal and state courts where it's needed.

5           There is many overlapping jurisdictions and  
6 things that come about that they have got to deal with.

7       So we feel that there is a real need there for this  
8 additional money.

9           You have heard today about attorneys having a  
10 great deal of debt. We have law school professors here  
11 who certainly know that in their experiences, coming  
12 anywhere from \$50,000, \$60,000, to \$100,000 in debt  
13 coming out of law school. I will tell you I have a  
14 student from Howard who graduated three years ago, has  
15 a master's degree, and she came out of the school with  
16 \$65,000 in debt. It's staggering, how much these young  
17 people come forward.

18           I have friends who are attorneys who pay  
19 \$6,000 and \$7,000 a year in interest on their law  
20 school loans. And there is -- and certainly there is  
21 others who know people who pay even more. It's  
22 something that we need to address.

1           We certainly are looking at the additional \$1  
2 million from the inspector general's budget this year  
3 to institute a program. We're asking for another \$1  
4 million to continue the program. And we're hoping,  
5 certainly, for additional funding in the future for  
6 that.

7           If you have any questions, I would be glad to  
8 address them. I know that was -- after you listened to  
9 Don and hear the particular need, there is a large need  
10 out there, and we recognize that. But we also  
11 recognize the realities of funding and appropriations,  
12 and realize that we are not going to get a 20 percent  
13 increase in funding, or an 80 percent increase in  
14 funding.

15           We would like to go to Congress, explaining to  
16 them, picking up the banner, you might say, of what we  
17 have heard Don and what's included in the ABA budget  
18 mark request, that there is a staggering need out  
19 there.

20           But we are going to come in, hopefully, at a  
21 budget mark that you can honor and that you can fund.  
22 Hopefully, we can seek this funding and not have freeze

1 funding like we're expecting this year. We have had  
2 this freeze funding, 335, last year.

3 We expect it this year, unless the Senate  
4 comes back -- and we're hoping to work with them, that  
5 it will be increased. And then the year before that,  
6 it was 338 also. So, we are really hoping to get an  
7 additional funding increase here.

8 There is one caveat. We have based this on  
9 the \$335,282,000. I have a resolution here that would  
10 give the chairman and the president authority to  
11 negotiate with the Office of Management and Budget. If  
12 we can get an increase, we certainly -- we requested  
13 \$352,400,000 last year -- if we can get an increase, we  
14 would like to be able to go back and readjust our  
15 request, based on the inflationary figures, or some  
16 variation thereof, to possibly ask for an additional  
17 amount of money. But that's something that we will  
18 work with the chairman and our president very closely  
19 to be able to come back and do.

20 MR. DIETER: Okay. Herb?

21 MR. GARTEN: I have some comments. I respect  
22 the comments of other board members, but I think there



1 is a unique opportunity to sell the -- two of our  
2 programs separate and apart from the rest of our  
3 programs without penalizing the field, and that's in  
4 the technology area. And even more so in the loan  
5 repayment plan.

6 We have gotten a lot of favorable comments  
7 from Congress. I have participated on behalf of the  
8 board in the task force that was held on August 25th in  
9 Washington, where people came from all over the country  
10 and offered their comments and suggestions. And \$1  
11 million doesn't do very much.

12 And I think that it would be entirely  
13 appropriate to increase that amount to at least \$1.5  
14 million, and have very little problems with Congress,  
15 because they understand -- or will understand -- that  
16 that's something separate and apart.

17 I also think that the technology area is  
18 something separate and apart, and we have had such good  
19 results from the funds that we have used, that I  
20 wouldn't be ashamed to come back to Congress and say,  
21 "We want \$5 million," and this is separate and apart  
22 from your 7.5 percent increase that you're asking for.

1           So, I would like some discussion from other  
2 members of the board with regard to increasing those  
3 two items, and selling them on the basis of two  
4 important new areas that we think should be considered  
5 and funded to a greater extent than this proposed  
6 budget mark.

7           MR. DIETER: Comments? Tom?

8           MR. MEITES: Technology, I agree. But I have  
9 to say I have never understood what this \$1 million is  
10 going to be spent on, so I can't understand what \$1.5  
11 million is going to be spent on.

12           Is this going to be money that is going to go  
13 from us out to our grantees to help pay back or  
14 subsidize loans?

15           MR. GARTEN: No, it would be a program that is  
16 to be worked on and is being developed. But to give  
17 you an idea, the amount of loan forgiveness, say, is  
18 \$4,000 a year if it was set at that level, and that was  
19 pretty much the level that we talked about --

20           MS. BARNETT: Well, we talked about one to  
21 six.

22           MR. GARTEN: Up to \$6,000? But most of the

1 comments that a lot of the programs that are out there  
2 now -- but let's assume it's \$6,000. You have how many  
3 people you would have to provide for? There are  
4 expenses in connection with this, administering it, and  
5 you have to plan.

6           If you're going to grant it for one year, you  
7 have to assume you're going to do it on a year-by-year  
8 basis. But you have to assume it's going to be done  
9 for over a period of four or five years. So the number  
10 of people given the number of people that have these  
11 substantial loans and who you might entice into going  
12 into Legal Services or keeping in there has got to be  
13 -- it's got to be a substantial number of dollars.  
14 John, you might --

15           MR. EIDLEMAN: Yes. The way these programs  
16 typically work is that the person who is participating  
17 in the field would get a loan from us, and they would  
18 have to sign a note. And they would then use that  
19 money to pay off their current loan. And then we would  
20 forgive it after a period of time.

21           So, if it was a one-year, you would waive it  
22 at the end of the year, so that would give them an

1 additional amount of money.

2           The statistics we looked at is if we would use  
3 a figure of \$3,000 a year -- and most people have a  
4 \$6,000 a year debt -- we would help about 103 people  
5 throughout the country, and that's all, 103 staff  
6 attorneys. If we increase it to \$6,000, then of course  
7 it's only about 50.

8           So, part of the conversation was we should try  
9 to have about 100, because we want to do a survey, we  
10 want to see is it successful or unsuccessful, so we  
11 would like to increase the pool. So that's basically  
12 how the program would work.

13           But as Mr. Garten said, we haven't worked out  
14 the details, and we need to go through that and see  
15 exactly how this program would work. Would we combine  
16 our loan forgiveness with other loan forgiveness  
17 programs from law schools, for example, or would we be  
18 the first provider? Would we not ask others to seek  
19 out loan forgiveness from their program, or from their  
20 law school? So, that's, in essence, how the program  
21 would work.

22           MR. GARTEN: But the details would be

1 available at the time Congress would be considering  
2 this.

3 MR. EIDLEMAN: Yes.

4 MR. GARTEN: As to the program. And the \$1  
5 million, really, is for the pilot program, to get it  
6 started. So, we're talking about the continuation of  
7 it.

8 MR. DIETER: David?

9 MR. HALL: Yes. Well, first, I want to  
10 commend the administration for -- or management for,  
11 what I would say, being an advocate for increasing the  
12 budget in some very creative ways and putting forth a  
13 budget that indicates that there is a need out there,  
14 and more importantly, that there are some special  
15 things that we need to be going after.

16 When we had this discussion last year, and I  
17 felt that as a board we, you know, had to approve a  
18 mark without having had any background on it, one of  
19 the things I raised at that time, which I think is  
20 reflective of Herb's point, is that it seemed like, as  
21 a board, we should be trying to identify those areas  
22 where we can begin to make a case to Congress for

1 increasing funding. And I do think technology is one  
2 of them.

3           What we saw today, you know, should say to all  
4 of us that this is a tool that can be used to try to  
5 get to this greater need. It may not address it all,  
6 but it is something that is proven to be successful,  
7 and it is something that we should be waving a flag  
8 about.

9           And whether it is asking for half-a-million  
10 more, or two million more, or whatever, I'm not here to  
11 advocate for another number. But I do think we should  
12 be very aggressive in trying to demonstrate why that is  
13 something that deserves special funding. And the same  
14 with the loan deferral and forgiveness programs.

15           And I would say the same thing with the Native  
16 American programs, that trying to identify particular  
17 things that we can advocate for and push is something  
18 that we should be encouraging management to do.

19           So, you know, I was, you know, certainly  
20 struck by the presentation earlier today that we -- in  
21 this state -- that we have come to, that we have 1  
22 Legal Services lawyer for 13,000 people, and that there

1 is 1 lawyer trying to cover a territory that would,  
2 using her example, be from Massachusetts to Maryland.  
3 I mean, that's staggering, to think about those types  
4 of situations.

5           And so, taking the political realities into  
6 account, I do think we should err on the side of trying  
7 to be aggressive in what we advocate for, without being  
8 totally unrealistic.

9           And so, I can't say that I am politically  
10 astute enough to know where Congress is and what that  
11 number would be, but in essence, to echo, I think, the  
12 spirit of what Herb is saying, is that we certainly  
13 shouldn't be trying to push management back or  
14 criticizing management for presenting this type of  
15 budget, but to, you know, try to identify those areas  
16 where we might be able to add even more.

17           MR. DIETER: Tom?

18           MR. FUENTES: Maybe I come from where Tom is,  
19 related to our loan repayment program, but I was an  
20 advocate and had great enthusiasm when the concept  
21 first came up. And I understood it to be the  
22 utilization of dollars saved and that were available to

1 fund a very worthy program.

2           And I see that we're operating under a budget  
3 with an estimate of \$1,250,000 presently. I would have  
4 thought -- or I did think, at the time that we were  
5 crafting that loan repayment program -- that it could  
6 be a vehicle that, as we had savings in the years to  
7 come, that we could direct those savings toward the  
8 funding of loan repayments. And now, it's brought back  
9 to us as an addition to budget.

10           So, as a -- as one who had enthusiasm for it,  
11 I guess I had enthusiasm for it in the concept that  
12 this was going to be a way that we could give them  
13 encouragement to the various departments to operate as  
14 economically and as carefully as possible. And when  
15 there was dollars left, then we could help young people  
16 with their loan repayment.

17           But, as typical with government, I guess, we  
18 come back and it's an add-on, rather than that initial  
19 concept. I think that while I don't think that the  
20 figure presented is by any means extreme, if we have  
21 the good counsel from management that the funding is  
22 likely to be flat again this year, the 335, I think we



1 ought to be realistic rather than to reach  
2 aggressively, that at this time in our national history  
3 when there are certain priorities in the nation like  
4 homeland security, which is a thing that all of us as  
5 Americans have to be so very concerned about -- and we  
6 know that the administration is focused there -- I  
7 would be more inclined to be more gentle in our  
8 approach, and be closer to the 335 than going in the  
9 other direction. That's my inclination.

10 MR. DIETER: Any other comments?

11 (No response.)

12 MR. DIETER: With regard to the loan repayment  
13 assistance program, I guess I'm being a bit facetious,  
14 but you know, only in Washington does it go from a  
15 pilot program to a line item without testing of the  
16 pilot program. And that somewhat bothers me, just you  
17 know, philosophically.

18 The -- you know, my druthers, generally, is to  
19 give the local programs the money and then let them,  
20 you know, see how best they can spend it. Even an  
21 example today is, you know, in Montana they use their  
22 PAI money completely differently than the people in

1 Nebraska use their money.

2           And I guess, you know, in looking at the study  
3 that was done, it -- far and away, more people are  
4 leaving the program for reasons that have, you know,  
5 nothing to do with their loan repayment assistance  
6 program.

7           And in terms of trying to retain people, it's  
8 important for us to try to, I guess, increase basic  
9 salaries as much as we can. I know at our law school  
10 we are instituting a loan repayment assistance program,  
11 and you know, I'm a great believer in the saying that  
12 the law follows the facts. And when you start getting,  
13 you know, the data on some of this, the number of  
14 people that would qualify was much, much smaller than  
15 anybody suspected.

16           Now, you know, maybe it would be driven if  
17 there is money available, but the problem in talking to  
18 the people at Colorado Legal Services, for example, is  
19 that they don't have any way to take advantage of this,  
20 because they don't have a -- you know, a position to  
21 hire.

22           And \$1 million probably stuck in the -- you

1 know, added to the 316 grants to basic programs maybe,  
2 you know, isn't going to have any impact. But that --  
3 just sort of philosophically, that's where I come from  
4 on that.

5           The Native American program I am a little  
6 unclear how that works, in terms of I thought that  
7 there was money, for example, designated for DNA in New  
8 Mexico that is not in this footnote, and can you just  
9 clarify? Is this -- for example, the Colorado  
10 \$136,000, that goes to the Southern Ute Tribe. But is  
11 that earmarked specifically through Legal Services for  
12 that, you know, effort?

13           And there isn't anything in here from New  
14 Mexico which, you know, kind of surprised me.

15           MR. RICHARDSON: I have the funding levels,  
16 let me see if I can find the funding levels.

17           MS. TU: I don't -- I am Anh Tu, and I am a  
18 staff in the office of program performance. I do not  
19 have the funding level. But the reason that New Mexico  
20 and Arizona are not in the list was because they are  
21 funded above the \$150,000.

22           And these -- actually, the situation is much

1 worse than we presented, in that there are only 29  
2 Native American grants for the whole country, and we  
3 have at least 50 states. So there are, you know, many  
4 states where there are no Native American funding at  
5 all.

6 And we are now only trying to bring the ones  
7 that are really do not -- they operate, but they don't  
8 have the core capacity to operate, and we are trying to  
9 bring them up to the level of \$150,000 so that they  
10 don't have to poach into their basic funding in order  
11 to fund their Native American services.

12 MR. DIETER: And just speaking hypothetically,  
13 suppose that you only got \$400,000 instead of \$1  
14 million. What would happen to that?

15 MS. TU: Well --

16 MR. DIETER: Would it go proportionately here,  
17 or --

18 MS. TU: Right.

19 MR. DIETER: Because it talks about  
20 substantial increase.

21 MS. TU: That would be something that staff,  
22 we would look closely at, we would work under our

1 president and would try to come up with some position  
2 that we would go back and present to you.

3 MR. RICHARDSON: You were asking about DNA  
4 people, their funding is \$2.4 million.

5 MS. TU: And they are responsible for the  
6 entire Navajo Nation, which is the largest reservation  
7 and largest tribe in the whole country.

8 MR. DIETER: And if you receive the \$1 million  
9 to bring each one of these programs up to \$150,000, it  
10 would cost, I think, \$488,000, leaving \$512,000 to be  
11 distributed.

12 MS. TU: Right.

13 MR. DIETER: To 29 grantees?

14 MS. TU: That's correct. And that would be --  
15 that is something that right now we just thinking that  
16 that would just be a cost of our increase, that would  
17 be the recommendation. But it really is subject to,  
18 you know, further input from the National Association  
19 of Indian Legal Services, and you know, and our  
20 grantees.

21 MR. DIETER: And is there a thought as to  
22 where, you know, you would have to go from 316 upwards

1 to get to that point where you would say the next \$1  
2 million goes to the -- from this proposal?

3 MS. TU: Well --

4 MR. DIETER: Or is it that, you know --

5 MS. TU: I would defer to -- this is something  
6 that if you include it in the budget, Congress would  
7 look at that alongside with the increase in -- for  
8 basic field -- for example, Congress may choose to  
9 respond to LSC's request of 7.1 percent increase by  
10 just giving us 5 percent increase. And they may apply  
11 the same thing, and give, you know, not the total \$1  
12 million for this budget line.

13 But what we are trying to do is that -- and  
14 the Native American community is very clear about it --  
15 they do not want for us to get -- it has to be budgeted  
16 specifically for them. They don't want just to get an  
17 increase and generally go to the basic field and only  
18 to augment their own funding.

19 So, there is a very strong recognition that  
20 although their funding needs are very unique, they  
21 don't want to do it at the expense of the basic field.

22 Because frankly, for many of these grantees, the

1 Native American is a component of that basic field.

2 MR. DIETER: Right.

3 MS. TU: You know, they have basic field  
4 component, which is much larger, and then they have the  
5 Native American grant. So they know that, and they  
6 know that they need the support of the basic field.

7 MR. DIETER: What --

8 MR. STRICKLAND: Rob, if I may interrupt, the  
9 Montana Bar is hosting us at -- right at this hour at  
10 another location.

11 (Laughter.)

12 MR. STRICKLAND: By way of suggestion, it  
13 appears that this discussion needs to go on for another  
14 few minutes. If we could either encroach on -- get Vic  
15 to advise us on how to continue this committee  
16 meeting --

17 MS. BEVIER: You can encroach away.

18 MS. MERCADO: We can defer to the board  
19 meeting the rest of the discussion, the finance  
20 committee, and then as a full board take action on your  
21 budget mark without necessarily coming from the  
22 committee.

1           (Several people speak simultaneously.)

2           MS. MERCADO:   And Mr. Secretary's legal  
3   counsel says that's correct.

4           MR. STRICKLAND:   Yes.   Well, I just think that  
5   rather than being less than considerate to our local  
6   hosts, that since we got a little bit off schedule  
7   today on our own notion, that we don't want to impose  
8   that on our local --

9           MS. MERCADO:   And our board meeting goes  
10   pretty fast anyway, because everybody is just  
11   reporting.

12          MR. DIETER:   I wasn't sure, procedurally, how  
13   -- what we were supposed to do with this, in terms of  
14   passing it forward, the whole discussion, et cetera.  
15   So that would work.

16          But if I could just ask one question, since it  
17   seems -- what would be the downside of proposing this  
18   \$1 million and some congressman getting the idea of,  
19   "This need is more important so we're going to give you  
20   flat funding, but we're going to take \$1 million out  
21   and designate it for the Indian programs?"

22          I mean, what -- sometimes you have to be



1 careful what you wish for, you know what I mean?

2 MS. TU: Absolutely. And I think there is a  
3 concerted effort between LSC and the Native American  
4 community and NLADA that that would not happen. And  
5 that's why this \$1 million is -- which management  
6 recommended -- it has the support of all of those three  
7 components.

8 And in fact, Congress has always had a soft  
9 spot for Native Americans. They were the ones that  
10 back in 1996 that specified to LSC management that even  
11 though other lines were cut, we have got to continue  
12 Native American funding. And that community does have  
13 some strong supporters in congress.

14 And they have come to management before for at  
15 least two years, the last three years actually, to ask  
16 for this. And this is the first time that the  
17 president reviewed and thought that it was something  
18 that we could support.

19 MR. DIETER: Okay.

20 M O T I O N

21 MR. FUENTES: Mr. Chairman, I would move  
22 adoption of the resolution as presented at a figure of

1 \$337 million. That just gives us something to debate.

2 MR. GARTEN: I don't think there has been  
3 enough discussion on this.

4 MS. MERCADO: And I don't, either. I would  
5 prefer they would defer the fuller discussion to the  
6 fuller board meeting.

7 A PARTICIPANT: Well --

8 MS. MERCADO: Of course I'm not on the  
9 committee, so sorry.

10 MR. DIETER: Do you want to -- are you  
11 proposing a vote right now, or did you want to --

12 MR. FUENTES: Yes, of the three members of the  
13 committee, then convey it to the general body and they  
14 can handle it from there.

15 MR. DIETER: I guess is there a second?

16 MR. GARTEN: We need to amend it, to defer the  
17 vote until tomorrow.

18 MR. FUENTES: How does that handle for the  
19 calendar, as to sunshine --

20 MR. GARTEN: Well, let's get a legal opinion  
21 on this.

22 MR. DIETER: Adjourn and reconvene at 1:30, is

1 that a --

2 MR. FORTUNO: The committee can, at this  
3 point, either continue on or, as I believe is the  
4 preference, is simply adjourn and reconvene tomorrow if  
5 you choose to do that.

6 MS. MERCADO: Well, but --

7 MR. FORTUNO: That is the committee itself.  
8 Or, you could simply have the discussion of the issue  
9 when it comes up at the full board meeting.

10 MS. MERCADO: Right.

11 MR. FORTUNO: It's your preference.

12 MR. DIETER: Why don't -- well --

13 MR. FORTUNO: You can't start what you have  
14 scheduled for tomorrow.

15 MR. DIETER: What?

16 MR. FORTUNO: You can't -- what you have  
17 scheduled for tomorrow, what's been noticed in the  
18 Federal Register, you can't start any sooner. But you  
19 can start it later if you want.

20 So that you could, for example, first thing in  
21 the morning is reconvene this meeting and then once  
22 you're done with this meeting move on to your other

1 meetings.

2 MR. DIETER: Okay. Tom, is that acceptable to  
3 you?

4 MR. MEITES: Lillian and I are glad -- we have  
5 more time than we think we need.

6 MS. BEVIER: Yes.

7 MR. MEITES: So you can carry --

8 M O T I O N

9 MR. DIETER: Then why don't we -- I will  
10 propose a motion that we adjourn to reconvene the  
11 committee tomorrow morning at 9:00 to discuss -- for  
12 further discussion on your motion at that time.

13 MR. FUENTES: I guess my motion needs a  
14 second.

15 MR. DIETER: I know. Well, we will take that  
16 up at that point too, is that all right?

17 MS. MERCADO: And you're recessing, not  
18 adjourning.

19 MR. DIETER: Okay, we are recessing. Does  
20 this follow the rules --

21 MR. FORTUNO: Recessing is correct, yes.

22 MR. DIETER: Okay. So the motion is that we

1 recess at this time, to reconvene at 9:00 a.m. tomorrow  
2 morning for purposes of the committee consideration of  
3 the budget mark presentation as presented, and at that  
4 time we will take up the second of Tom's motion and  
5 discussion of it at that time.

6 MR. FUENTES: Mr. Chairman, I have never seen  
7 a meeting adjourned in the middle of a motion.

8 MR. DIETER: A motion?

9 MR. FUENTES: Yes.

10 MR. DIETER: I want to think about it, myself.

11 (Laughter.)

12 (Whereupon, at 5:37 p.m., the committee was  
13 recessed until 9:00 a.m. on September 11, 2004.)

14

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