RESOLVED, That the American Bar Association supports efforts by the Law Library of Congress and the Library of Congress to create and continue programs that:

1) Develop, maintain, and enhance the Law Library’s services, facilities, operations, and staff;
2) Develop, maintain, and enhance the Law Library’s acquisition of materials and their preservation and care; and
3) Utilize the best technologies and methods available to make the Law Library’s vast and growing collections accessible.
REPORT

BACKGROUND

The Library of Congress, founded in 1800 by an act of Congress, serves our nation and the world with a collection that contains over 142,000,000 items including books, periodicals, film, and audio recordings, in over 470 languages. These resources are available to the American people, their elected representatives, and the world “for mutual prosperity, enlightenment and inspiration.” The Library of Congress aims to “foster a free and informed society by building, preserving and providing resources for human creativity, wisdom and achievement.”

In 1832, Congress enacted a law further recognizing the special status and role of the Library’s law collection. That law called for the separation of the Law Library from the rest of the Library of Congress, thus creating the Law Department of the Library of Congress, recognizing Congressional needs for ready access to reliable legal materials. The vast legal collection of the Library of Congress is held by the Law Library of Congress, serving as our national Law Library. It is the world’s largest legal repository, housing more than 3,000,000 volumes of legal materials and periodicals. Approximately 240 legal systems and jurisdictions, as well as U.S. States and Territories, are represented. The magnitude of this priceless material brings great challenges to the development and daily administration of the legal collection while maintaining it for the benefit of our nation and the world.

The importance of the Law Library of Congress can be summed up today just as it was in 1931 by Justice Harlan Stone, stating in testimony before the House Committee on Legislative Appropriations:

I am not looking at this from the point of view of the Supreme Court alone, but as the fulfillment of a great national purpose, by placing the material where it could be reached by every person having legitimate interest in carrying on these studies.

One year after Justice Stone’s testimony, the American Bar Association formed a permanent committee to serve as the voice of the legal profession concerning the Law Library’s ongoing development and effective operation. Formation of the Committee recognized the vital importance the Law Library of Congress has in the administration of justice and the Rule of Law. Since that time, the ABA has supported the full and robust funding of both the Library of Congress and the Law Library of Congress. Specifically, in 1933, the American Bar Association adopted the following resolution:

RESOLVED, that the American Bar Association favors the continued development of the facilities of the Law Library of Congress to the end that it may become the nation’s principal repository of legal literature and sources.

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Mr. Justice Stone’s persistent advocacy in favor of the development of the Law Library of Congress was a major impetus in securing a fair appropriation for the Law Library. In January of 1933, before the House Committee on Appropriations, Justice Stone added:

This nation should have a law library to which official bodies and individuals would come, from every part of this country and from abroad, for the purpose of conducting legal investigation and research. But it will not be limited wholly even to that use, because the historian, the student of the social and economic life of a nation, will ultimately find in the law library the material which is the subject of his investigations.

THE LAW LIBRARY’S CURRENT SITUATION

The challenges the Law Library faced in the early 1930s continue today. As a result of the undeniable and growing importance of the Law Library of Congress, it continues to have more demand for its collections and staff than its funding levels can accommodate. With increased funding, it could better serve its vast clientele. The difference between what is required (in terms of appropriations) and what is received affects not only members of Congress but also the wide-ranging Law Library clientele including branches of federal and state government, the legal profession, universities and law schools, corporate law departments, and the general public.

With its massive collection and the launch of initiatives such as the Global Legal Information Network (GLIN) comprised of laws and other legal information from contributing nations, the Law Library of Congress is recognized as the premier source of international trade law and a pillar of information to support the rule of law worldwide.

As the size of the world effectively decreases due to technological advances, the Law Library of Congress acquires even greater importance. Working with partners around the world, its resources have served to support the status of the rule of law. For instance, when Afghanistan was liberated from Taliban rule, the Law Library of Congress located and provided to the Afghani people a preserved copy of their constitution and laws. When Haiti sustained a horrific earthquake, it was the Law Library of Congress, along with partners worldwide, that located and provided the Haitian people primary source materials and access to their laws. Many other collections within the larger Library of Congress provide materials of importance to global stability and security. For example, it was in the general studies collection that the only known U.S. copy of the autobiography of Osama Bin Laden was found.

Despite such impressive accounts, the Law Library of Congress faces inadequate funding, insufficient staffing, and immense challenges to preserve and maintain current and future collections, much less develop new technologies and methods to make our nation’s Law Library accessible to all. Over the past 30 years, the ABA has, on five separate occasions, adopted formal resolutions intended to advance the case for the Law Library in the face of budget cuts. In the past number of years, Congress has not provided appropriate funding for reclassifying material under the “Law” shelving arrangements to the “K” classification, and to eliminate the backlog of gazettes and periodicals awaiting microfilm preservation.
Approximately 550,000 volumes are yet to be reclassified into the user-accessible “K” classification. And approximately 4,800,000 pages of gazettes and periodicals are in the queue awaiting microfilm preservation.

Moreover, the Library of Congress itself is in dire need of funds to build “Module V” at the Library’s High Density Storage Facility at Ft. Meade, Maryland. Currently four modules have been constructed, but each is now full or nearly so, and the Law Library has used up its allotted space in each. Completion of Module V would provide space for 300,000-400,000 volumes from the Law Library, freeing up 4.6-6.1 years of additional growth space on Capitol Hill. For comparison purposes, the Law Library has previously freed up space in the Madison Building on Capitol Hill by sending approximately 325,000 volumes to be housed in Modules I - II. Without the additional space that Module V would provide, the Law Library will run out of space to shelve incoming material by September 2013. In addition, the environmental controls at the Ft. Meade facility would greatly extend the life of materials, from an average of 40 years on Capitol Hill to 240 years under proper conditions.

Currently, a significant number of the Law Library’s rare books are housed in the general law stacks on Capitol Hill. The Law Library’s rare-book vault holds, and is entirely filled with, approximately 23,750 volumes. Unfortunately, the current rare-book vault cannot accommodate the Law Library’s total collection of rare volumes, most of which were printed before 1801. Those rare books that are not in the vault (in a controlled environment with appropriate temperature, humidity, and ventilation), are housed in the stacks, where the ambient conditions over time can cause severe deterioration, and could render the books useless. The Law Library advises that approximately 36,250 rare volumes are under conditions that place them in jeopardy. Some of these materials could be moved to Ft. Meade if Module V is built.

In recent years, cuts to the budget of the Law Library have impaired its ability to fully carry out its mission. Some examples in the more traditional realm are stated above. Other manifestations are in the digital realm. In the mid-1990s the Law Library launched the Global Legal Information Network (GLIN), a consortium of nations to have a world-class system providing access to accurate, authentic, official primary-source legal materials in digital format in at least 14 languages. This consortium, and its collection of world laws, is designed to provide access to difficult-to-locate legal materials and the ability to perform comparative research. Other Law Library digital initiatives, such as THOMAS, are likewise geared to providing digital access to legal materials.

While the Standing Committee recognizes the escalating costs of acquisition of new volumes and scholarly periodicals, as well as the increased cost for preservation of the existing collection, such financial costs must be compared with the potentially devastating impact of the loss of precious legal resources on the law-making process around the world. Bluntly put, funding for the Law Library’s digital initiatives must be found. A fully-funded Law Library would provide greater transparency and access to digital materials, thereby benefiting the entire globe on the law-making process. It would allow the Law Library to keep pace with its obligations to its constituents’ necessarily widening expectations. For example, Congress must continue to examine the growing body of laws of other countries. Commerce compels lawyers to research and investigate wider client services and transnational issues and transactions.
Government agencies, law firms, and legal professionals continue to assist American business to compete globally, and developing nations to look at models for their emerging legal systems. American lawyers at the center of these efforts will not be successful without a fully-funded Law Library available to serve their growing needs for access to American and foreign laws.

Increasing globalization makes the availability of foreign, international and comparative law necessary at unprecedented levels. The Internet and other computerized information systems now set the pace for speed and versatility in document retrieval and distribution. To best serve its many constituents, the Law Library of Congress must stay abreast of, or better yet, lead those new trends. Throughout the United States, there is a crucial need for primary-source legal information, and especially for reliable sources of foreign and international law. In addition to serving Congress, its primary client, the Law Library of Congress is in a unique position to respond to Americans nationwide and worldwide, fulfilling its original intended role as Law Library to the nation. The Law Library of Congress must be in a position to respond to the needs of all Americans with new products and services while continuing to discharge its historic services to the Congress, the Judiciary, and the Executive Branch.

**NEEDS OF THE LAW LIBRARY’S STAKEHOLDERS**

*Regarding the Needs of Congress*

Currently, the United States Congress is called upon increasingly to grapple with issues of global impact requiring in-depth understanding of foreign, international, and comparative law. America’s position in the international community continues to drive that Congressional obligation. To meet those needs, through instantaneous communication systems the Congress must have immediate access to current, authentic, accurate sources of foreign law. Increasingly, it must be able to command reliable, up-to-the-minute analyses in support of Members’ deliberations.

Of grave significance to the legal profession is another vital contribution Congress should expect from the Law Library of Congress. As never before, the Rule of Law as Americans appreciate it carries profound global consequence. In many societies and regions, its weakness – indeed, its absence – has proven harmful to our nation and adverse to international stability. It should be expected that the Law Library of Congress will become a fountainhead of expertise and guidance, implementing United States efforts in support of the Rule of Law as our Government sees fit.

*Regarding the Needs of the Legal Profession*

*Foreign and International Law –*

Today’s lawyers in the U.S. face questions of foreign and international law at an unprecedented and increasing rate. Local libraries are generally not able to support those professional needs. Congressional staffs, private attorneys, corporate counsel, and academic libraries seek to place growing reliance on the Law Library of Congress as the nation’s, indeed the world’s, leading source of foreign, international, and comparative law contained within one institution. Expansion of the Law Library’s *Global Legal Monitor* could provide general
counsels, journalists, and legal practices with timely access to foreign, comparative, and international law. The Law Library must also continue to support the expansion of digital foreign legal resources, including sponsorship from associate or supporting memberships by private or inter-governmental bodies, especially those with multi-national interests.

Special attention must be paid to the retention – and augmentation – of the Law Library’s staff of foreign-trained lawyers. Processes must be created through which their expertise can be even more widely shared. In addition to undertaking specific research assignments, a robust cadre of skilled specialists can help address the myriad needs for authoritative law in today’s global environment.

*The New Information Technologies –*

Holding to the promise of a truly national Law Library, the Law Library of Congress must expand its use of digital resources and broaden public access to existing resources. Digitization will allow a global constituency to benefit from the Library in immediate and direct ways. Of primary significance is the Law Library’s capability to lead in the digitization of legal materials, and coordination of digital sources. The Law Library of Congress must remain a premier gateway for digital legal materials and assure that such materials represent the highest standards of currency, authenticity, and authoritativeness. The Law Library must be able to promote the acceptance of standards for authenticating and managing legal documents in digitized formats. And it should promote the preservation of legal resources that are born digital. Digital access improves the availability of legal information, and enhances currency and flexibility of use.

*Service to Law Libraries and Law Schools –*

The Law Library of Congress is a much-needed partner to existing law libraries and academic institutions across the United States. Due to the increasing breadth of American law practice, libraries in general face greater demands. In this era of budget constraints, however, many law libraries are caught between their obligation to maintain useful collections, and fiscal realities. The Law Library supplements the resources of these other libraries. Through greater use of digitization and new communication technologies, the Law Library could make resources concurrently available to multiple users. Hence, sought-after materials that are not well represented in smaller libraries, such as foreign or international resources, or primary sources specific to certain industries, could be accessible to multiple audiences, such as law schools, state and local courts, local governments, public interest attorneys, non-governmental organizations, and virtually anyone else who relies on local and law school law libraries. The Law Library could forge collaborative and cooperative agreements to aggregate unique collections and funding sources to achieve mutually beneficial ends.

*Regarding the Needs of the Public*

*Service to Individuals –*

For a nation of laws, the Law Library is an American asset in the fullest sense. Citizen access to case reports and other primary legal texts – domestic, international, and foreign – can be very difficult. The Law Library, especially through its creation and use of on-line resources,
can lead the way to greater access by the general public to primary source legal documents and expert research assistance. The Law Library of Congress is committed to providing public access, and partnerships to accomplish this can be facilitated through the ABA’s vast network. This effort must be supported.

Service to the Business Community –

In an age of Internet transactions, international commerce, and rapid technological innovation, American businesses face increasingly complex regulatory and competitive environments. The laws of other nations must be understood and followed. The Law Library is at the focal point of U.S. knowledge of domestic and foreign trends in the law. It is uniquely capable of building and housing comprehensive collections of domestic and foreign materials of importance to business and societal needs. It should continue to house under one roof the premier group of legal research experts. It should support expansion of multi-national databases including GLIN. And it should continue to expand public-access research tools such as THOMAS.

CONCLUSION

At its inception in 1832, the Law Library of Congress was conceived as a resource to the nation. It was intended as a service to Congress, the Federal Judiciary, and the Executive Branch. But access also was intended for the nation’s legal profession and for the American public.

Over many years, that national mandate has grown dim and remote due to budgetary concerns. Indeed, during the last ten years it has been in deep decline. That timing is regrettable. The need for understanding of foreign laws and the need for public access to legal information are greater than ever.

The Standing Committee is convinced that the original mandate for a larger national mission is more urgent now than at any time in the past. The Law Library’s resources must be restored, developed, maintained, and enhanced.

Respectfully submitted,

M. Elizabeth Medaglia, Chair
Standing Committee on the Law Library of Congress

February 2011
GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on the Law Library of Congress

Submitted By: M. Elizabeth Medaglia, Chair

1. Summary of Recommendation(s). Supports efforts by the Law Library of Congress and the Library of Congress to create and continue programs that (1) develop, maintain and enhance the Law Library’s services, facilities, operations and staff; (2) develop, maintain, and enhance the Law Library’s acquisition of materials and their preservation and care; and (3) utilize the best technologies and methods available for making accessible the Law Library’s vast and growing collections.

2. Approval by Submitting Entity. The Standing Committee approved the recommendations via e-mail during the week of November 8, 2010.

3. Has this or a similar recommendation been submitted to the House or Board previously? Dating to 1933, the ABA has adopted a number of policy positions supporting the Law Library of Congress. These have included general expressions of support for continued adequate funding for the Law Library (November 1991) and for its efforts to secure the level of appropriations necessary to enable both itself and the Library of Congress to maintain and enhance their services (February 1993).

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption? See #3. This resolution is consistent with and builds on ABA policy concerning the Library of Congress and the Law Library of Congress as well as the ABA’s promotion of the rule of law. We have developed the proposed policy position because current priority needs of the Law Library of Congress and the state of its collections concern matters that exceed existing ABA policy.

5. What urgency exists which requires action at this meeting of the House? In the outgoing Congress, H.R. 2728 contained several provisions consistent with ABA policy, including authorization for a one-time appropriation to help eliminate the backlog of law books not yet classified in the Library’s system. The Senate has not acted on the bill, however, and the Committee anticipates expanding its advocacy efforts in the new Congress with the help of this policy resolution. In the Spring of 2011, Congress is expected to consider appropriations for the Law Library of Congress. In order for the ABA voice to be heard on matters of critical concern to the Law Library of Congress – and thus of significance to the nation’s lawyers and the public – this policy resolution needs to be in place.


7. Cost to the Association. (Both direct and indirect costs.) None to our knowledge.
8. **Disclosure of Interest.** (If applicable.) There are no known conflicts of interest on the part of the proponents of this resolution.

9. **Referrals.** The recommendation is being referred to the Section of Administrative Law and Regulatory Practice; Section of Business Law; Section of International Law; Section of State and Local Government Law; Section of Science and Technology Law; Standing Committee on Technology and Information Services (SCOTIS); General Practice, Solo and Small Firm Division; Judicial Division; Senior Lawyers Division; Young Lawyers Division; and the Legal Technology Resource Center.

10. **Contact Person.** (Prior to the meeting.)

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11. **Contact Person.** (Who will present the report to the House.)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

This resolution supports efforts by the Law Library of Congress and the Library of Congress to create and continue programs that (1) develop, maintain and enhance the Law Library’s services, facilities, operations and staff; (2) develop, maintain, and enhance the Law Library’s acquisition of materials and their preservation and care; and (3) utilize the best technologies and methods available for making accessible the Law Library’s vast and growing collections.

2. Summary of the issues which the Resolution addresses

The Law Library of Congress critically needs adequate funding to support its services, operations, materials acquisition and preservation, staffing, and the use of appropriate technologies to make its collections accessible. Without sufficient funding, the Law Library, with its unparalleled law collections, will fall further behind in serving the needs of Congress, the legal community, and the public. The risk is particularly unacceptable as the Law Library of Congress is increasingly being turned to for knowledge and information, including in critical areas such as foreign and international law. This Resolution addresses the Law Library’s need for ABA policy to support the Law Library’s current congressional funding needs.

3. Explanation of how the proposed policy resolution will address the issue

This Resolution recognizes that the Law Library of Congress is extremely valuable to the work of Congress; lawyers; federal, state, and local governments; private sector organizations; and the public as well in promoting the rule of law worldwide. Inadequate funding is jeopardizing the Law Library’s ability to fulfill its unique responsibilities, with some needs having reached critical status. In recognizing the current needs of the Law Library of Congress and expressing support for areas requiring funding, the ABA will position itself to participate fully and effectively in upcoming congressional deliberations on these matters.

4. Summary of minority views of opposition which have been identified

No known minority views or opposition.