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LSC cut by \$15.8 million

Final fiscal year 2011 appropriations measure signed by the president

President Obama signed a compromise bill April 15 to fund the rest of fiscal year 2011, approving an estimated \$38 billion in reductions in discretionary non-defense spending and setting the stage for the upcoming debate on fiscal year 2012 appropriations.

P.L. 112-10 (H.R. 1473) encompasses all 12 appropriations bills to provide funding through Sept. 30, 2011, for federal programs. The federal government has been functioning on continuing resolutions as Congress and the Obama administration negotiated a compromise that averted a governmental shutdown.

After an initial proposal to cut \$70 million from the Legal Services Corporation's current funding of \$420 million, strong advocacy by the ABA and other organizations prevented the severe reduction, bringing the cut down to \$15.8 million. The final funding level is \$404.2 million – a 3.8 percent decrease.

The ABA highlighted the LSC appropriations issue as a priority for ABA Day in Washington, the association's annual lobbying days held April 12-14.

"Those benefiting from LSC-funded programs are among the most vulnerable Americans, including veterans returning from combat, domestic violence victims, those coping with the after-effects of natural disasters, families involved in child custody disputes, people with disabilities, and individuals undergoing foreclosures or other housing issues," ABA President Stephen N. Zack and bar leaders from the 50 states and the District of Columbia, local bar associations and national bars of color emphasized to members of the House and Senate in an April 8 letter.

The bar leaders explained that due to economic conditions, the number of people who qualify for legal services is at an all-time high, with more than 63 million Americans, including 22 million children, now eligible for civil legal assistance. As one in two eligible clients is turned away because of lack of resources, LSC-funded legal aid programs are seeing revenue from Interest on Lawyers' Trust Accounts decreasing and state and private contributors struggling with budget issues. In addition, LSC provides the framework and infrastructure for pro bono efforts that will diminish without sufficient resources.

Looking ahead to fiscal year 2012 funding, Zack [asked](#) the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies to

see "Appropriations," page 9

LEGISLATIVE BOXSCORE

ABA LEGISLATIVE PRIORITY	HOUSE	SENATE	FINAL	ABA POSITION
<p>Independence of the Legal Profession. The ABA filed a lawsuit against the FTC on 8/27/09 and a motion for partial summary judgment on 9/23/09 to block the Federal Trade Commission's application of the Red Flags Rule to lawyers. On 10/30/09, the court ruled that the FTC had exceeded its authority. The FTC appealed the decision and delayed implementation of the rule for all entities through 12/31/10. Oral arguments were 11/15/10. P.L. 111-219 (S. 3987) clarifies that lawyers are not creditors under the act. On 3/4/11, the circuit court dismissed the appeal and declared the case moot — a victory for the ABA.</p>			<p>President signed P.L. 111-219 (S. 3987) on 12/18/10.</p>	<p>Opposes the application of the FTC's "Red Flags Rule" to lawyers. Supports preservation of the attorney-client privilege and work product doctrine and opposes governmental policies, practices and procedures that erode these protections, including the routine practice by government officials of seeking to obtain a waiver of the attorney-client privilege or work product doctrine through the granting or denial of any benefit or advantage.</p>
<p>Health Care Law. P.L. 111-148 (H.R. 3590), the Patient Protection and Affordable Care Act, and P.L. 111-152 (H.R. 4872), the Health Care and Education Reconciliation Act, overhaul the nation's health care system. H.R. 2 would repeal health care reform law. An amendment proposed to S. 223 would have repealed the law. H.R. 5 would preempt state medical liability laws.</p>	<p>House passed H.R. 2 on 1/19/11. Judiciary Cmte. held a hearing on H.R. 5 on 1/20/11 and approved the bill on 2/16/11.</p>	<p>Senate rejected health care repeal amendment to S. 223 on 2/2/11.</p>	<p>President signed P.L. 111-148 (H.R. 3590) on 3/23/10 and P.L. 111-152 (H.R. 4872) on 3/30/10.</p>	<p>Supports increased access to health care for all Americans. Opposes federal legislation to preempt state medical liability laws or legislation to require patients injured by malpractice to use "health courts" that take away jury trials.</p>
<p>Judicial Independence. No cost-of-living adjustment was provided for federal judges in 2010 and 2011. S. 348 and H.R. 727 would establish an inspector general for the federal judiciary. S. 755 and H.R. 1416 would help state courts collect overdue court-ordered financial obligations through interception of federal tax refunds.</p>	<p>H.R. 727 was referred to the Judiciary Cmte. on 2/15/11. H.R. 1416 was referred to the Ways and Means Committee on 4/7/11.</p>	<p>S. 348 was referred to the Judiciary Cmte. on 2/15/11. S. 755 was referred to the Finance Committee on 4/7/11.</p>		<p>Supports prompt filling of judicial vacancies. Opposes initiatives that infringe upon the separation of powers between Congress and the courts. See page 4.</p>
<p>Legal Services Corporation. P.L. 112-10 (H.R. 1473), continuing appropriations for fiscal year 2011, includes \$404.2 million for the LSC. The president requested \$450 million for the program in his fiscal year 2012 proposed budget.</p>	<p>House passed H.R. 1473 on 4/14/11. A House Appropriations subcommittee held a hearing on LSC on 4/5/11.</p>	<p>Senate passed H.R. 1473 on 4/14/11.</p>	<p>President signed P.L. 112-10 (H.R. 1473) on 4/15/11.</p>	<p>Supports an independent, well-funded LSC. See front page.</p>

Nearly 300 bar leaders visit Capitol Hill for ABA Day

When nearly 300 bar leaders from around the country descended on Capitol Hill April 12-14 for ABA Day in Washington, they focused their attention on three pressing issues: Legal Services Corporation appropriations, the state court funding crisis, and prompt filling of federal judicial vacancies.

ABA Day, coordinated by the ABA Governmental Affairs Office and the ABA Day Planning Committee, is an annual opportunity for members of the organized bar to meet face-to-face with their members of Congress. The event, now in its 15th year, is cosponsored by the National Conference of Bar Presidents, the National Association of Bar Executives, the ABA Section Officers Conference and the Young Lawyers Division.

"In-person meetings are the most effective way to educate and win the support of legislators regarding important legal issues," ABA President Stephen N. Zack said in this welcome to attendees. Planning Committee Chair William C. Hubbard emphasized that participation "ensures that crucial information in support of equal ac-



Justice Antonin Scalia (left) talks with Grassroots Advocacy Award recipient Jim Felman at the Supreme Court reception.

cess to justice is presented to Congress by the organized bar, the nation's strongest advocates for adequate funding and resources to preserve our justice system."

This year, the bar leaders en-



ABA Day participants were welcomed to Washington by (from left) the association's President-Elect Wm. T. (Bill) Robinson III, House of Delegates Chair Linda A. Klein, ABA Day Planning Committee Chair William C. Hubbard, President Stephen N. Zack and Executive Director Jack Rives.

couraged Congress to support an appropriation of at least \$450 million for the LSC in fiscal year 2012. They explained to their members that the need for legal services for poor Americans has never been greater, with more than 63 million Americans, including 22 million children, qualifying for legal assistance (see article, front page).

The participants also urged their members to support S. 755 and H.R. 1416, identical bipartisan bills to help financially strapped state courts collect past-due restitution, court fines and other court debts. The bills would expand existing federal procedures to withhold tax refunds to address the approximately \$15 billion in past-due debts to the courts. The program, administered by the Treasury Department's Tax Offset Program, would apply to criminal and traffic cases (see article, page 4).

The third issue was the growing vacancy crisis in the federal courts, where 10 percent or more of the federal judicial seats have been vacant for more than 20 months, making it impossible for an increasing number of courts to deliver timely justice. The ABA is urging the Senate to avoid unnecessary

delays and to give every nominee an up-or-down vote within a reasonable time after the nomination is reported by the Senate Judiciary Committee.

In addition to nearly 200 visits, participants attended a welcome dinner where awards were announced recognizing six members of Congress for their specific efforts to improve the American justice system. This year's honorees were Sens. Mark Begich (D-Alaska), Mike Enzi (R-Wyo.), Jeff Merkley (D-Ore.) and John Thune (R-S.D.), and Reps. Judy Biggett (R-Ill.) and Lloyd Doggett (D-Texas).

The association also honored, at a reception at the Supreme Court, three individuals and the New York State Bar Association for outstanding grassroots advocacy work. Individual honorees were Jim Felman, of Tampa, Florida, for his work on sentencing reform; Martin Lybecker, of Washington, D.C., for working against further federal regulation of lawyers in financial reform legislation; and retired Col. John Odom, of Shreveport, Louisiana, for helping assure the legal

see "ABA Day," page 4

New legislation attacks court debt with expansion of tax-intercept program

Sen. Rob Wyden (D-Ore.) and Rep. Erik Paulsen (R-Minn.) have introduced federal legislation to help collect overdue court-ordered financial obligations.

The bills, S. 755 and H.R. 1416, would allow state courts to coordinate with the IRS to intercept federal tax refunds of individuals who owe restitution to their victims or have overdue court fines and fees.

“It is only common sense that those convicted of a crime pay their debts to society before benefiting from tax refunds,” Wyden said. Paulsen added that “there is absolutely no reason that the federal government should be giving tax refunds to criminals who owe restitution to their victims.” The legislation, he explained, “will ensure that criminals who still owe money to their victims and the court don’t receive their tax refunds until they repay every last cent.”

Under the legislation, the Treasury Department would be authorized to expand its existing Tax Offset Program, which currently coordinates the interception of federal tax refunds to pay outstanding child support, state tax and other federal debts. The new program would apply only to criminal and traffic cases, and participation by the states would be optional.

According to the ABA, which was instrumental in getting the bills introduced, the strength and attraction of the legislation is that it taps into an efficient and sophisticated federal collection program already in place, thereby incurring no start-up costs. During the 110th Congress, similar legislation was scored by the Congressional Budget Office as having no effect on federal spending.

National Center for State Courts (NCSC) statistics, which show that outstanding court debts total ap-



Rep. Erik Paulsen

proximately \$15 billion across the country, reflect the urgency for enactment of the legislation. Courts are struggling to maintain essential services on slashed budgets, and many have been forced to reduce hours of operations, downsize essential staff, furlough judicial officers, and reduce salaries. They do not have the resources for collection activities.

Passage of this bill, according to NCSC, would hold debtors accountable and deliver justice to crime victims who are owed restitu-



Sen. Ron Wyden

tion and will enable states to collect millions of dollars annually without raising taxes or imposing any new cost burdens on the government.

In addition to the support of the American Bar Association and NCSC, the legislation is endorsed by numerous other organizations, including the Conference of Chief Justices, the Conference of Court Administrators, the National Association for Court Managers, the National Conference of State Legislatures, and the National Association of Counties. ■

ABA Day in Washington

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rights of servicemembers. The New York State Bar Association was recognized for its leadership in authoring an amicus brief in the ABA’s successful case against the Federal Trade Commission’s attempt to regulate lawyers under the Red Flags Rule.

Governmental Affairs Director Thomas M. Susman summed up the importance of ABA Day by emphasizing that personal connection with legislators, combined with professional expertise and the ABA’s advocacy skills, “brings depth and breadth to the information we provide government decisionmakers.” ■

Look for additional photo coverage of ABA Day in the May 2011 edition of the ABA Washington Letter.

ABA weighs in on DOJ prison rape standards

The ABA is recommending that the Department of Justice (DOJ) reconsider portions of standards proposed in February that are intended to prevent, detect and respond to prison rape.

The proposed DOJ standards are required by the Prison Rape Elimination Act of 2003, which established the National Prison Rape Elimination Commission (NPREC) to conduct a comprehensive study of prison rape in the United States and recommend national standards. The attorney general weighed the commission's recommendations, which were issued in 2009, and earlier comments from the ABA and other organizations to draft the proposed standards.

The ABA's views on the proposal primarily are based on the association's *Criminal Justice Standards on the Treatment of Prisoners* adopted by the ABA House of Delegates in February 2010. The ABA standards are the product of a five-year drafting process and

reflect the expertise and viewpoints of all segments of the criminal justice system, according to an April 4 [comment letter](#) sent to the DOJ Office of Legal Policy by ABA Governmental Affairs Director Thomas M. Susman.

In his letter, Susman focused on four areas of the proposed standards that the association maintains should be modified.

Cross-gender searches and supervision of prisoners. While the ABA and the NPRCE recommendations favor total elimination of non-emergency cross-gender pat-down searches, the DOJ proposal would exempt from such searches only those inmates who have suffered documented prior cross-gender sexual abuse while incarcerated.

The DOJ proposed standards also would require facilities to implement policies and procedures that enable inmates to shower, perform bodily functions and change clothing without non-medical staff viewing them, but includes exceptions in emergencies, by accident, or when such viewing is incidental to routine cell checks. The ABA urged the DOJ to incorporate language that would require facilities to use strategies and devices to protect prisoner privacy even during routine cell checks.

Placement of juveniles in adult facilities. The ABA believes that it is imperative that the standards include a provision prohibiting the housing of juveniles under the age of 18 in adult jails and prisons, regardless of the venue in which they are prosecuted and tried. The DOJ proposed standards do not address this issue.

Exhaustion of administrative remedies. According to the ABA, the DOJ proposed standards fail to address barriers created by the Prison Litigation Reform Act, which obstruct court access for survivors of custodial sexual abuse by requiring prisoners to exhaust administrative remedies in corrections facilities before seeking relief in the courts. The association recommends that DOJ adopts the NPREC standard providing that the administrative process will be deemed exhausted no longer than 90 days after a report of sexual abuse is filed, without regard to who files it. In emergency situations when prisoners are seeking immediate protection for imminent sexual abuse, the process would be deemed exhausted 48 hours after a report is filed.

Audit Requirements. In response to a request for guidance from DOJ about audits of facilities, the ABA maintains that audits should be both routine and "for cause" and that any audit should include interviews with prisoners.

The attorney general will be reviewing the most recent comments before issuing final standards. ■

National commission would examine all elements of criminal justice system

Sen. Jim Webb (D-Va.) has reintroduced legislation to establish an independent National Criminal Justice Commission to undertake the first comprehensive examination of the U.S. criminal justice system in more than 45 years.

"The need for a comprehensive review is clear," ABA Governmental Affairs Director Thomas M. Susman wrote in a March 16 [letter](#) to Webb commending him for his leadership on the issue. According to the letter, "at every stage of the criminal justice process – from the events preceding arrest to the challenges facing those reentering the community after incarceration – serious problems undermine basic tenets of fairness and equity, as well as the public's expectations for safety." The result is an "overburdened, expensive and often ineffective criminal justice system," Susman concluded.

The legislation, first introduced by Webb in 2009, cleared the Senate Judiciary Committee and passed the House during the 111th Congress, but never came to a vote in the Senate despite strong bipartisan support.

The commission created by the bill, introduced this year as S. 609, would examine all areas of the criminal justice system, including federal, state, local and tribal governments' criminal justice costs, practices and policies. After conducting the review, the commission would make recommendations designed to prevent, deter, and reduce crime and violence, improve cost-effectiveness, and ensure the interests of justice.

"America has the highest documented rate of incarceration in the world, yet 60 percent of Americans feel

see "Criminal justice," page 6

ABA opposes legislation to amend Rule 11 to reinstate a mandatory sanctions provision

The ABA told the House Judiciary Subcommittee on the Constitution last month that the association opposes legislation to amend Rule 11 of the Federal Rules of Civil Procedure to reinstate a mandatory sanctions provision that was eliminated in 1993 because it was counterproductive and harmful to the resolution of civil litigation.

The association expressed its views in a March 11 [statement](#) submitted to the subcommittee for the record of a hearing on H.R. 966, known as the Lawsuit Abuse Reduction Act.

Both H.R. 966, sponsored by House Judiciary Committee Chairman Lamar Smith (R-Texas), and S. 533, identical legislation introduced in the Senate by Sen. Charles Grassley (R-Iowa), also would require, rather than permit, the imposition of monetary sanctions, consisting of attorneys' fee and other costs resulting from the violation, and eliminate a provision adopted in 1993 that allows parties and their attorneys to avoid sanctions by withdrawing frivolous claims within 21 days after a motion for sanctions is served.

The ABA cited three main reasons in its letter for opposing the legislation.

First, the legislation would circumvent the Rules Enabling Act, a process established by Congress to ensure that changes to the federal rules are thoroughly reviewed. Under the procedures, the Judicial Conference of the United States drafts evidentiary and procedures rules or amendments, which are then subject to public comment and recommendations. If approved by the Judicial Conference, the proposals are submitted to the U.S. Supreme Court for consideration and promulgation. The Supreme Court

transmits the proposed rules or amendments to Congress, which retains the ultimate power to reject, modify or defer any rule or amendment before it takes effect.

Second, the ABA believes that the proposed revisions are unnecessary and counterproductive, stating that there is no demonstrated evidence that the existing Rule 11 is inadequate or needs to be amended. The association disagrees with the assertion that there has been a significant increase in the filing of non-meritorious litigation in the 18 years since Rule 11 was revised to permit the discretionary imposition of sanctions.

If legitimate concerns are raised, Congress should defer to the Rules Enabling Act process "to assure a comprehensive and dynamic examination of the issues and avoid tak-

ing action that results in unintended or adverse consequences," according to the ABA.

Third, the legislation ignores the lessons learned from the 10 years that the mandatory version of Rule 11 was in place from 1983 through 1993. During that time, according to the Judicial Conference, the mandatory application of Rule 11 created a significant incentive to file unmeritorious Rule 11 motions by providing a possibility of monetary penalty, and provided little incentive to abandon or withdraw a pleading or claim that lacked merit.

The letter stated that "past experience strongly suggests that, if enacted, these proposed changes will encourage additional litigation and increase costs and delays without accomplishing the stated goal of deterrence." ■

Criminal justice

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less safe in their own neighborhoods than they did a year ago," Webb said as he introduced the bill. "We spend a staggering \$68 billion every year just to keep people locked up, and we lose billions more in lost productivity due to the lack of proper re-entry programs."

In his letter to Webb, Susman explained that the ABA has long called for greater reliance on alternatives to incarceration and also for more careful scrutiny and reform of current practices that have resulted in the unchecked growth of federal criminal law and the attendant expansion of the federal criminal justice system.

He noted that experts now estimate that there are more than 4,500 separate federal criminal justice statutes scattered throughout the federal code without any coherent organization. Decades of expansion of federal crime has resulted in overcriminalization of behavior that often lacks criminal intent and would be managed better by civil fines or other non-criminal sanctions.

Susman said that discussion of the criminal justice system must include state, local, and federal law enforcement officers, prosecutors, defense attorneys, judges, corrections officials, treatment providers, victims, probation and parole officers, academics, victim advocacy groups, other public interest organizations, ex-offenders, and ordinary citizens – all of whom have a tremendous stake in the justice system. ■

ABA president urges continued funding for rule of law activities

ABA President Stephen N. Zack urged a House Appropriations subcommittee last month to maintain funding in fiscal year 2012 for rule of law activities such as those implemented by the ABA’s Rule of Law Initiative (ABA ROLI).

“Establishing governments, legal structures and institutions based on the rule of law are necessary prerequisites to creating durable democratic societies and successful market-based economies,” Zack wrote in a March 29 [statement](#) to the Subcommittee on State, Foreign Operations and Related Programs. He added that democratic regimes are less likely to engage in terrorist activity and that U.S. and other business interests are hesitant to invest resources in countries that lack sufficient commercial legal protections and independent courts to fairly resolve commercial disputes.

Zack emphasized that programs promoting the rule of law are a “valuable and cost-effective investment of U.S. dollars that enhance both the national security and economic prosperity of the nation.”



ABA ROLI, which recently celebrated 20 years of promoting the rule of law in more than 75 countries, today has nearly 700 staff, volunteers and other personnel in offices in approximately 40 countries. The ABA president highlighted ABA ROLI programs in Africa, Asia, Central Asia, Europe and Eurasia, Latin America and the Caribbean, and the Middle East and North Africa.

U.S. funding for rule of law programs must be utilized in partnership with local leaders, he said, and there are many benefits of delivering assistance through non-profit groups such as non-governmental organizations and private and voluntary organizations.

“Non-profit organizations such as the ABA are more likely to develop long-term relationships that

build capacity and allow for sustainable assistance efforts,” he explained, pointing out that through the ABA well over \$200 million in pro bono assistance has been provided by American and overseas lawyers working directly under its aegis.

Zack conveyed to the subcommittee that the ABA is aware of the tremendous budgetary challenges and difficult decisions in allocating funding. He maintained, nevertheless, that if the United States fails to invest adequate resources in this area, countries that do not share the U.S. commitment to democratic values and free markets will continue to languish and serve as destabilizing forces to the detriment of U.S. national interests. ■

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Judicial Vacancies/Confirmations — 112th Congress (as of 4/21/11)

<u>Court</u>	<u>Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	0	0	0
US Courts of Appeals (179 judgeships)	17	8	2
US District Courts (678 judgeships)	75	38	15
Court of International Trade (9 judgeships)	0	0	0
Totals	92	46	17

Washington News Briefs

MILITARY COMMISSIONS: U.S. Attorney General Eric H. Holder Jr. has referred the case of Khalid Sheikh Mohammed and four other individuals accused in the 9/11 terrorism attacks to the Department of Defense to proceed in military commissions to be held at Guantanamo Bay, Cuba. The decision reversed the Justice Department's earlier plans to bring the alleged terrorists to trial in federal district court in New York. Holder said he made the decision in light of restrictions put in place by Congress that block the administration from bringing any Guantanamo detainees to trial in the United States, regardless of the venue. Calling the restrictions "unwise and unwarranted," Holder emphasized that the decisions about where and how to prosecute have always been – and must remain – the responsibility of the executive branch. "Members of Congress simply do not have access to the evidence and other information necessary to make prosecution judgments," he said, vowing to continue to seek repeal of the restrictions. He expressed confidence in the federal courts, saying that "there is no other tool that has demonstrated the ability to both incapacitate terrorists and collect intelligence from them over such a diverse range of circumstances as our traditional justice system." Nevertheless, Holder said that prosecutors from both the Departments of Defense and Justice have been working together and he had full faith and confidence in the military commission system to appropriately handle this case as it proceeds. The ABA, in policy adopted in 2009, vigorously supports prosecution in Article III courts of detainees charged with criminal violations, unless the attorney general certifies that prosecution cannot take place before such courts.

NATIVE HAWAIIANS: The Senate Indian Affairs Committee approved an ABA-supported bill April 7 that would allow indigenous Hawaiian people to choose a political framework that could be recognized by the U.S. government and serve their unique cultural and civil needs, including advocacy on their behalf on the federal and state levels. Sen. Daniel K Akaka (D-Hawaii), who is retiring after this Congress, has sponsored the bill every Congress for the past 10 years and, although it has passed the House, the bill has consistently stalled in the Senate. "The United States has federally recognized government-to-government relationships with 565 tribes across our country," he noted when introducing the bill March 30. "It is time to extend this policy to the Native Hawaiians." Akaka explained that the bill is the next step in the reconciliation process that was supported in the Apology Resolution

signed into law in 1993 by President Clinton. The resolution apologized for the involvement of U.S. agents in the overthrow of the Hawaiian government in 1893 and committed the United States to support reconciliation efforts between the United States and the Native Hawaiian people. The ABA has supported the legislation since 2006, emphasizing that the framers of the Constitution, through the Indian Commerce Clause and the Treaty Clause, empowered Congress to maintain relations between the federal government and governments of indigenous people. In addition, the U.S. courts have ruled that this power includes re-recognizing nations whose recognition has been terminated in the past. There has been no action on identical legislation, H.R. 1250, sponsored by Rep. Mazie Hirono (D-Hawaii).

HAITIAN REMOVALS: The ABA urged U.S. Immigration and Customs Enforcement (ICE) to halt deportations from the United States of Haitian nationals until further infrastructure has been developed and the country is in a better position to receive deportees. The association was responding to a request for input on ICE's proposal to resume removals even though just over a year ago, on January 12, 2010, Haiti suffered an earthquake that killed more than 200,000 Haitians and displaced more than 2 million people. The ABA pointed out in a March 11 [letter](#) to ICE that Haiti is extremely fragile and currently threatened by a severe cholera outbreak that has spread to all levels of the population, including the remaining prisons where deported Haitians may be held upon return. The ABA also urged ICE to limit the detention of individuals who do not present a threat to national security or public safety. ICE nevertheless resumed limited removals to Haiti April 1, emphasizing that the removals will be conducted in a way that prioritizes the removal of aliens with final orders who pose a threat to public safety. At this time, ICE is not removing non-criminal Haitian nationals or those who have pending applications for temporary protected status.



**ABA Annual
Meeting
Aug. 4-9, 2011
Toronto, Canada**

ABA urges federal support for syringe exchange programs

The ABA expressed support last month for continuation of federal funding for syringe exchange programs, which the association maintains are an effective public strategy for reducing the transmission of HIV/AIDS in the United States.

In March 30 letters to the chairmen and ranking members of the [Senate](#) and [House](#) Appropriations Committees, ABA Governmental Affairs Director Thomas M. Susman urged them to reject efforts to ban the use of federal funds for the programs for the remainder of fiscal year 2011 and for fiscal year 2012.

Earlier this year the House passed a ban as part of H.R. 1, legislation to provide funding for the rest of fiscal year 2011. Also included in H.R. 1 were provisions to prohibit the District of Columbia from using its own funds for syringe exchange programs, a restriction that was lifted by Congress in 2007.

The provisions were not included in P.L. 112-10, the final version of funding legislation for fiscal year 2011 signed April 15 by the president.

“These programs enjoy broad support from state and local health departments and the communities they serve, and voluminous research has established that they are cost-effective and vital to protecting public health, reducing HIV transmission, and addressing drug addiction by encouraging and assisting intravenous drug addicts to enroll in substance abuse treatment programs,” Susman wrote. He emphasized that the country is still in the grip of a domestic HIV/AIDS epidemic that is worse than previously realized and that federal funds are more crucial for meeting local needs as states suffer budget shortfalls.

He cited the success of syringe exchange programs in the state of New York, where the proportion of new diagnoses attributable to injection drug use has decreased dramatically and more than 175,000 referrals have been made to detoxification and substance abuse treatment programs, health care services, HIV counseling and testing, and social services. As the historic epi-

center of the HIV/AIDS epidemic in the United States, Susman said, New York relies on preserving flexibility in the use of federal funds for syringe exchanges in order to meet the continued challenges of disease prevention and public health.

He also noted that a ban on federal funds would jeopardize new programs in several states – including California, Connecticut, New Jersey, New Mexico, Oregon, Vermont and Washington – that opted to direct a portion of their federal funds to syringe exchange under current policy enacted as part of the Consolidated Appropriations Act of 2010. ■

Appropriations

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approve at least \$450 million for the LSC -- the same amount requested by President Obama.

Meanwhile, LSC President Jim Sandman and LSC Board member Robert J. Grey Jr. asked the subcommittee to provide \$516.5 million for the program. They explained that, in addition to providing \$484.9 million for grants to provide civil legal assistance, the budget request proposes \$6.8 million for technology grants that improve access to legal assistance and self-help guides, \$1 million for student loan repayment assistance to legal aid lawyers, \$19.5 million for management and grants oversight, and \$4.35 million for the Office of Inspector General.

“These are hard times for low-income American,” Sandman said. “Requests for assistance are increasing, and the poverty population is growing.”

The monthly *Washington Letter* reports news of national public interest to the legal profession, including congressional, executive branch and ABA activities concerning the association’s legislative priorities. The newsletter is published by the Governmental Affairs Office as a service to ABA members and national, state and local bar associations. Full text is available on the Internet at http://www.americanbar.org/advocacy/governmental_legislative_work/publications.html. © 2011 American Bar Association. All rights reserved. Please address correspondence to:

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