

**Legislation Committee Report
November 16-18, 2001
Louisville, KY**

This report is divided into three sections: those reported favorably (recommended) by the Legislation Committee, those reported favorably as amended (recommended) by the Legislation Committee, and those not reported favorably (not recommended) by the Legislation Committee. In all cases, the final disposition as voted by the House of Delegates is indicated in bold, highlighted lettering.

The following proposals were reported out favorably by the Legislation Committee. They require a simple majority of the HOD to pass.

L-1	507.3.11 & 507.3.17 p 88-89	Convention Committee
	Approve Approve as Amended	Fail Withdrawn

507.3.11 – Marketing/Publications Committee

The Marketing/Publications Committee shall define the marketing goals and objectives that are supportive of the purpose and philosophy of Masters Swimming, and shall execute the activities and produce materials necessary to accomplish these goals and objectives.

507.3.17 – Rule Book Publications Committee

The Rule Book Publications Committee shall design, edit, and produce the rule book, and other materials or media, as approved by the House of Delegates.

L-3	601.2 & 601.4 pp 91-2	Legislation Committee
	Approve Approve as Amended	Fail Withdrawn

601.2.1—Authorization

Changes to the ~~USMS Code of Regulations and Rules of Competition~~ USMS Code of Regulations and Rules of Competition may be proposed only by an LMSC ...

601.2.4—Publication of Proposed Amendments

All proposed changes to the rules or code shall be published...

601.4 ADOPTION OF PROPOSED AMENDMENTS

The ~~USMS Code of Regulations and Rules of Competition~~ USMS Code of Regulations and Rules of Competition may only be altered...

L-18	201 p 59	Minnesota LMSC
	Approve Approve as Amended	Fail Withdrawn

**201.1. MEMBERSHIP OF ATHLETES
201.1.2 - Annual Registration**

Athlete registration is for the period January 1 through December 31 of each year. Swimmers applying for registration on or after November 1 shall be issued a registration card valid through December 31 of the following year. Swimmers may register unattached or may affiliate with a club that is already registered for the same year for which the swimmer is registering.

201.1 REPRESENTATION

201.2.2 – In order for a swimmer to compete as a representative of a club, that club must be a member in good standing of an LMSC and USMS for the year a swimmer is registering.

L-33	601.4.6 Approve	p 92 Rules Committee Approve as Amended	Fail	Withdrawn
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Insert new article 601.4.6

601.4.6.—FINA Masters Swimming Amendments That Affect USMS Rules

If amendments to the FINA Masters Technical Rules are adopted between the annual meetings of the House of Delegates, the corresponding portions of Part 1 shall be automatically adopted by USMS, except that such amendments may be altered, amended, repealed, or changed by a nine-tenths vote of the Rules Committee and a majority vote of the Executive Committee.

L-34	Appendix D Approve	p 143 Rule Book Committee Approve as Amended	Fail	Withdrawn
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Delaware Valley—The state of New Jersey south of Mercer and Monmouth Ocean Counties. The state of Delaware. In the state of Maryland the county of Cecil. The commonwealth of Pennsylvania east of and including Potter, Clinton, Center, Huntingdon, and Bedford Counties.

The following proposals were reported out favorably by the Legislation Committee as amended. They require a simple majority of the HOD to pass.

L-6	505.1.D Approve	p 84 Ohio LMSC Approve as Amended	Fail	Withdrawn
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505.4. DUTIES OF OFFICERS

The duties of the officers shall be as follows:

505.4.1—The president shall:....

D. Appoint legal counsel who shall serve at the pleasure of the president. The legal counsel shall be an ex officio member of the Board of Directors, Executive Committee, Rules Committee and Legislation Committee, having voice but no vote on these committees. The legal counsel may appoint liaisons to any other committees when requested by such committee chair.

L-7	505.4.1.E Approve	p 84 Ohio LMSC Approve as Amended	Fail	Withdrawn
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505.4. DUTIES OF OFFICERS

The duties of the officers shall be as follows:

505.4.1—The president shall:....

E. Serve as chair of the board of directors.

L-10	507 Approve	p 86 Ohio LMSC Approve as Amended	Fail	Withdrawn
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Amend 507.1.1 and add new 507.1.2 and renumber

507.1 EXECUTIVE COMMITTEE

507.1.1—The voting members of the Executive Committee of this corporation shall consist of:

- A. The president, the vice president, the secretary, and the treasurer
- B. The Zone Committee chair.
- ~~C. The legal counsel.~~
- DC. The immediate past president.

507.1.2—The non-voting members of the Executive Committee shall consist of:

- A. The legal counsel.

L-11	New Article 509 (renumber existing 509 to be 510) Approve	Approve as Amended	Fail	p 89 Ohio LMSC Withdrawn
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**ARTICLE 509:
OPERATING AND MEETING POLICIES**

509.1 OPEN MEETINGS

All meetings of USMS committees as defined in article 507, shall be open to all members of USMS except in those situations where by majority vote of the meeting body it is determined to go into executive session in the best interests of USMS (e.g., those relating to corporate or committee personnel or legal matters).

L-12	New Article 509.2 (see L-11) Approve	Approve as Amended	Fail	p 90 Ohio LMSC Withdrawn
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509.2 RULES OF ORDER

Unless otherwise specified, and subject to all standing rules, the current *Robert's Rules of Order* shall govern all USMS meetings and proceedings, at all levels.

L-15	507.3.7 Approve	p 87	Pacific LMSC	Approve as Amended	Fail	Withdrawn
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507.3.7 – History and Archives Committee

The History and Archives Committee shall record, collect and preserve documents, stories, photos, exhibits, oral histories and other memorabilia in an appropriate repository and in durable formats to ensure that the achievements of USMS and Masters swimmers will be maintained for posterity. The archived information shall be made available.

L-16	201.1.1 Approve	p 59	Pacific LMSC	Approve as Amended	Fail	Withdrawn
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201.1.1-Eligibility

Swimmers age ~~19~~ 18 and over are eligible and may apply for membership in USMS. ~~If an individual who has not achieved the age of 19 applies for USMS membership, the registration date shall be the individual's 19th birthday.~~

L-20	202.1 Approve	p 60	Metropolitan LMSC	Approve as Amended	Fail	Withdrawn
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202.1. SANCTIONS

Times achieved at sanctioned events are considered for USMS national records, USMS Top Ten times, and FINA world records.

L-22	505.2.3 Approve	p84	Zone Committee	Approve as Amended	Fail	Withdrawn
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505.2.3—The Zone Committee shall act as the Election Nominating Committee. The committee shall: ~~canvass qualified and interested candidates for each office to the national office by August 1 of the year in which elections are held. Additional candidates may be nominated at the annual meeting by two members of the House of Delegates, provided the nominee(s) gives written consent.~~

A Develop and maintain Election Operating Guidelines pertaining to the conduct of USMS National Elections.

B Accept nominations, qualify candidates, and present one or more candidates for each office to the national office by August 1 of the year in which elections are held.

C Accept and qualify additional candidates nominated from the floor of the House of Delegates during the annual meeting.

D Conduct election activities and voting during the annual meeting.

L-32	601.4.4 Approve	p 92	Rules, Legislation and Long Distance Committees	Approve as Amended	Fail	Withdrawn
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Insert new 601.4.4 and renumber.

601.4.4 – Proposed Amendments Requiring Action of More Than One Committee

In any year, proposed amendments to the USMS Code of Regulations and Rules of Competition which fall within more than one jurisdiction, as described in articles 601.4.1, 601.4.2 and 601.4.3, may be submitted as an indivisible package to be considered by the House of Delegates subject to the following:

A Each and every committee under which jurisdiction the amendment proposal falls votes by a two-thirds majority to accept the proposed amendments as a package to be considered in the whole.

B Parts 1, 2, 3, 4, 5 and 6, Appendix D, the Preamble, Goals and Objectives and Glossary may be amended by a majority vote of the House of Delegates members present and voting if submitted to the appropriate committees as a package and recommended by all committees with jurisdiction, or by a two-thirds vote of the House of Delegates members present and voting if submitted to the appropriate committees as a package but which fails to receive the recommendation of all committees with jurisdiction.

The following proposals were NOT reported out favorably by the Legislation Committee. They require a 2/3 majority of the HOD to pass.

L-2	507.3 Approve	p 86	Legislation Committee	Approve as Amended	Fail	Withdrawn
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507.3 STANDING COMMITTEES

The president shall appoint...Whenever possible, each committee shall have representation from each zone. If the relocation of a committee member results in a committee no longer meeting zone representation requirements, the committee chair shall notify the President. With the approval of the Zone Committee, the President may choose to retain that committee member or name a replacement as the situation merits. Standing committees shall...

L-4	Parts 5 & 6 Approve	pp 81-92	Ohio LMSC	Approve as Amended	Fail	Withdrawn
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507.3.5 p 87

507.3.5-- Finance Committee

The Finance Committee shall consist of The Finance Committee shall:

A: Develop policies and rules pertaining to the financial affairs of the corporation and implement and oversee the financial operating rules of USMS.

508 p 89

Add new 508.1 and re-number existing 508.1 et. seq. as 508.2 et. seq.

508.1. FINANCIAL OPERATING RULES

The financial operations of the corporation shall be governed by financial operating rules (FOR) which are contained in appendix (X). Oversight of the FOR shall rest with the Finance Committee (see article 507.3.5A) and the FOR shall be approved by the House of Delegates in accordance with Part 6.

601 p 91-92

New 601.1.4, renumber existing 601.1.4 as 601.1.5:

601.1.4—Proposed changes to the financial operating rules shall be considered by the Finance Committee for report and recommendation to the House of Delegates.

601.2.3—Submission Deadline

Proposed changes by an LMSC must be submitted to the chair of the Rules, Legislation, Finance, or Long Distance Committee not later than July 10.

601.2.4—Publication of Proposed Amendments

All proposed changes to the rules, financial operating rules, or code shall be published and mailed....

601.3. MODIFICATION OF PROPOSED AMENDMENTS

Proposed amendments may be modified in any manner by the Rules, Legislation, Finance, or Long Distance Committee, where appropriate, while under consideration by said committee. Such modification must be germane to the subject matter and intent of the proposed change.

601.4.4 Financial Operating Rules

Add new 601.4.4 and renumber existing 601.4.4 et. seq. as 601.4.5 et. seq.

601.4.4—Financial Operating Rules

In any year, the financial operating rules may be adopted or amended by a majority vote of the House of Delegates members present and voting if amendments to them are submitted to and recommended by the Finance Committee, or by two-thirds vote of the House of Delegates members present and voting if amendments to them are submitted to and NOT recommended by the Finance Committee.

Summary of Amendment Procedures, following article 601.5 (Left out of 2001 Rule Book in error. May be found on p 88 of 2000 Rule Book).

	Even Years	Odd Years
Summary of Amendment Procedures		
...		
Legislation (Preamble, Goals and Objectives, Glossary, Part 2, Part 4, Part 5, Part 6, and Appendix D)		

If recommended by committee	*	Majority
If NOT recommended by committee		2/3

Financial Operating Rules (Appendix X)

If recommended by committee	Majority	Majority
If NOT recommended by committee	2/3	2/3

L-5	508.3 p 89	Ohio LMSC		
	Approve	Approve as Amended	Fail	Withdrawn

508.3 INTERNAL AUDITOR

The internal auditor shall be appointed by and serve at the pleasure of the Zone Committee president and shall report to the House of Delegates through the Finance Committee. The report of the internal auditor shall be simultaneously delivered to the Zone, Finance, and Executive Committees. The internal auditor shall:...

508.3.4 Present the financial statements listed in article 508.3.3 to the Finance, Executive, and Zone Committees as soon as practical...

L-8	506.1 p 85	Ohio LMSC		
	Approve	Approve as Amended	Fail	Withdrawn

506.1. MEMBERSHIP

The Board of Directors of this corporation shall consist of:

506.1.1—Each elected member of the Executive Committee.

506.1.2-- Each zone representative

506.1.3-- Past presidents, who shall serve as ex officio members, with voice but no vote.

506.1.4—~~The chairs of all standing committees~~

506.1.45- The liaison from USA Swimming, who shall serve as an ex officio member, with voice but no vote.

L-9	506.2 p 85	Ohio LMSc		
	Approve	Approve as Amended	Fail	Withdrawn

~~506.2 TERM OF OFFICE~~

~~Directors shall be elected or appointed for a 2-year term.~~

L-13	504 p 83	Ohio LMSC		
	Approve	Approve as Amended	Fail	Withdrawn

Add a new Article 504.4

504.4 VOTING

504.4.1—Votes may be conducted by voice, show of voting cards, or secret ballot. For the election of officers, voting shall be conducted by secret ballot. Voting by secret ballot may be conducted in other instances by a majority vote of the House of Delegates.

A. If there are two or fewer choices to be voted on, the choice receiving a majority of the vote shall be elected.

B. If there are three or more choices to be voted on, and no choice receives a majority of the ballots cast, the choice receiving the least votes shall be eliminated from the next round of balloting. Balloting shall then continue between the remaining choices until one choice receives a majority of the votes cast. On each successive ballot the choice receiving the least votes shall be eliminated and the next round of balloting shall proceed until a choice receives a majority of the ballots cast.

L-14	601.3 p 91	Ohio LMSC			
	Approve	Approve as Amended	Fail		Withdrawn

601.3 MODIFICATION OF PROPOSED AMENDMENTS

Proposed amendments may be modified ~~in any manner~~ by the Rules, Legislation, or Long Distance Committee, where appropriate, while under consideration by said committee, in any manner that retains the primary subject matter and intent of the proposed change. ~~Such modification must be germane to the subject matter and intent of the proposed change.~~

L-17	507.3.7	p 87	Rule Book Committee, et al		
	Approve	Approve as Amended	Fail		Withdrawn

Insert new article 507.3.7 and renumber

507.3.7—History and Archives Committee

The History and Archives Committee shall construct and maintain a permanent recorded history of USMS, in both paper and electronic formats. The committee shall make as much of the archived information as possible available on the web.

L-21	Part IV p76-79	Metropolitan LMSC			
	Approve	Approve as Amended	Fail		Withdrawn

Add new article 402.3

402.3—Power of Review

USMS, through the Executive Committee shall have the authority to affirm, vacate, modify, stay, reverse, or extend any decision taken by an LMSC acting pursuant to article 406

Add new article 406

ARTICLE 406: **JURISDICTION AND AUTHORITY OF LMSCs**

406.1. LMSC JURISDICTION

An LMSC receiving a report pursuant to article 403.1. has the authority to:

- 406.1.1-Determine the eligibility of any athlete to participate.
- 406.1.2-Impose and enforce penalties, including censure, suspension, or expulsion from membership, for any violation of the rules and regulations of USMS or the LMSC for actions that bring disrepute upon USMS, the LMSC, or the sport of swimming.
- 406.1.3-Affirm, vacate, modify, stay, or reverse any decision or order properly submitted for review, or remand the matter for further action.
- 406.1.4-Issue such interim orders as may be necessary pending a final decision.
- 406.1.5-Review any exercise of powers by an LMSC committee.
- 406.1.6-Require the production of any available evidence bearing on an alleged violation.
- 406.1.7-Transcribe all testimony in any hearing.
- 406.1.8-Assess costs and fees of the investigation of a reported violation against the losing party.
- 406.1.9-Consult with USMS, USMS officers, or USMS committees for advice or interpretations.
- 406.1.10-Refer the problem to USMS.
- 406.2. LMSC LIMITATIONS**
- LMSC jurisdiction is limited to:
 - 406.2.1-Individuals members and club members registered through its LMSC.
 - 406.2.2-Events sanctioned/recognized by the LMSC.
- 406.3. LMSC RESPONSIBILITIES**
 - 406.3.1-Each LMSC shall comply with the procedures and requirements outlined in article 403.
 - 406.3.2-All appeals shall be referred to USMS.
 - 406.3.3-A report including a copy of all physical evidence and written decisions pertaining to any matter reviewed by an LMSC shall be filed with the executive secretary of USMS.

L-23	Part 4 Approve	Legislation Committee Approve as Amended	Fail	Withdrawn
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PART 4: ATHLETE'S RIGHTS, HEARINGS, AND APPEALS

Article 401 p 75

ARTICLE 401

ATHLETE'S BILL OR RIGHTS RIGHT TO PARTICIPATE

401.1 & 401.2 p 75

Delete existing 401.2. and replace with the existing 501.3. Delete 501.3 and renumber.

401.1 PROTECTION PARTICIPATION

USMS and its LMSCs shall respect and protect the right of every individual person or entity who is eligible and qualified to participate in all USMS administrative activities and sanctioned/recognized events for which they are eligible and qualified. No member of USMS, nor any organization affiliated with USMS, may deny or threaten to deny any person or entity

the opportunity to participate in USMS activities. It is not a violation of this article to restrict an individual's participation in competition only based on one or more of the following:

401.1.1--The swimmer's age.

401.1.2--Membership in the organization that is conducting the event.

401.1.3--Qualifying times.

401.2 RIGHT TO PARTICIPATE EQUAL OPPORTUNITY

~~No member of USMS, nor any organization affiliated with USMS, may deny or threaten to deny any eligible individual the opportunity to participate in USMS administrative activities and sanctioned/recognized events. It is not a violation of this article to restrict an individual's eligibility based on one or more of the following:~~

~~A. The swimmer's age.~~

~~B. Membership in the organization that is conducting the event.~~

~~C. Qualifying times.~~

Membership in the corporation, and participation in all of the corporation's activities, shall not be denied by virtue of race, creed, gender, religion, political affiliation, disability, sexual orientation or national origin.

~~501.3 EQUAL OPPORTUNITY~~

~~Membership in the corporation shall not be denied by virtue of race, creed, gender, religion, political affiliation, disability, sexual orientation, or national origin.~~

L-24	402.1.6	p 75	Legislation Committee		
	Approve	Approve as Amended	Fail	Withdrawn	

402.1.6 Issue such interim orders as may be necessary, in the interest of fairness and justice, pending a final decision of any entity granted and exercising jurisdiction within USMS.

L-25	402.1.7	p 75	Legislation Committee		
	Approve	Approve as Amended	Fail	Withdrawn	

Delete and renumber

~~**402.1.7** Review any exercise of powers by a USMS committee.~~

L-26	402.1.10	p76	Legislation Committee		
	Approve	Approve as Amended	Fail	Withdrawn	

402.1.10 In cases of frivolous or meritless allegations or appeals, Assess the costs and fees of the investigation of a reported violation a hearing against the losing party.

L-27	402.2.3 Approve	p76 Approve as Amended	Legislation Committee Fail	Withdrawn
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Add new section.

402.2.3--Grievance Committee

A Any matter arising within an LMSC that is not resolved at the LMSC level, pursuant to article 403.1, shall be heard by the Executive Committee or its designees, who shall function as a grievance committee, in accordance with article 403. The composition of said grievance committee shall be at the discretion of the Executive Committee.

B Any matter arising within a zone or at the national level, or involving an employee or independent contractor, shall be delegated to a grievance committee constituted as follows:

(1) At the zone level, the grievance committee shall consist of the Executive Committee, less the Zone Committee chair.

(2) At the national level, the grievance committee shall consist of the full Executive Committee, including the Zone Committee chair, unless the matter being considered involves the Executive Committee or any member of the Executive Committee.

(3) If the matter being considered involves the Executive Committee or any member of the Executive Committee, the grievance committee shall consist of the Zone Committee, less the Zone Committee chair.

403.5.3 p 77

403.5.3--An investigative officer or committee, known as the grievance officer or grievance committee, may be appointed to consider the reports and.... The investigative grievance committee may consist of....The legal counsel may be...~~(hereinafter, 'investigative committee/officer')~~.

403.6 p 77

403.6 WRITTEN DECISION

The USMS Secretary shall...the written decision of the investigative grievance committee/officer...

404.2 p 78

404.2 FINAL APPEAL

An appeal may be made...the judgment of the investigative grievance committee/officer.

404.4 p 79

404.4 APPELLATE PROCESS

The appeals board shall...only the evidence presented to the investigative grievance officer/committee...

405 p 79

405 DOCUMENTATION

~~405.1~~The executive secretary shall maintain a permanent file of all physical evidence and written decisions pertaining to any matter that is reviewed by the Executive Committee or its designee, or the grievance committee, pursuant to Part 4.

L-28	403.1	p76	Legislation Committee		
	Approve		Approve as Amended	Fail	Withdrawn

403.1 REPORTING

Any ~~individual person or entity~~, or the estate of any ~~individual person~~ (hereinafter, "grievant") that alleges that a violation of rights (~~including, but not limited to, those rights enumerated in article 401 or any of the matters enumerated in article 402~~) or of the administrative rules or regulations of USMS, or its constituent parts, has occurred, or is about to occur, as a result of ~~inaction or actions taken by any person or organization within USMS or affiliated with USMS,~~ shall notify either the chair of the LMSC in which the violation occurred or is about to occur, or the president and/or executive secretary of USMS by filing a written notice of complaint. The LMSC ~~chair or the president or the president's designee~~ shall use whatever means deemed appropriate to resolve the matter. If all attempts to resolve the problem by the LMSC ~~or the president or the president's designee~~ have failed, the grievant may ~~then file a written report of the alleged violation with the executive secretary~~ file a formal request that the notice of complaint be acted on by a grievance committee, pursuant to article 403. Any ~~such report~~ notice of complaint shall include the following:....

L-29	403.1.4	p 76	Legislation Committee		
	Approve		Approve as Amended	Fail	Withdrawn

403.1.4 Documentation of any correspondence ~~between the grievant and the LMSC~~ concerning the alleged violation.

L-30	403.4.1	p 77	Legislation Committee		
	Approve		Approve as Amended	Fail	Withdrawn

403.4.1 A concise statement ~~describing~~ responding to the alleged violation.....

L-31	403.4.2	p 77	Legislation Committee		
	Approve		Approve as Amended	Fail	Withdrawn

403.4.2 Any documents and/or names, addresses, and phone numbers of any witnesses, as well as the substance of what they will offer in evidence ~~say and prove, which would verify the appropriateness of the reported action.~~

The following proposals were withdrawn:

L-19	Appendix B	p 130	Kentucky LMSC		
Approve	Approve as Amended		Fail	Withdrawn	

USMS AND WORLD RECORD APPLICATIONS

Documentation requirements for USMS records:

- ~~Completed~~ Complete the “Application for USMS and/or World Record.”
- Compile the following supporting data: copy of the tape from the electronic timing device bearing the signature of the meet referee *and/or* the time card bearing the times from three stopwatches, the signature of each timer, and the signature of the meet referee.
- Forward the supporting data to the LMSC records and tabulation chair, who shall then forward the supporting data to the chair of the USMS Records and Tabulation Committee for verification.
- Upon verification, the chair of the USMS Records and Tabulation Committee shall immediately publish the new record on the USMS website.

Documentation requirements for USMS long distance records:

- ~~Completed~~ Complete the “Application for USMS and/or World Record.”
- ~~Completed~~ Complete the “Application for USMS Long Distance Record.”
- Provide proof of achieved time or distance swum.
- For postal events, provide a lap-count check-off sheet listing all split times and bearing the signature, name, address, and phone number of the lap counter/timer.
- For cable swims, provide the technique used to measure the course, and the signature, name, address, and phone number of the person who measured the course.
- Forward the above to the USMS Long Distance Committee chair for verification.
- Upon verification, the USMS Long Distance Committee chair shall immediately publish the new record on the USMS website.