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9979 HOUSE RESOURCES

Footnote 37:

See id. at 1118-19.

Footnote 38:

See id. at 1118 nn.7-8.

Footnote 39:

Owsichek v. State, Guide Licensing & Control Bd., 763 P.2d 498, 493 (Alaska 1988 (citing constitutional convention papers)).

Footnote 40:

Owsichek, 763 P.2d at 494 (citation omitted).

Footnote 41:

958 P.2d 422 (Alaska 1998).

Footnote 42:

Id. at 434 (citation and internal quotation marks omitted).

Footnote 43:

Id. (citing State v. Weiss (Weiss I), 706 P.2d 681, 683 n.3 (Alaska 1985)).

Footnote 44:

See Weiss I, 706 P.2d at 681-82.

Footnote 45:

706 P.2d at 683 n.3 (emphases added) (quoting University of Alaska, 624 P.2d at 813).

Footnote 46:

939 P.2d 380 (Alaska 1997), cert. denied, 118 S. Ct. 366 (1997).

Footnote 47:

Id. at 389.

Footnote 48:

See Restatement (Second) of Trusts sec.sec. 174, 176, 181 (1959).

Footnote 49:

See Alaska Const. art. VIII, sec.sec. 1, 4.

Footnote 50:

See *Cwsichek v. State*, 763 P.2d 488, 494 (Alaska 1988).

Footnote 51:

See *id.* at 492 (noting that the common use clause does not prohibit all regulation of use of listed resources).

Footnote 52:

See Restatement (Second) of Trusts at sec. 37 cmt. b (1959) (creator may reserve for beneficiary the power to administer, revoke, or modify trust).

Footnote 53:

See *id.* at sec.sec. 99, 100.

Footnote 54:

See, e.g., *Evans v. City of Johnstown*, 410 N.Y.S.2d 199, 207-08 (N.Y. App. Div. 1978) ("While the use of the name 'public trust' may suggest duties similar to those under a private trust, that interpretation is not feasible."); *City of Coronado v. San Diego Unified Port Dist.*, 38 Cal. Rptr. 834, 844 (Cal. Dist. App. 1964) ("[P]rivate trust principles cannot be called upon to nullify an act of the legislature or modify its duty . . .").

Footnote 55:

James L. Huffman, *A Fish Out of Water: The Public Trust Doctrine in a Constitutional Democracy*, 19 *Envtl. L.* 527, 544 (1989).

Footnote 56:

923 P.2d 54 (Alaska 1996).

Footnote 57:

See *id.* at 55, 64-65.

Footnote 58:

*Id.* at 61.

Footnote 59:

See id. at 58.

Footnote 60:

See id. at 64.

Footnote 61:

See id. at 64 n.18. Justice Compton concurred with our result in Pullen, disagreeing with our conclusion that salmon was a state "asset" and basing his decision instead on the Article VIII public trust argument. See Eilen, 923 P.2d at 65-66 (Compton, J., concurring).

## INITIATIVES APPEARING ON THE BALLOT IN ALASKA

|                  |  | <u>FOR</u> | <u>AGAINST</u> |
|------------------|--|------------|----------------|
| August 9, 1960   | Relocate the State Capital                                   | 18, 865    | 23, 972        |
| November 6, 1982 | Relocate the State Capital                                   | 26, 542    | 32, 325        |
| August 27, 1974  | Relocate and Construct Capital                               | 46, 659    | 35, 683        |
| August 27, 1974  | Conflicts of Interest  | 57,084     | 23,151         |
| November 2, 1976 | Repeal of Limited entry                                      | 44,304     | 75,125         |
| November 7, 1978 | Full Bondable Costs of Relocating the Capital                | 69, 414    | 55,253         |
| November 7, 1978 | Disposal of State Lands                                      | 70,409     | 55,511         |
| November 7, 1978 | Refundable Deposits on Certain Beverage Containers           | 49,882     | 75,397         |
| November 4, 1980 | Establish Alaska General Stock Ownership Corporation         | 72,072     | 78,404         |
| November 2, 1982 | Claiming State Ownership of Federal Land                     | 136, 633   | 50,791         |
| November 2, 1982 | Limiting State Funding of Abortions                          | 77, 829    | 113,005        |
| November 2, 1982 | Personal Consumption of Fish and Game                        | 76,679     | 111,770        |
| November 6, 1984 | Reducing Government Regulation of Transportation             | 116,891    | 78,663         |
| August 26, 1986  | Nuclear Weapons Freeze                                       | 80,326     | 57,125         |
| November 8, 1988 | Civil Liability  | 138,511    | 54,206         |
| November 8, 1988 | A State Community College Separate from University of Alaska | 83,472     | 104,719        |
| August 28, 1990  | Amendments to the Alaska Railroad                            | 31,612     | 107,289        |

Initiatives Appearing on the Ballot in Alaska

|                  |  | <u>FOR</u>                   | <u>AGAINST</u>                                      |
|------------------|--|------------------------------|---|
| August 28, 1990  | Relating to the Regulation of Gambling and Establishing an Alaska Gambling Board | 50,446                       | 90,827  |
| November 6, 1994 | Relating to the Recriminalization of Marijuana                                   | 105,263                      | 88,644  |
| November 8, 1994 | Relating to Changing the Capital to Wasilla                                      | 96,398                       | 116,277   |
| November 8, 1994 | Relating to Banning Ballot Listing Certain Congressional Candidates              | 128,980                      | 74,658  |
| November 8, 1994 | Relating to Voters Right to Know the Cost of Moving the Capital                  | 119,089                      | 66,157  |
| November 5, 1996 | Relating to Same Day Airborne Hunting of Certain Animals (95Hunt)                | 137,635<br><i>T = 325325</i> | 97,690<br><i>2/3 = 155345</i>                       |
| November 5, 1996 | Relating to Ballot Information and Term Limits (95BITL) (overturned by court)    | 123,167                      | 102,533   |
| November 3, 1998 | Relating to Prohibiting Billboards (97BILL)                                      | 160,922                      | 61,401  |
| November 3, 1998 | Relating to Requiring Government to Use English (97ENGL)                         | 153,107                      | 70,085  |
| November 3, 1998 | Relating to Requiring a Term Limits Pledge for Candidates (97TERM)               | 109,613                      | 108,731   |
| November 3, 1998 | Relating to Allowing Medical Use of Marijuana (97PSDM)                           | 131,586                      | 92,701  |
| November 3, 1998 | Relating to Trapping Wolves With Snares (97TRAP)                                 | 83,224                       | 140,049<br><i>2/3 = 140049</i><br><i>T = 223273</i> |

# The Initiative and Referendum States

Updated January 20, 1999

| State         | Statutes   |                                   |                           | Constitution |                           |
|---------------|------------|-----------------------------------|---------------------------|--------------|---------------------------|
|               | Initiative | Citizen<br>Petition<br>Referendum | Legislative<br>Referendum | Initiative   | Legislative<br>Referendum |
| Alaska        | I*         | Yes                               | No                        | None         | Yes                       |
| Arizona       | D          | Yes                               | Yes                       | D            | Yes                       |
| Arkansas      | D          | Yes                               | Yes                       | D            | Yes                       |
| California    | D          | Yes                               | Yes                       | D            | Yes                       |
| Colorado      | D          | No                                | No                        | D            | Yes                       |
| Florida       | None       | No                                | No                        | D            | Yes                       |
| Idaho         | D          | Yes                               | Yes                       | None         | Yes                       |
| Illinois      | None       | No                                | Yes                       | D            | Yes                       |
| Kentucky      | None       | Yes                               | Yes                       | None         | Yes                       |
| Maine         | I          | Yes                               | Yes                       | None         | Yes                       |
| Maryland      | None       | Yes                               | Yes                       | None         | Yes                       |
| Massachusetts | I          | Yes                               | Yes                       | I            | Yes                       |
| Michigan      | I          | Yes                               | Yes                       | D            | Yes                       |
| Mississippi   | None       | No                                | No                        | I            | Yes                       |
| Missouri      | D          | Yes                               | Yes                       | D            | Yes                       |
| Montana       | D          | Yes                               | Yes                       | D            | Yes                       |
| Nebraska      | D          | Yes                               | Yes                       | D            | Yes                       |
| Nevada        | D & I      | Yes                               | Yes                       | D            | Yes                       |
| New Mexico    | None       | Yes                               | Yes                       | None         | Yes                       |
| North Dakota  | D          | Yes                               | Yes                       | D            | Yes                       |

|               |       |     |     |      |     |
|---------------|-------|-----|-----|------|-----|
| Ohio          | I     | Yes | Yes | D    | Yes |
| Oklahoma      | D     | Yes | Yes | D    | Yes |
| Oregon        | D     | Yes | Yes | D    | Yes |
| South Dakota  | D     | Yes | Yes | D    | Yes |
| Utah          | D & I | Yes | Yes | None | Yes |
| Washington    | D & I | Yes | Yes | None | Yes |
| Wyoming       | I*    | Yes | No  | None | Yes |
| US Virgin Is. | I     | Yes | Yes | I    | Yes |

*Initiative – a law and/or constitutional amendment introduced by the citizens either to the legislature or directly to the voters.*

*D – Direct Initiative; proposals that qualify go directly on the ballot*

*I – Indirect Initiative; proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. Depending on the state, the initiative question may go on the ballot if the legislature rejects it, submits a different proposal or takes no action.*

*I\* -- Alaska and Wyoming's initiative processes are usually considered indirect. However, instead of requiring that an initiative be submitted to the legislature for action, they only require that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned.*

*Referendum – a process by which voters may express their judgment on statutes and/or constitutional amendments enacted by the legislature.*

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## Restrictions on the Use of the Initiative

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**Alaska:** No revenue measures, no appropriations, no acts affecting the judiciary, no local or special legislation. Limited to one subject.

**California:** Limited to one subject.

**Colorado:** Limited to one subject.

**Florida:** Limited to one subject.

**Illinois:** Allowed only for amendment of constitutional Article IV, relating to structural and procedural subjects concerning the legislative branch.

**Maine:** Any measure providing for an expenditure of funds in excess of those appropriated becomes inoperative 45 days after the legislature convenes.

**Massachusetts:** No measures relating to religion, the judiciary, specific appropriations and local or special legislation.

**Michigan:** The initiative power extends only to laws which the legislature may enact.

**Mississippi:** The initiative cannot be used to repeal or modify the state's Bill of Rights; to amend or repeal provisions relating to the state's public employees' retirement system; to amend or repeal Mississippi's constitutional right-to-work provision, or to modify the initiative process.

**Missouri:** Limited to one subject. Not used for appropriations of money other than new revenues created and provided for by the initiative. Cannot be used for any purpose prohibited by the state's constitution.

**Montana:** Cannot be used for appropriations or for local and special laws.

**Nebraska:** Limited to matters which can be enacted by legislation. The same measure cannot be initiated more often than once in three years.

**Nevada:** Initiative measures may not make an appropriation or require an expenditure of money unless a sufficient tax is provided as part of the initiative proposal.

**North Dakota:** Not for emergency measures. Not for appropriation measures for the support and maintenance of state departments and institutions.

**Oklahoma:** Initiatives rejected by the voters cannot be proposed again for three years by less than 25 percent of the state's legal voters.

**Wyoming:** Cannot be used to dedicate revenues; to make or repeal appropriations; to create courts; to define the jurisdiction of courts; to prescribe court rules; to enact local or special legislation or to enact legislation prohibited by the Wyoming constitution. The

same measure cannot be initiated more often than once in five years.

## Initiatives and Referenda

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### Arizona Initiatives and Referenda

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- Prop. 100**      **Amend the Constitution adding rules relating to public retirement systems**  
Type: Legislative Referendum      Status: Pass (Yes votes: 61.4%)  
**Summary:** Prop. 100 would amend the Arizona Constitution to include specific rules that apply to public retirement systems in this state. Public retirement systems have public employee members such as teachers, state, county and city workers, police officers, fire fighters, correctional officers, university and community college staff and faculty, judges and elected officials. The rules contained in Prop. 100 are consistent with current law and practices.
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- Prop. 101**      **Amend the Constitution relating to commission on salaries for elected state offices**  
Type: Legislative Referendum      Status: Fail (Yes votes: 34.1%)  
**Summary:** Prop. 101 would amend the Arizona Constitution to increase the salary commission membership from 5 to 11 members; commission recommends salaries for elective state officers every 2 years, beginning in 1999; commission recommendations become final, including legislators' salary recommendation, unless Legislature or the people place referendum on salary recommendations on the general election ballot.
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- Prop. 102**      **Amend the Constitution relating to investment of State Trust funds**  
Type: Legislative Referendum      Status: Pass (Yes votes: 53.3%)  
**Summary:** Would amend the Arizona Constitution to expand investment options for State Trust funds, allowing investment in equity securities, such as stocks. The Board of Investments would manage funds under conditions set out in the Constitution; require investment according to "The Prudent Investor Rule;" permit certain payments out of permanent funds to designated state institutions.
- 
- Prop. 103**      **Amend the Constitution relating to voting in Primary Elections**  
Type: Legislative Referendum      Status: Pass (Yes votes: 60.5%)  
**Summary:** Would amend the Arizona Constitution to allow voters registered as independents, no party designation, or members of a party without ballot recognition to vote in the partisan primary of the choice of one of the four currently recognized political parties.
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Type: ~~Referendum~~ 45.40%

**Summary:** Would amend the Arizona Constitution relating to initiative and referendum measures; prohibit governor's veto; prohibit legislative repeal for five years; require two-thirds vote to repeal, amend, substantively modify or transfer funds designated by measure; allow governor to veto bill amending measure; require three-fourths vote to override veto; prohibit "emergency" clauses on amendments.

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Type: Initiative

Status: Pass (Yes votes: 52.3%)

**Summary:** Would amend the Arizona Constitution relating to initiative and referendum measures; prohibit governor's veto; prohibits legislative repeal; require three-fourths vote to amend measure, to supersede measure, or to transfer funds designated by the measure, and only if each furthers the purpose of the measure.

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**Prop. 200**      **An Act relating to a campaign finance funding and reporting system**

Type: Initiative

Status: Pass (Yes votes: 51.2%)

**Summary:** Would establish a five-member commission to administer additional alternative campaign financing system; provide public funding and additional reporting for participating candidates; reduce current contribution limits by 20% for non-participating candidates; set personal monies and spending limits for participating candidates; limit private contributions for participating candidates unless Commission declares emergency.

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**Prop. 201**      **An Act relating to creating the crime of cockfighting**

Type: Initiative

Status: Pass (Yes votes: 68.1%)

**Summary:** Would make cockfighting a Class 5 felony for knowingly owning, possessing, keeping or training a cock for cockfighting; cause any cock to fight or injure another cock for amusement or gain, or allowing cockfighting on a person's property; make it a Class 1 misdemeanor for being present at a cockfight.

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**Prop. 202**      **An Act relating to creating a federal candidates' IRS pledge**

Type: Initiative

Status: Fail (Yes votes: 45.0%)

**Summary:** Would give Arizona candidates for federal offices the option to pledge to support and vote for elimination of the federal income tax and Internal Revenue Service through the passage of a national consumption tax; permit "Signed the IRS Elimination Pledge" to be shown on the ballot next to pledging candidates' names.

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**Prop. 300**      **Referendum relating to the medical use of schedule I drugs**

Type: Popular Referendum

Status: Fail (Yes votes: 42.7%)

**Summary:** Referendum of an act which requires authorization by the Federal Food and Drug Administration or the United States Congress for the medical use of marijuana before doctors may lawfully prescribe Schedule I drugs, including heroin, LSD, marijuana and analogs of PCP, to seriously ill or terminally ill patients in Arizona.

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**Prop. 301**      **Referendum relating to probation eligibility for drug possession or use**

Type: Popular Referendum

Status: Fail (Yes votes: 48.4%)



## Initiatives and Referenda

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### Mississippi Initiatives and Referenda

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~~Amendment 1 Amend the Constitution to provide that only a person who is a resident of this state may circulate an initiative petition or obtain signatures on an initiative petition for the purpose of proposing an amendment to the Mississippi Constitution.~~

**Type:** Legislative Referendum

**Status:** Pass (Yes votes: )

**Summary:** This proposed constitutional amendment provides that only a person is a resident of this state may circulate an initiative petition or obtain signatures on an initiative petition for the purpose of proposing an amendment to the Mississippi Constitution.

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**Amendment 2 Amend the Constitution establishing victims' rights**

**Type:** Legislative Referendum

**Status:** Pass (Yes votes: )

**Summary:** This amendment gives victims of crimes the right to be informed, to be present and to be heard during the criminal process of the person accused of the crime, when authorized by law.

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## **Initiatives and Referenda**

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### **Missouri Initiatives and Referenda**

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**Type:** Legislative Referendum

**Status:** Pass (Yes votes: 57.7%)

**Summary:** If adopted, Constitutional Amendment 1 would change the deadline for submitting initiative petitions to the Secretary of State's Office from four months prior to the general election to six months prior to the general election. The deadline would fall in early May rather than early July. The earlier deadline would give local election officials and the Secretary of State's Office more time to determine whether sufficient valid signatures have been obtained from registered voters and to investigate allegations of fraud. This will help finalize the ballot by the time absentee voting begins six weeks before the election. It will also allow local election officials to verify signatures when they are not in the middle of preparing and conducting the August primary election.

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**Amendment No. 2** Allows school board to set operating levy no higher than \$2.75 without a vote

**Type:** Legislative Referendum

**Status:** Pass (Yes votes: 58.8%)

**Summary:** If adopted, Constitutional Amendment 2 would change limits on tax levies imposed by school districts. Currently, the limit on levies not requiring voter approval is \$1.25 per \$100 assessed valuation, which was set in 1945. Under this amendment the limit would be increased to \$2.75. This proposal also increases the limit on tax levies requiring voter approval by a simple majority from \$3.75 to \$6 per \$100 assessed valuation. Levies above \$6 would still require a two-thirds majority for passage.

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**Amendment No. 5** Directs state treasurer to prepare a written investment policy for state funds

**Type:** Legislative Referendum

**Status:** Pass (Yes votes: 75.7%)

**Summary:** If adopted, Constitutional Amendment 5 would require the State Treasurer to prepare and maintain a written investment policy. It would also give the Treasurer additional options for investing by allowing investment of state funds in the highest rated commercial paper and banker's acceptances issued by American companies. The maximum length of time the Treasurer could invest state funds in federal government securities would be increased from three years to five years. The goal of this amendment is to allow more varied investment practices and increase earnings on state funds without an appreciable increase in risk.

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**Amendment No. 6** Allows financing of municipal or joint sewer improvement project by

## **Initiatives and Referenda**

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### **Montana Initiatives and Referenda**

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- C-33**                      **Criminal laws must be based on principles of public safety and restitution for victims as well as prevention and reformation**  
**Type:** Legislative Referendum                      **Status:** Pass (Yes votes: 71.4%)  
**Summary:** The Legislature submitted this proposal for a vote. The Montana Constitution currently provides that laws concerning criminal punishment are based upon the principles of prevention and reformation. This proposal would amend the Constitution to include public safety and restitution as additional principles upon which the criminal laws are to be founded. If approved the measure would take effect July 1, 1999.
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- CI-75**                      **Approval of tax increases**  
**Type:** Initiative                      **Status:** Pass (Yes votes: 51.2%)  
**Summary:** This initiative would amend the Montana Constitution to require an election and voter approval of any new or increased tax imposed by state and local governments, school districts and other taxing districts. Each governmental unit could hold only one tax election per year. As an emergency measure, a bill passed by  $\frac{3}{4}$  of each house of the legislature could enact a state or local tax without voter approval, but it would be in effect for only a limited time. Any elector could sue to enforce this amendment, and public officials and employees could be held civilly liable for violations. The exact fiscal impact of this proposed constitutional amendment is unknown; however, it will limit increases in government revenue and spending if voters do not approve new taxes and tax increases. There would also be a fiscal impact if special elections are held for tax measures.
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- I-134**                      **Repeal Montana Retail Motor Fuel Marketing Act**  
**Type:** Initiative                      **Status:** Pass (Yes votes: 54.0%)  
**Summary:** This initiative would repeal the Montana Retail Motor Fuel Marketing Act. The Act was passed in 1991 to prevent fuel dealers from selling fuel below cost to drive out competition from smaller independent dealers and distributors. It prohibits selling fuel for less than the price the seller paid, plus overhead and labor costs, if the effect of the below-cost pricing is to destroy or injure competitors or competition. A gas station cannot sell fuel for less than the wholesale price it pays plus a 6% markup, unless its cost of doing business is actually less than the 6% markup. The effect of this measure on state government is difficult to predict since most state government fuel purchases are already the result of competitive bid and not affected by the current law. A "yes" vote is for repealing the Montana Retail Motor Fuel Marketing Act; a "no" vote is against

**Type:** Legislative Referendum

**Status:** Pass (Yes votes: 61.4%)

**Summary:** The Legislature submitted this proposal for a vote. State law currently gives the legislature authority to levy up to 6 mills on the taxable value of all real and personal property for the support, maintenance and improvement of the Montana university system. This legislative authority, however, expires in 1999. A statewide university mill levy has been in effect since approval by the electorate in 1920, and since 1948 has stayed constant at six mills. This proposal would continue the authority for the tax levy for ten additional years. The levy would generate revenue of up to \$15 million a year beginning in fiscal year 2000 and increase approximately 2% a year for the remaining nine years.

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## Initiatives and Referenda

### Oregon Initiatives and Referenda

**Measure 54** Amends constitution: authorizes state to guarantee bonded indebtedness of certain education districts

**Type:** Legislative Referendum **Status:** Pass (Yes votes: 54.6%)

**Summary:** Constitution now generally prohibits state from creating debt over \$50,000 or lending its credit. Measure amends constitution permitting state to guarantee general obligation bonded indebtedness of school districts, education service districts, community college districts. Limits amount state can guarantee to ½ of one percent of true cash value of taxable property in state. State may issue bonds, borrow from Common School Fund to satisfy obligation. Legislature must enact statutes authorizing state to recover from district payments made to satisfy state's guarantee of district debt.

**Measure 55** Amends constitution: permits state to guarantee earnings on prepaid tuition trust fund

**Type:** Legislative Referendum **Status:** Fail (Yes votes: 44.1%)

**Summary:** Amends Constitution. Measure approval makes effective the Post-secondary Education Expense Program adopted by the 1997 Legislature. Program allows payment of undergraduate tuition before enrollment at lower than highest prevailing rate at time of enrollment; establishes trust fund. Measure permits state to exceed constitutional debt limit to authorize indebtedness at ½ of one percent of true cash value of all property in state to guarantee minimum benefits on contributions to prepaid tuition trust fund. State may issue bonds; may borrow from Common School Fund, if necessary.

**Measure 56** Changes notice requirements for proposed government land use actions

**Type:** Legislative Referendum **Status:** Pass (Yes votes: 80.4%)

**Summary:** Requires counties and cities to mail notices to landowners regarding changes to state, local, or metropolitan service district land use laws and regulations that limit or prohibit uses currently allowed on the landowners' property. Requires state government to reimburse counties and cities for costs of mailing notice resulting from changes to state statutes or administrative rules. Requires metropolitan service districts to reimburse counties and cities for costs of mailing notice resulting from changes in district land use regulations. Prescribes form of each notice.

**Measure 57** Makes possession of limited amount of marijuana Class C misdemeanor

**Type:** Popular Referendum **Status:** Fail (Yes votes: 33.5%)

**Summary:** Under current Oregon law, possession of less than one ounce of marijuana is a violation, punishable by a \$500 to \$1,000 fine; charges against first-time offenders may be dismissed upon completion of marijuana diversion agreement. Measure makes possession of less than one ounce of marijuana a Class C misdemeanor, punishable by up to 30 days imprisonment, plus a \$500 to \$1,000 fine. Measure also makes failure to complete diversion agreement ground for six-month suspension of offender's driving privileges. Allocates \$600,000 for enforcement.

**Measure 58** Requires issuing copy of original birth certificate to adoptees

**Type:** Initiative **Status:** Pass (Yes votes: 57.4%)

**Summary:** Current Oregon law provides that upon decree of adoption, a new birth certificate generally will be substituted for the original birth certificate, and the original certificate showing birth parent information will not be subject to inspection, unless a court orders disclosure. Measure would require state registrar to issue certified copy of original birth certificate to any Oregon born adopted person 21 years old or older. Establishes same procedures, filing fees and waiting periods for obtaining birth certificate copies for adopted persons as for non-adopted persons.

**Measure 59** Amends constitution: prohibits using public resources to collect money for political purposes

**Type:** Initiative **Status:** Fail (Yes votes: 49.0%)

**Summary:** Amends constitution. Prohibits using "public funds" to collect or assist in collecting "political funds." "Public funds" defined to include public employee time, public property or equipment and supplies. "Political funds" defined to include any expenditure supporting or opposing a candidate, ballot measure or initiative petition. Prohibition applies even if public entities are reimbursed for use of public funds for collection. Measure would prohibit public employee payroll deduction for any entity that uses any funds deducted for political purposes or that commingles political and non-political funds.

**Measure 60** Requires vote by mail in biennial primary, general elections

**Type:** Initiative **Status:** Pass (Yes votes: 69.4%)

**Summary:** Current law prohibits vote by mail for biennial primary or general elections. This proposal eliminates the prohibition and requires vote by mail for biennial primary or general elections. The proposal does not affect existing law permitting the Secretary of State and county clerk to conduct other elections either at the polls or by mail.

**Measure 62**

**Type:** Initiative **Status:** Pass (Yes votes: 67.5%)

**Summary:** Amends constitution. Existing statutes require disclosing certain campaign finances. Measure adds constitutional requirements for prompter disclosure of contributions of \$500 or more; more frequent disclosure of contributions/expenditures for referendum/initiative petitions. Requires disclosing entity authorizing/paying for political advertising. Legislature may regulate, prohibit paying signature gatherers if it finds practice has caused fraud, other abuses. Guarantees individuals' right to make campaign contributions using certain methods. Secretary of state must promptly publish finance reports. Prohibits payments for signing/not signing petitions. Specifies penalties. Other provisions.

**Measure 63**

~~Amends constitution: requires 75% majority voting requirements  
for all measures requiring supermajority for passage~~

**Type:** Initiative

**Status:** Pass (Yes votes: 55.3%)

**Summary:** Amends constitution. Measures including a requirement for more than a majority of votes cast by the electorate to approve any change in law or government action would become effective only if approved by at least the same percentage of voters specified in that proposed voting requirement. For example, a measure imposing a 2/3 majority voting requirement to change law would require a 2/3 majority to pass. Applies to initiated, referred measures present to voters on or after November 3, 1998, including measures on same ballot.

**Measure 64**

**Prohibits many present timber harvest practices, imposes more restrictive regulations**

**Type:** Initiative

**Status:** Fail (Yes votes: 19.4%)

**Summary:** Prohibits many present timber harvest practices, chemical herbicides, pesticides in forest. Limits size of trees that can be harvested. Covers private, state, federal forestlands. Imposes new harvest regulations including federal regulation by classifying forestland waters as "navigable." State Board of Forestry must adopt new timber harvest methods and regulations to meet new requirements. Requires state to submit new forestland water quality plan to federal Environmental Protection Agency, seek approval before permitting logging. Authorizes citizens suits to enforce new harvest restrictions or other provisions of measure.

**Measure 65**

**Amends constitution: creates process for requiring legislature to review administrative rules**

**Type:** Initiative

**Status:** Fail (Yes votes: 47.5%)

**Summary:** Amends constitution. Current law does not require legislative review of administrative rules. Measure allows voters to require legislative review of administrative rules at next regular session when petition, signed by specified number of voters, is filed listing affected rules. Rule remains effective until reviewed by legislature, but rule ceases to be in effect unless approved. If governor vetoes bill, rule is disapproved unless legislature overrides veto. If rule is not approved, state agency may adopt new rule on same issue, but legislative review is required.

**Measure 66**

**Amends constitution: dedicates some lottery funding to parks, beaches; habitat, watershed protection**

**Type:** Initiative

**Status:** Pass (Yes votes: 67.2%)

**Summary:** Amends constitution. State lottery proceeds currently limited to job creation, economic development, public education. Measure dedicates 15 percent of net lottery proceeds to new fund for parks, beaches; salmon, wildlife habitat, watershed protection. Dedicates half of fund to create, maintain state parks, ocean shores, public beach access areas, historic sites, recreation areas. Dedicates other half for single agency to administer funds to protect native salmon, wildlife habitat, watersheds, using at least 65 percent for capital expenditures. Requires biennial audits, voter renewal in 2014. Other provisions.

**Measure 67**

**Allows medical use of marijuana within limits; establishes permit system**

**Type:** Initiative

**Status:** Pass (Yes votes: 54.6%)

**Summary:** Oregon statutes currently prohibit possession, delivery, production of marijuana.

## **Initiatives and Referenda**

### **Utah Initiatives and Referenda**

#### **Proposition 1      Legislative Eligibility Resolution**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 87.0%)

**Summary:** Proposition 1 amends the present eligibility requirements in the Utah Constitution for the offices of state senator and state representative. This proposition requires that the three years during which a person must be a resident of the state be a consecutive period and that it occur immediately prior to the last date provided by statute for filing for the office. Likewise, this proposition requires that the six months during which a person must be a resident of the person's legislative district be a consecutive period and that it also occur immediately prior to the last date provided by statute for filing for the office. This proposition eliminates the reference to a specific date at which other eligibility requirements must be met, but does not otherwise affect those eligibility requirements. This proposition also makes grammatical changes.

#### **Proposition 2      Resolution Repealing Marital Property Provisions**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 70.5%)

**Summary:** Proposition 2 repeals a provision of the Utah Constitution regarding property rights of married women. The Utah Constitution presently contains a provision adopted in 1896 and intended to raise the protection given to property rights of married women to the same level as that given to the property rights of men. It provides that property of a married woman, acquired before marriage or acquired afterwards by purchase, gift, grant, or inheritance, should remain her separate property and not be liable for her husband's debts and obligations. Utah statutes contain a provision that is comparable to the constitutional provision. Proposition 2 repeals the Utah constitutional provision regarding property rights of married women. The repeal of this provision is not likely to affect the property rights of married women because over the years a substantial body of law has developed that protects those rights apart from the Utah constitutional provision. Even without the Utah constitutional provision, married women have, with respect to their separate property, the same legal rights as men.

#### **Proposition 3      Acceptance of Trust Lands Resolution**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 84.5%)

**Summary:** Proposition 3 clarifies the status of school and institutional trust lands designated by Congress at statehood and other lands which may be added to them. It provides that those lands are to be held in trust for specified beneficiaries and purposes, and distinguishes those lands from other public lands held in trust by the state for other beneficiaries and purposes.

**Proposition 4      Resolution Eliminating Voting Rights of Convicted Felons**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 82.0%)

**Summary:** Proposition 4 restricts any person convicted of a felony from voting and holding office in Utah. This proposition restricts those rights until the right to vote or hold elective office is restored as provided by statute. It also modifies language relating to the restoration of rights for other persons deprived of the right to vote or hold office.

**Proposition 5      ~~Resolution Eliminating the State Chamber~~**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 56.1%)

**Summary:** Proposition 5 amends present provisions of the Utah Constitution regarding the power of the people of the state to initiate legislation and submit it to a vote of the people for approval or rejection by majority vote. This proposition requires a two-thirds vote in order to adopt by initiative a state law allowing, limiting, or prohibiting the taking of wildlife or the season for or method of taking wildlife.

**Proposition 6      Resolution on Review of Tax Commission Cases**

**Type:** Legislative Referendum      **Status:** Pass (Yes votes: 74.5%)

**Summary:** Proposition 6 amends the Revenue and Taxation Article of the Utah Constitution. It permits the Legislature to authorize any state court to adjudicate, review, reconsider, or redetermine any matter decided by the State Tax Commission or by a county board of equalization relating to revenue and taxation. This proposition also permits the Legislature to make the expansion of the court's jurisdiction effective back to July 1, 1994 under specified circumstances.

# WYOMING

**Amendment A** Allows the legislature to reapportion its membership at the first session after all the census data is available

**Type:** Legislative Referendum **Status:** Pass (Yes votes: )

**Summary:** The adoption of this amendment will allow the legislature to reapportion its membership at the first session after all the census data is available.

**Amendment B** ~~Changes minimum requirement for petition signatures for initiatives and~~

**Type:** Legislative Referendum **Status:** Pass (Yes votes: )

**Summary:** The passage of this amendment would change the minimum requirement for petition signatures for initiative and referendums. Currently the petition must be signed by at least 15% of the qualified voters in the state, with that number based on those who voted in the last general election. There must also be at least one qualified voter signing from at least two-thirds of the counties. This amendment would keep the overall, or statewide, number of signatures required the same, but would increase the minimum number required in at least two-thirds of the counties from one signature to 15% of the qualified voters of that county, as determined by the number of votes in the last general election. The purpose of this amendment is to ensure that the signatures needed to place an initiative or referendum on the ballot cannot be gathered in only the most populated counties, and that a significant number of qualified voters from throughout the state support the proposal.

**Amendment C** Restricts use of funds paid into the workers' compensation fund

**Type:** Legislative Referendum **Status:** Pass (Yes votes: )

**Summary:** The adoption of this amendment would provide that funds paid into the workers' compensation fund may only be expended as provided in the Workers' Compensation Act and for debt service and for workplace safety as provided by law.

*Alaska has  
this already*

stitution, we are confronted with "by the legislature" and "by law", we will be in conflict with our initiative provision unless we prescribe in our initiative provision that all these things cannot be done by the legislature. That is what concerns me. I think, practically speaking, it would be absurd for an initiative provision to define "waters" to begin with. Now I will grant the possibility that it could happen, but it being so unusual to have such a thing, it will be a much better constitution if we use "by law" recognizing that it could possibly be referred to initiative.

RILEY: The Committee, as Mr. Hellenthal pointed out and those who were present this morning, used the word deliberately just against that remote possibility. Now, sooner or later I am sure that the matter will probably be threshed out here at the instance of Style and Drafting, but in any event, we submit it as "defined by the legislature".

PRESIDENT EGAN: Is there objection to the unanimous consent request?

TAYLOR: I will object, because I would like to ask a question. Mr. Riley, does the amendment "as defined by the legislature" refer back to fish and wildlife, too?

RILEY: No, it does not. "Wildlife, and waters as defined by the legislature,".

PRESIDENT EGAN: If there is no objection, the proposed committee amendment is ordered adopted. Are there other committee amendments? Are there other committee amendments, Mr. Riley?

COGHILL: Mr. President, could I ask a question on this proposed amendment to Mr. Riley -- on the one we just finished?

PRESIDENT EGAN: You may ask a question if there is no objection.

COGHILL: On that, Mr. Riley, it would be the feeling of the Committee that the legislature could not regulate any of their wildlife to the point of, say, domesticating moose or providing for such development of any source of wildlife that is held in their own natural state?

RILEY: No, that was not in the Committee's contemplation at all. We wished simply to meet the objection raised last evening by Mr. Poulsen, as you will recall. He and others, including the Committee, have been quite concerned about the problem as stated by him as concerns small bodies of water on privately owned

DAVIS: No member of the Judiciary Committee worked on the subcommittee, and Mr. McLaughlin made it clear at the time we started consideration of this article that he wanted no part of styling this particular article so that it could not be said that the substantive committee was handling this matter. Is that clear? At the outset the subcommittee here took this judiciary article to pieces and put it back together in several respects. For that reason you cannot take this article and read it against the enrolled copy without reading both of them completely because a hurried reading of the Style and Drafting copy would indicate that some portions have been left out, where in fact, that is not the case. As a quick resume on that, if you were to read this article in a hurry, you would see right away that the enrolled copy said that the judicial council should consist of six members, where the Style and Drafting Committee says the judicial council shall consist of seven members. Now, the reason for that is that a reading of the article will show, the enrolled copy will show they actually intended seven members all the time but they were worried about how they were going to get the supreme court justice on that committee when in fact he had not been appointed at the beginning. We have taken care of that by a separate section at the end, Section 18, which we have separated out of the body of the judicial article and which we intend to have go into a transitional ordinance. We believe that since the staggered terms of judicial council will only happen once, I mean the setup of it will only happen once, after you once get the council appointed, the terms will be staggered and thereafter the problem does not arise, so we believed it was not either necessary or desirable to keep the language about staggered terms in the body of the constitution, and for that reason we have made a separate section which we intend to lift out of the body of the judicial article and put it in a transitional measure. The same thing is true in a different manner as to the question that a service in the armed forces is not an office of profit. You will remember that that appears in one position in the present judicial article. Now, it has already come out on the floor in at least one other article and probably will come in others, and we figured that that matter could best be handled by a general provision in the constitution that service in the armed forces is not an office of profit as provided in the constitution, and for that reason once again we lifted that language out of the particular section and set it up in a separate section at the end of the judicial article. I think that is Section 17, as I remember it, with the intention that that section will be taken out of the judicial article and fitted into the proper place in the entire constitution. Now, to get to Steve's problem here. He has got his whole copy marked up on the side -- "initiative, initiative" -- and he started to ask a question, and that is a good question. As quick as we started working on this article, we found that we had used, interchangeably, the terms "by the legislature" or "by law". You will remember at the time the judicial article was considered by the Convention we had not yet considered the initi-

ative, and I am satisfied in my own mind, and I think that the Judiciary Committee agrees with me on this point, that at the time the article was before the Convention that we meant exactly the same when we said "by law" or "by the legislature". After we adopted, at least tentatively, an initiative article of course it was obvious that the terms "by the legislature" and "by law" are no longer synonymous. They might mean two different things because the initiative initiates laws. For that reason in order to try to keep the thinking of the Convention in our first draft of this matter we kept the terms all the way through just as they were in their enrolled copies. Wherever it said "by the legislature" we left it that way; wherever it said "by law" we left them that way. Then, in order to try to resolve the problem -- I should back up just a minute -- there is considerable feeling by some people, and I might say that I am one of them, that the setting up and the jurisdiction of the courts is something that should properly be handled by the legislature and not left to the initiative and for that reason in an attempt to find out where we were going on this thing, we held a combined meeting of some members from Style and Drafting, some from the Judiciary Committee, and some from the Initiative Committee, to find out how it was best to handle this problem, and the result of that meeting was that most members, I think we had only one dissent, but most members felt in that bunch that the courts should be something that should be handled by the legislature and not by the initiative, but it was not unanimous, and we do not know how the body as a whole feels, but as a result of that meeting we agreed that probably the best way to handle this thing would be to change the judicial article to provide "by law" in each case, and then to request the body to make a further exception in the initiative article when it came before the body to exempt the jurisdiction in the make-up of the courts from the initiative article. With that in mind then we did in our next and final draft change all of these provisions to read "by law" wherever it had said "by law" or "by the legislature". We changed them except in two instances here where it is obvious we couldn't have meant anything but the legislature. One of those instances is where the legislature by a vote of two houses, of each house, must approve any change of the rules. The other was in connection with the confirmation of members of the judicial council; once again it was so written we couldn't have meant anything but "the legislature" so with that in mind we went through the article and changed everywhere it said "by the legislature" or "by law". With those two exceptions we changed it to read "by law". That, then, was the purpose for my question at the time we started the resources article. I asked as to whether, when you say "legislature" do you mean "legislature" or do you mean "by law", and the answer by the Committee was that when we say "legislature" we mean legislature, not initiative. It occurs to me and to some of the others that have been working on this, that if each article that comes in is going to have things that they feel should be limited to action by the legislature, that then we are going to make the

initiative article as long as a sled track and completely unworkable if we say, "The initiative shall apply except, except, except, except", and so we have thought it would be best if the Convention wishes to limit some of these things to action by the legislature, to adopt a general miscellaneous provision to the effect that when the article says "legislature" it means just that, and when it says "by law", it will mean action by either the legislature or by the initiative. If we adopt that approach, then the article which we have prepared here is wrong to that extent if the body decides that they want the courts to be set up by the legislature and not by the legislature and the initiative. Now that is something we will have to decide here, but I think, Steve, that answers what you were asking. I think that I have pretty well covered the matter here. I do have between my draft of the enrolled copy and my copy, my original copy of Style and Drafting, I believe with a little work I can tell anybody where a particular article came from or where a particular article went in the final draft. Now I don't have it in too good shape, but I think I can find it. One thing further I wish to state, that the article has been checked by a member from the Judiciary Committee, and by the Judiciary Committee as a whole, and I believe that they have no exceptions or objections to it except in the question of whether the courts are going to be set by the initiative or not, and that point is before the body.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Point of information, Mr. President. Mr. Davis said the rule-making power or the changes in rules must be approved by a two-thirds vote of the legislature. I do not read it that way. Did you so state just a moment ago?

DAVIS: I think I did, Mr. Rivers, but what I meant was -- I wasn't, of course, talking about that particular section except as an illustration. The section itself will control, and what it says is that it will stand unless disapproved.

V. RIVERS: I still don't read it that way.

DAVIS: All right, I will read it then.

V. RIVERS: I was just checking the enrolled copy to see. Mr. President, I merely wanted the record straight. It does not say "shall be approved by a two-thirds vote of the legislature", it says that "it may be changed by a two-thirds vote of the legislature". That is an entirely different action.

DAVIS: I heard, although I did not attempt to read that particular section, Mr. Rivers, I was only using it as a matter of illustration.

MCLAUGHLIN: To confirm what Mr. Davis has said, we had a representative of the Judiciary Committee present and I believe it is the unanimous agreement of the Committee that there have been no substantive changes made by Style and Drafting, unless those substantive changes on the matter of "provided by law" or "provided by the legislature", which in substance will be left to the body except upon motion of amendment by Mr. Robertson.

PRESIDENT EGAN: Are there questions with relation to Section 1? Mr. Robertson.

ROBERTSON: Amendments are not up now, are they?

PRESIDENT EGAN: We are in the process of accepting or rejecting the report of the Style and Drafting Committee.

ROBERTSON: Mr. President, I would like to ask Mr. McLaughlin, the Chairman of the Judiciary Branch Committee, if it is not true that the Judiciary Branch Committee when submitting this proposal did not intend in Section 1 that where the words "by law" are used, it means "by the legislature"?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: You place me in an awkward position, Mr. Robertson, because frankly I don't know what we intended. We hadn't discussed the initiative and I cannot speak for the Committee, but we did use in many instances "legislature" interchangeably with "law", although that might not be the viewpoint of many members of the Committee.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, point of inquiry. Must we not settle, first of all, before we can proceed upon the suggestion of the Committee on Style and Drafting as outlined by Mr. Davis, because Mr. Davis said that should that suggestion be accepted, then in some instances here the report of the Committee on Style and Drafting as to this particular article must be changed?

PRESIDENT EGAN: Is it the wish of the body that at this time that a motion be made on that subject from the floor and we discuss it and settle it before we go section by section? Mr. Kilcher.

KILCHER: Mr. President, since the thought of the initiative was not clear when this article was first adopted in second reading, I think that each section should be viewed in the light of the initiative. I don't think it would be wise to either reject or adopt a motion that includes or excludes initiative for the whole article. There may well be instances where matters should be left to the legislature and there may be a few instances where the initiative might get due consideration.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I wanted to rectify a statement to the embarrassment of Mr. Robertson. I did not mean it that way, but when he says "Did the Committee intend it to be the 'legislature'", I would say by elimination "yes"; where we said "by law" we thought in terms of the legislature because of the fact we were not even thinking of the initiative, and "by law" we did in fact treat it in terms of the legislature.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I served on both committees, both the Initiative and Judiciary, and it was my own personal thought that we said or used the phrase "by law" we meant the legislature and not the initiative or the referendum.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: In order to have something before us, I move that in Section 1 wherever the words "by law" are used that they be changed to read "by the legislature", and I move that the rule be suspended.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson moves that the rules be suspended and that the words "by law" wherever they appear, be changed to read "by the legislature" in each case where those words appear in Section 1. Mr. Robertson.

ROBERTSON: I would suggest that if Mr. Johnson is agreeable that that also apply to Section 2, Section 3, Section 4, Section 9, Section 11, and Section 13.

JOHNSON: I certainly have no objection. However, in light of Mr. Kilcher's observation I thought that in order to expedite it, it might be better to proceed section by section. However, I am perfectly willing to include the other sections because they certainly apply.

PRESIDENT EGAN: Is it your wish that the other sections be included?

JOHNSON: It is.

PRESIDENT EGAN: Then the motion will include the words wherever they appear in the proposal.

ROBERTSON: No, only in those particular sections I mentioned.

V. RIVERS: I will ask Mr. Robertson if he included Section 11 there?

ROBERTSON: Yes, I mentioned Section 11 and Section 13.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to ask the proposer of the motion a question now in order to get the thinking; if we vote on the question I want to know what we have done. Mr. Johnson, by proposing this motion is it your intention that if the motion passes, that by using the word "legislature" that we have meant that we have limited the operation to the legislature and the initiative does not apply in those instances? Is that your intention?

JOHNSON: That is my intention.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I fail to see any great threat anywhere throughout this article, and I read it carefully last night; I spent a little better than two hours on it last night comparing it with the enrolled copy. I fail to see any threat whatsoever to the judiciary article by leaving the words "by law" remain in the article where they are found. The basis of constitutional law is that certain rights are reserved, certain reservations are made within the constitution and all other laws are left up to the legislature and to the people. Inasmuch as this body has gone on record as favoring the initiative, I do not feel that we should relegate it to a position of second- or third- or fourth-class nature in the formation of the statutory laws of our new proposed state. I have heard many discussions, informal on this subject this morning, and I think that we are probably being faced by some bugaboos that actually are not there. I am a firm believer that the initiative is something that belongs in our constitution just as much as I feel that the legislature belongs in our constitution. I don't feel that we can separate them and say that one law is going to have greater value or greater realm of power than a law stemming from some other source. I would heartily oppose any effort here to say, carte blanche, without serious discussion and study on the part of every delegate in this room that we can go through and say Section 1, 2, 3, and with the exception of Section 11, we are going to change the words "by law" to read the "legislature". I don't feel that that would be the will of this group; I certainly do not feel it would be the will of the people who elected us here. I think we must give much more consideration to it than that.

PRESIDENT EGAN: The Chair would like to state that ordinarily the motion to suspend the rules is not debatable, but inasmuch as within that motion to suspend the rules the proposed amendment was included, that it is permissible to discuss the question before us. Mr. Collins.

COLLINS: As Chairman of the Committee on the Initiative, Referendum and Recall, I would like to ask Mr. Davis if this move would not take the power of the initiative out. The initiative is a law itself. Of course, we have provided in the initiative for Section 3, "The legislature shall prescribe the procedure to be followed, the exercise of the power and initiative and referendum except as herein provided." I am just wondering if it would not take the power of the initiative away. Our Committee would firmly stand by the initiative. Mr. Taylor is not here, he is Vice Chairman of this Committee. I am sorry he is not here, but before a move is made I would like to have the opinion of the Committee, my Committee on the Initiative and Referendum. I think it is very vital at this point. If they endeavor to take away the power of the initiative I oppose it, and I want the backing of the Committee.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Collins, in my opinion, to answer your question, in my opinion, if we adopt the motion which has been proposed we have taken away the power of the initiative as to the subjects covered in these particular articles.

COLLINS: Can you make that exception?

DAVIS: I don't see why not. I intended, if this carries, I intended certainly to provide somewhere in here a miscellaneous article in the constitution to the effect that when we have used the words "the legislature" as distinguished from "by law", that action then was limited to the legislature in those particular places. To further go ahead with what you mentioned, you will remember that we held a committee meeting which included members from your Committee. I don't remember whether you were there or not, but Mr. Taylor was there.

COLLINS: I was there.

DAVIS: At that time it was proposed, I think without dissent so far as that committee of committees was concerned, that we would offer an amendment to the initiative article to specifically eliminate, to specifically exclude the setup and jurisdiction of the courts from the initiative article. That is what we had agreed to do at that time, but this other thing has come up since. That is why we have the problem now, that apparently other committees are talking the same position and if they do we will have more exceptions in the initiative than we have initiative. That is the point I was trying to get at awhile ago. Now it is purely a matter of policy here as to whether the body itself wants to exempt the jurisdiction and the make-up of the courts from the initiative. So far as I, as an individual am concerned, I do favor that, but that is something that the body itself has got to decide; neither Style and Drafting nor either of the substantive committees can decide

that point.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, to carry this forward to what seems to me to be a logical conclusion, I wonder if the makers of the motion would be willing to hold it in abeyance until we decide the more basic question as outlined by Mr. Davis. It seems to me we have to decide that basic method of procedure before we know what we are going to do when we change or don't change the words in this article, "as prescribed by law". It wouldn't affect your motion, Mr. Johnson, but don't you think it might be better to settle the basic procedure first?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I assume what Mr. White has in mind is perhaps a division on the question and we vote --

WHITE: I have in mind, Mr. Johnson, if you would agree to hold it in abeyance and move in line with the later suggestion of the Committee on Style and Drafting that a miscellaneous provision be adopted by the Convention as outlined by Mr. Davis.

JOHNSON: I beg your pardon, I have no objection to that.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me that this is the basic question right now. The proposal that Mr. Johnson has offered is the basic question. It does not only apply to this particular article but it can apply and may apply to all other articles and we are now at this time arguing a differentiation between "by law" and "by legislature", so it seems to me that the point could be argued very clearly at this time.

WHITE: That is correct, but Style and Drafting has changed this article in some respects to read "as prescribed by law". In doing so they intended that at first that under the initiative an exception be made for the judiciary.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Point of order, Mr. President, I think that is a misstatement of fact. The Style and Drafting Committee, in my opinion, has no right to recommend a change in the substance of the whole constitution. I recognize that Mr. Davis, in presenting this thing, did the best he could and probably did it right, but the fact of the matter is that any decision that was made was a decision that was improper in itself, and it was simply, our job is to point this problem up and not to recommend a solution to the thing.

WHITE: Mr. President, in answer to Mr. McCutcheon, I maintain that settling the basic method of procedure at this time would not affect Mr. Johnson's motion or any discussion of it that may ensue. The only thing it would do is clarify what our procedure is going to be in each case. If Mr. Johnson agrees to hold his motion in abeyance as he had agreed, then I am prepared to make a motion.

PRESIDENT EGAN: Has Mr. Johnson agreed then that his motion will be held in abeyance and will not be before us at this time? Do you ask unanimous consent that it be held in abeyance?

JOHNSON: I do.

PRESIDENT EGAN: Is there objection to that request? Hearing no objection then, the motion as has been made by Mr. Johnson will be held in abeyance until a later time. Mr. White still has the floor if he has a motion.

WHITE: Mr. President, I move that it be the policy of the Convention to adopt a miscellaneous provision which shall say that when the constitution says "the legislature" it means the legislature only and that when it says "by law" it means by the state or by the legislature. I so move.

PRESIDENT EGAN: Is there a second?

MCNEES: I second the motion.

PRESIDENT EGAN: Mr. McNees seconds the motion.

MARSTON: Is it open for discussion?

PRESIDENT EGAN: The motion is open for discussion. Mr. Marston.

MARSTON: May I ask a question of Mr. Davis? What position has Style and Drafting taken on the initiative where it says "by law" or "by legislature", have they also done the same thing on the initiative powers going into the legislature?

DAVIS: Mr. Marston, Mr. Hurley had the right idea awhile ago when he said that Style and Drafting cannot decide that. I do not agree with Mr. Hurley when he said we shouldn't propose a solution if we had one because I think somebody has got to do it, but at the minute in working on the initiative article this point doesn't come up. Had this matter been limited to the judicial and had the body wanted to limit action on the judiciary to the legislature we could have then proposed an amendment to the initiative article which would have taken care of that, but so far as I see, the action taken now won't have any effect at all on the initiative article as such. It will, certainly if adopted, take certain things away from the initiating power that might be given unless the motion were adopted.

CHIEF CLERK: "That it be the policy of the Convention to adopt a miscellaneous provision which shall say that 'when the constitution says "the legislature" it means the legislature only and that when it says "by law" it means by initiative or by the legislature.'

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we have reached a very fundamental question, and we are going to be making a very fundamental decision. If we distinguish between the meaning of the words "by law" or "by the legislature" we are raising a substantive question in every case where those words appear. I have talked to various committee people and most of them say that they did not have the distinction clearly in mind when they drafted their proposals. They used them more or less interchangeably without stopping to think of the distinctions. If we are going to raise a substantive question on the meaning of those words, then we get into the problem of whether all these articles should go back to their standing committees for decision on that fundamental substantive question which is involved or else we will just keep them on the floor here and we will fight it out every time one of those terms arises as to what we mean by it. Of course, only the body can make the final decision. As far as the Judiciary is concerned, the members of that Committee were thinking only of the legislature. Ours was among the first out and we didn't stop to think about the distinction. We used the words interchangeably. However, the Judiciary is pretty well-constructed right in the constitution. The initiative power does not extend to changing the constitution. We have our courts with the main jurisdiction defined and the judicial council and everything we have written in here; the initiative could not touch it. However, we have said "by law" with regard to about seven points, as Mr. Robertson pointed out this morning. One is that inferior courts could be established by law, and the salaries of justices and judges could be changed by law, and the number of justices of the supreme court may be increased, but only upon request of the supreme court, so that would not apply. And then additional qualifications are prescribed by law for judges. I am perfectly secure as far as the judiciary article is concerned. I don't think the public is going to concern itself by initiative, whether it is going to change the salary of judges or create an inferior court. We have the broad question before us and that is what I am speaking to. The Judiciary raised this because we think those are not proper subjects for the initiative. Neither are they subjects that the public is going to be interested in from the standpoint of the initiative, and I feel if we go through with the distinction that Mr. Barrie White would establish here -- I really fully approve of having him raise the point at this time -- I feel that every proposal that comes before us from now on in third reading is before us on a substantive question as to what we mean by those particular terms and I doubt that the remaining

14 days is long enough for us to fight that battle out every time we come across those terms. So, in the interest of the entire Constitutional Convention, I am willing to let the Judiciary take a chance. I am not speaking for any of my colleagues on the Committee. I am willing to let Judiciary take a chance, and I am willing to say that let the initiative apply wherever it would ordinarily apply without making that distinction, because if we start giving an initiative which we have done, and then say, "except this, except this", and take every proposal and treat that as a matter of substance, for the rest of this Convention during the third reading, I am afraid we are just about wrecking the operation, so if the Convention votes this down, Mr. Barrie White's amendment, I am going to propose one to the effect that those words may be used interchangeably wherever applicable insofar as the initiative is concerned. If we take that decision now we can go ahead and wind up this Convention. Otherwise, I don't see where we are coming out.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I agree entirely with Mr. Rivers that we will be spending the rest of our days worrying as to what exactly the meaning of each of those words is. It seems to me that in the passing of the proposed article on direct legislation, we made a decision in this particular matter; we said as follows: "The initiative and referendum may not be used as a means of earmarking revenues for making or defeating of appropriations of public funds or for local or special legislation." We specifically exempted those. I don't think it is right for us as an afterthought to start going through the whole constitution and add additional items that are not subject to the initiative. I personally am not a believer in the initiative; however, if you have it, let's be honest about it; let's be above board about it. If you believe that certain items should be exempted let's put them into Section 5 of Article 3 and specifically exempt them from the initiative instead of going through each article, section by section, and by hidden meanings prevent the people from exercising the initiative.

PRESIDENT EGAN: Miss Awes.

AWES: I agree with Mr. Fischer that we adopted the initiative with certain exceptions which appear in that article. The proposal that is before us now was decided before we adopted the initiative, so I think the problem is with it, and it seems to me that Style and Drafting acted very properly when they used a consistent term "by the law", the one they chose, and I think in this case we should decide the matter as a substantive matter. The other proposals where we are concerned with it, I think all came up after the initiative was adopted, and therefore, I think the Style and Drafting should continue to use the term "by law" and I think then it would be understood that the

CROSS: Mr. President, when we were writing this constitution and these articles we made no distinction between "legislature" and the "law". I am opposed to going ahead and making that distinction now. I can foresee hours and hours of debate on that. Let's get back to the question and vote this down.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I won't feel badly at all if this motion is voted down. I merely proposed it as a means of clearing the air and establishing basic policy. Whether or not we agree with Miss Awes that we do or do not need such a provision, I think if you want to exempt a number of things from the initiative we do need such a provision, because there seems to be some doubt among the delegates as to what we have meant in the past when we say "by the legislature" or "by law", and I propose it only as a means of clearing the air.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I was delayed in arriving here and I would like to be allowed not to vote on this subject because I have not heard all the debate. I ask to abstain.

PRESIDENT EGAN: You ask to abstain? The question is, "Shall the proposed motion as offered by Mr. White be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Buckalew, Coghill, Collins, Cooper, Davis, Johnson, Kilcher, Laws, McCutcheon, McNealy, Nerland, Nolan, Peratrovich, Poulsen, Reader, Robertson, Taylor.

Nays: 34 - Armstrong, Awes, Boswell, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nordale, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Hellenthal, VanderLeest.

Abstaining: 1 - Rosswog.)

PRESIDENT EGAN: The Convention will come to order. The Chief

Nays: 20 - Coghill, Collins, Emberg, H. Fischer, V. Fischer, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, Londborg, McNees, Marston, Peratovich, V. Rivers, Smith, Stewart, Sundborg, White.

Absent: 2 - Hellenthal, VanderLeest.)

CHIEF CLERK: 33 yeas, 20 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Are there other questions with relation to Section 1? Mr. Johnson.

JOHNSON: Mr. President, I ask unanimous consent to withdraw my motion, that is the remainder of the motion.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the motion be withdrawn. It actually should not have been before us. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I will try it again. I asked for unanimous consent to the suspension of the rules so that I may introduce a motion.

PRESIDENT EGAN: The Convention will come to order.

MCCUTCHEON: Point of information. I would like to hear the matter of the motion before I rule on that, or whether I would object.

PRESIDENT EGAN: Mr. McLaughlin, would you inform the body.

MCLAUGHLIN: It is my intent, if the rules are suspended, to introduce the following motion to be adopted by the Convention or rejected by the Convention: "That it is the intent of the Convention that all provisions of the constitution which include the words 'by the legislature' or 'the legislature', unless clearly inapplicable or unless specifically excluded from the initiative and referendum by the article on the initiative and referendum, shall be subject to the initiative and referendum."

HERMANN: I think the motion ought to be submitted to Style and Drafting. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin asks unanimous consent for the suspension of the rules in order that he may introduce such a motion. Is there objection?

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard. Did you so move, Mr.

McLaughlin?

MCLAUGHLIN: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is, "Shall the rules be suspended?"  
The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Collins,  
Cooper, Cross, Davis, Doogan, Emberg, K.  
Fischer, V. Fischer, Gray, Harris, Hermann,  
Hilscher, Hinckel, Hurley, Johnson, Kilcher,  
King, Knight, Laws, Lee, Londborg, McCutcheon,  
McLaughlin, McNealy, McNees, Metcalf, Nerland,  
Nolan, Nordale, Reader, Riley, R. Rivers, V.  
Rivers, Robertson, Rosswog, Smith, Stewart,  
Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Nays: 6 - Buckalew, Coghill, Marston, Peratrovich,  
Poulsen, Mr. President.

Absent: 2 - Hellenthal, VanderLeest.)

CHIEF CLERK: 47 yeas, 6 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and the rules have been  
suspended. Mr. McLaughlin.

MCLAUGHLIN: Do I now move, Mr. Chairman?

PRESIDENT EGAN: Would you submit it to the Chief Clerk please.

TAYLOR: May we have five minutes to look that over, please?

PRESIDENT EGAN: If there is no objection the Convention will be  
at recess for two minutes.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief  
Clerk will please read the proposed amendment as offered by Mr.  
McLaughlin.

CHIEF CLERK: "That it is the intent of the Convention that all  
provisions of the constitution which include the words 'by the  
legislature' or 'the legislature', unless clearly inapplicable  
or unless specifically excluded from the initiative and referen-  
dum by the article on the initiative and referendum, shall be  
subject to the initiative and referendum."

PRESIDENT EGAN: Mr. Cooper.

COOPER: Point of order. The other day a rule was adopted in addition to the other rules that we had which said that any amendment that was long would have to be mimeographed and I would like to ask to have this mimeographed.

MCLAUGHLIN: Mr. Chairman, may I point out this is not an amendment to anything. It is merely a statement of intent.

PRESIDENT EGAN: Do you still raise your point of order?

COOPER: No, I will withdraw it.

HARRIS: Mr. President, I would like to ask Mr. McLaughlin a question if I may.

PRESIDENT EGAN: You may, Mr. Harris, if there is no objection.

HARRIS: Mr. McLaughlin, if the words "by law" are stated I guess that would also apply to the initiative and referendum as well as the legislature?

MCLAUGHLIN: Yes, that is clearly the understanding of this body at the moment that "by the law" makes it subject to the initiative and referendum, if I may speak on this, Mr. Chairman.

PRESIDENT EGAN: You may speak on this, Mr. McLaughlin, but did you so move?

MCLAUGHLIN: I so move.

BARR: I second it.

PRESIDENT EGAN: Mr. McLaughlin moves, seconded by Mr. Barr.

MCLAUGHLIN: Regrettably this is wordy, but the wordiness is necessary so that we cover in most of the problems that confront Style and Drafting. All we are asking is that the Convention notes immediately that where we use in any article, have used in any article the expression "by the legislature" or we have used in any article the proposal, the words "the legislature", unless those things obviously are inapplicable they are subject to the initiative and the referendum unless they are otherwise specifically excluded from the article on the initiative and referendum. What do I mean by that? I mean by that this: where we say "the legislature shall provide", automatically on the adoption of this constitution, Style and Drafting can say, we can substitute the words "by law". It means that where we say "further provision shall be made by the legislature", Style and Drafting upon adoption of this can say they mean "according to law", or "by law", because we automatically have then confirmed, in a sense, the article on the initiative and

referendum and said unless you are specifically--you have been specifically exempted by the article on the initiative and referendum, this section of the constitution where the expression "the legislature" is used is subject to the article on the initiative and referendum and it means "by the law". You have a "yes" or a "no". We don't intend to insert anything in here in the constitution. It is a statement of intent, but it means that now and hereafter Style and Drafting has a clear directive from the Convention. What do I mean here by "unless clearly inapplicable"? I will give you the best example; it has been used before. Certainly we wouldn't intend, where you read in the article on the judiciary that the supreme court may adopt rules which may be, in substance, disapproved by two-thirds of each house of the legislature, because it was obviously meant from that context that that couldn't be subject to the initiative, and so we are clearly indicating here that where we use the expression "by the legislature" or the expression "the legislature" we mean completely, thoroughly, and wholeheartedly know that it is subject not only to the initiative but to the referendum, and where it is clearly inapplicable, even 55 idiots would agree that it was inapplicable. That is not a reflection upon the body, Mr. Chairman, if it is, it is upon myself alone. Thank you. (Laughter)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am afraid I haven't anything witty to say.

PRESIDENT EGAN: Mr. Johnson has the floor.

JOHNSON: I would like to point out that while normally I am in agreement with our distinguished Judiciary Chairman, I am afraid here that his motion isn't going to help us a great deal because it certainly does not resolve the problem we are faced with in this judiciary article, and I don't know how to solve that; I tried by a motion but that failed, rather the suspension of the rules failed, and as I said before, I don't see how the adoption of Mr. McLaughlin's motion is going to help us in solving the problem that still, I believe, exists in the judiciary article. The McLaughlin motion may help the Style and Drafting Committee in the future -- I don't know about that -- but certainly so far as the judiciary article is concerned, I don't think that it has resolved the question.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to support the motion. If it is adopted it will facilitate the work of Style and Drafting, immeasurably. Beyond that I say there is a solution for Mr. Johnson, and the solution is, if he doesn't want the judiciary article to be subject to action by the initiative or referendum, the way to state that and state it unmistakably is to write it in as one of the restrictions on the use of the

initiative in the initiative article, and if the body wants to do that, that is the place to put it. I am sure, and I think every man and woman here will agree with me, that as we considered these matters on the floor we did not stop to think each time that the use of the term "by the legislature" or "by law" was used whether we were distinguishing between whether a thing would be subject to the initiative or not. We did use those terms interchangeably. I know they were used interchangeably in my own thinking at least as we looked at the proposals before us. There is one other alternative still before us, and that is when we get around to it we may not even adopt the article on the initiative and referendum. I myself am in favor of it; I think it ought to be in the constitution, but to let Style and Drafting get on with its work it would help greatly in that work if we adopt Mr. McLaughlin's motion.

PRESIDENT EGAN: Mr. White.

WHITE: This is a logical sequence and only logical sequence to voting down the motion that I made previously.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, may I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: You may.

COGHILL: On your proposed amendment, let's just take for an example in your local government article on boroughs would the legislature that provides for the performance of services to unorganized boroughs, would that be "the law shall provide"?

MCLAUGHLIN: That would be "it shall be provided by law".

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask a question of Mr. McLaughlin? It wasn't your intent to preclude the Committee on Style and Drafting to occasionally use "by the legislature" just for variety, was it?

MCLAUGHLIN: It was not, but if intelligence conflicts with variety I would say that variety would have to go by the board. Mr. Chairman, I might answer one of the objections that came from Mr. Johnson. If Mr. Johnson, after the adoption of this, wants to raise the question immediately as to whether or not the judiciary article is subject to the referendum, he need merely move to strike all the expressions "be established by law" and substitute the word therein "legislature".

PRESIDENT EGAN: The question is, "Shall the proposed motion as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of the adoption of the proposed motion will signify by saying "aye", all opposed by saying "no". The

"ayes" have it and the proposed motion is ordered adopted.  
Are there questions with relation to Section 1? Mr. McCutcheon.

MCCUTCHEON: Mr. President, in view of the action that has just been taken by the body, I will move that the judiciary article be sent back to Style and Drafting for further consideration in drafting.

TAYLOR: I second the motion and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the judiciary article be sent back to Style and Drafting for further consideration in drafting.

SUNDBORG: Is this debatable?

PRESIDENT EGAN: Recommit, is that your motion, Mr. McCutcheon?

MCCUTCHEON: Yes, that is what it amounts to.

PRESIDENT EGAN: Recommit is debatable, yes, it is, Mr. Sundborg.

SUNDBORG: We don't want it back. We have already labored over this for more than two weeks. We have inserted in here "by law". If we get it back that is all we could do, as I can see it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it just seems to me that this should be recommitted to Judiciary Committee because they know what they mean in each case, and then it should come out on the floor for adoption. They could consult with Style and Drafting, perhaps.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: When the initiative and referendum article finally comes before us, Mr. Barr, I am quite sure our Committee is going to move an exclusion of the formation and jurisdiction of the courts in the judiciary article, but I think we ought to go ahead and clear this and get it into third reading and take the other up in due course.

PRESIDENT EGAN: The question is, "Shall the report of the Committee on Style and Drafting on Committee Proposal No. 2 be recommitted back to the Style and Drafting Committee for further consideration?" All those in favor of recommitting the proposal to the Style and Drafting Committee for further consideration will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposal is before us. Mr. Robertson.

ROBERTSON: I move that it be recommitted to Judiciary Branch

SUNDBORG: We are aware of those two, and we will take care of them appropriately here. I was just wondering if there may be some others that in the course of the Convention have been given to some committee or have been assigned for further study and have not come before us again.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I do not recall seeing the one in regard to suffrage and elections, which referred to the election of 1924. Does that belong here or in Ordinances?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I believe it has been passed in third reading, and will be among the provisions in the schedule of transitional measures and ordinances. I believe it was reported out again by Mr. McNealy's committee along with the Alaska-Tennessee Plan.

PRESIDENT EGAN: Mr. Rivers had one he was working on. Mr. Rivers.

V. RIVERS: Well, I have in mind what I consider to be a problem of omission, and that is the question of financing in the transition period. I mentioned that the other day. I also have in mind as to whether or not we should have a sort of a severability or savings clause in here, so that if the Congress should find they are not able to accept certain clauses, such specifically as the fish trap clause, that we would not lose the balance. I was just thinking about that and I mentioned that before dinner. I have talked it over with a few. I wonder if it might not be well to have it.

PRESIDENT EGAN: Mr. Sundborg, do you have a Committee explanation to make in relation to this article?

SUNDBORG: Mr. President, the general and miscellaneous provisions have been gathered from all points here in the Convention and collected in the Engrossment and Enrollment Committee and turned over to our Committee. Some of them have been drafted in the first instance by Style and Drafting, and we gave those just as critical a going-over as we did the others as to language. The redraft was prepared by a subcommittee consisting of Mr. Davis, Mr. Fischer, and myself. And we have asked Mr. Fischer to explain the changes that have been made and to answer any questions by delegates.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, there are no basic changes in the various sections as they are before you. There is an additional section inserted, as you will note, Section 9, that is a clari-

fication of the use of the terms "by law" and "by the legislature" as they are used in this Constitution. It was deemed desirable to include this provision to make sure that the courts do follow the intent of this Convention in deciding upon various questions that may come up. We will ask for a suspension of the rules to consider this matter.

PRESIDENT EGAN: Are you asking for that suspension at this time? You mean for the inclusion of this section?

V. FISCHER: Yes, I think it properly should come after the language has been approved. If you would like me to, I can just run through quickly and advise the members where the various sections came from. Section 1 is Section 1 in the enrolled copy; 2 and 2 are the same; 3 comes from 3; 4 is the same as No. 4 was before -- in most cases they are practically the same wording; 5 has the same number as previously. Section 6 is composed of what were Section 7 as well as Section 8 in the enrolled draft. We combined those into one section. What is Section 7 now previously was Section 9. What is Section 8 previously was Section 10. Section 9, as I mentioned, is new. Section 10 comes from Section 11; Section 11 comes from 13; Section 12 comes from 6; Section 13 comes from 6; and as Mr. Sundborg mentioned, Section 12 of the enrolled copy is not as yet ready for presentation and will be brought in as an addendum to this report at a future time for separate approval. I will be glad to answer any questions. ✓

PRESIDENT EGAN: Are there any questions to be directed to Mr. Fischer on any of the sections? Mr. Cooper.

COOPER: Mr. President, in line 21, page 2, Section 6, should not the words "persons of" be stricken?

V. FISCHER: They probably could be. I don't think that they add very much to the language as it stands here.

PRESIDENT EGAN: Are there other questions relating to Article XII? If not, are there any committee amendments to be offered at this time? Mr. Fischer.

V. FISCHER: Mr. President, I would like to ask unanimous consent that the rules be suspended for the purpose of considering the inclusion of Section 9.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the rules be suspended for the purpose explained. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, the objection is merely a technicality, but on page 2, line 21, "including persons of both sexes.", should not that read, "shall be construed as including either

sex."? (laughter)

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I think I would rather not answer that question while we are in the middle of a request for the suspension of the rules.

McLAUGHLIN: I will withdraw that objection.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that the rules be suspended in order that he might offer Section 9 as an amendment to this article. Is there objection? Hearing no objection the rules are suspended. Mr. Fischer, you might offer your proposed amendment.

V. FISCHER: Mr. President, I move that Section 9 be approved for inclusion in Article XII of this Constitution. I ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that Section 9 be adopted as a part of Article XII, the Article on General and Miscellaneous provisions. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other committee amendments, Mr. Fischer?

FISCHER: Mr. President, on page 2, line 7, change the word "dis-charge" to "discharge".

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Hearing no objection, it is so ordered. Mr. Fischer, you ask unanimous consent for the adoption of that change? Hearing no objection, it is so ordered.

V. FISCHER: I would like to ask the grammarian of the Convention whether "construing" is properly spelled on line 19 of page 2.

HERMANN: Yes.

V. FISCHER: The committee has no further amendments, Mr. President.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I think that the Committee on Style and Drafting is avoiding the issue, and it may cause some embarrassment in future generations. I move that the word "both" on line 21, page 2, be stricken, and in lieu thereof the word "either" be inserted.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask a question of Mr. McLaughlin? And use the singular for "sex"?

1-LS0211\G  
Utermohle ✓  
2/1/99

**CS HOUSE JOINT RESOLUTION NO. 3( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE BUNDE

**A RESOLUTION**

1 Proposing an amendment to the Constitution of the State of Alaska relating to  
2 a petition for an initiative or referendum regarding fish or wildlife.

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** Article XI, sec. 3, Constitution of the State of Alaska, is amended to read:

5           **Section 3. Petition.** After certification of the application, a petition containing  
6 a summary of the subject matter shall be prepared by the lieutenant governor for  
7 circulation by the sponsors. If signed by qualified voters, equal in number to ten per  
8 cent of those who voted in the preceding general election and resident in at least two-  
9 thirds of the house districts of the State, it may be filed with the lieutenant governor.  
10 However, the lieutenant governor may not accept for filing a petition relating to  
11 the utilization, development, or conservation of fish or wildlife unless the petition  
12 is signed by qualified voters equal in number to ten percent of those who voted  
13 in the preceding general election and resident in all of the house districts of the  
14 State.

15 \* **Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of  
16 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the

1 State of Alaska, and the election laws of the state.



## ALASKA OUTDOOR COUNCIL

211 4th St. #302A  
Juneau, Ak. 99801  
(907) 463-3830  
FAX 586-6020

February 3, 1999

The Honorable Scott Ogan, Co-Chair  
The Honorable Jerry Sanders, Co-Chair  
House Resources Committee  
Alaska State Capitol  
Juneau, AK 99801

Dear Representatives Ogan and Sanders:

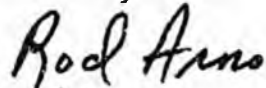
It has come to my attention that the comments I presented to the House Resources Committee last week on HJR 3 have been misconstrued in a publication of the Laws of the Sea. In order for there to be no question about where we stand as a group, I have taken the time to write to you and clear this matter up.

The Alaska Outdoor Council (AOC) strongly supports the position outlined in the letter you received the first week of session. Our first concern revolves around our belief that wildlife management is clearly provided for in Article VIII, Section 2 of our constitution which we feel precludes putting wildlife management to a public vote. Secondly, we feel strongly that sound scientific based management under the constitution's sustained yield mandate cannot be achieved by common consensus. Last of all, we believe the animal rights activists will not be deterred by simply making the process more difficult.

We were very disappointed in the Alaska Supreme Court's handling of the Wright case. It is our opinion the court ignored the state constitution and long standing public trust doctrines to arrive at a politically expedient decision in tune with the current administration. Although there will be those Legislators who may be reluctant to move the state back toward sound scientific based management through concerns about how the general public may react to such a measure, it is our hope that the majority of you will find the courage to provide us the opportunity to correct this problem with an amendment to the constitution that precludes such initiatives.

In conclusion, we strongly recommend your consideration of a committee substitute for HJR 3 that would reflect the language we provided in our position paper. Thank you for your time and attention to this important issue, it is very much appreciated.

Sincerely,



Rod Arno  
President

cc: Representative Con Bunde  
Representative Bill Williams  
House Resource Committee Members  
Senator Rick Halford, Chair Senate Resources  
Senate Resource Committee Members

HJR

11

# Alaska State Legislature



Official Business  
Phone: (907)465-2689  
Fax: (907)465-3472

State Capitol  
Room 411  
Juneau, Alaska 99801-1182

**Representative Gail Phillips**

## **SPONSOR STATEMENT**

### **CS HJR 11 -- ENDORSING A.N.W.R. LEASING**

**Offered before the  
House Resources Committee  
February 24, 1999**

**CS HJR 11 encourages the United States Congress to pass legislation for oil and gas exploration, development and production on the coastal plain of the Arctic National Wildlife Refuge. A similar resolution in support of the opening of A.N.W.R. has received strong support in the past. In addition, it is strongly supported by the North Slope Borough and the majority of Alaskans.**

**The coastal plain of the Arctic National Wildlife Refuge contains an estimated 10 billion barrels of recoverable oil. Development of this resource will help Alaska offset its declining oil revenues and reduce our country's reliance on imported oil. It would bring us many jobs for Alaskans and help restore the declining employment in the oil industry. In addition, it would positively impact the number of jobs available to workforces in many other states.**

**Copies of this resolution will be sent to the President, Vice-President, all members of the House and Senate serving in the 106<sup>th</sup> US Congress, and the Secretary of the Interior. I am hopeful that the current legislature will be willing to re-enforce our previous support for developing A.N.W.R by passing this resolution. Thank you.**

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HJR 11

Revision Date: \_\_\_\_\_  
Title: Endorsing ANWR Leasing  
Sponsor: Representative Phillips  
Requester: \_\_\_\_\_

Dept. Affected \_\_\_\_\_  
BRU \_\_\_\_\_  
Component \_\_\_\_\_  
Component Serial No. \_\_\_\_\_

| Expenditures/Revenues  |            | (Thousands of Dollars) |            |            |            |            |
|------------------------|------------|------------------------|------------|------------|------------|------------|
| OPERATING EXPENDITURES | FY 00      | FY 01                  | FY 02      | FY 03      | FY 04      | FY 05      |
| Personal Services      | 0.0        | 0.0                    | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 |            |                        |            |            |            |            |
| Contractual            |            |                        |            |            |            |            |
| Supplies               |            |                        |            |            |            |            |
| Equipment              |            |                        |            |            |            |            |
| Land & Structures      |            |                        |            |            |            |            |
| Grants & Claims        |            |                        |            |            |            |            |
| Miscellaneous          |            |                        |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                    |  |  |  |  |  |  |
|--------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES |  |  |  |  |  |  |
|--------------------|--|--|--|--|--|--|

| FUND SOURCE                      |            | (Thousands of Dollars) |            |            |            |            |
|----------------------------------|------------|------------------------|------------|------------|------------|------------|
| 1002 Federal Receipts            |            |                        |            |            |            |            |
| 1003 GF Match                    |            |                        |            |            |            |            |
| 1004 GF                          |            |                        |            |            |            |            |
| 1005 GF/Program Receipts         |            |                        |            |            |            |            |
| 1037 GF/Mental Health            |            |                        |            |            |            |            |
| 1091 Designated Program Receipts |            |                        |            |            |            |            |
| <b>TOTAL</b>                     | <b>0.0</b> | <b>0.0</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY98) cost: \_\_\_\_\_

| POSITIONS |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

ANALYSIS: *(Attach a separate page if necessary)*

No Fiscal Impact

Prepared by House Oil and Gas Committee  
Shannon Grynkewich, Aide  
Shannon Grynkewich

Phone \_\_\_\_\_  
Phone 465-2283  
Date 02/09/99

HJR

15

# Alaska State Legislature

REPRESENTATIVE  
**JEANNETTE JAMES**  
P O Box 56622  
North Pole, Alaska 99705  
(907) 488-1346  
FAX (907) 486-4271



White in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3743  
FAX (907) 465-2381

## House Of Representatives

House District 34

### **HJR 15 – RELATING TO SUPPORT FOR THE “AMERICAN LANDS SOVEREIGNTY PROTECTION ACT” IN THE UNITED STATES CONGRESS.**

This legislation is to reaffirm and pledge continued support for the Alaska State Legislative Resolve 31 passed on to Congress in March 1997, for Congressional approval of any land designations in the United States.

We cannot afford to ignore what is happening to our sovereignty, or avoid examining the potential and practical impacts of World Heritage sites or Biosphere Reserve listings in Alaska. There are presently 352 biosphere reserves in 87 countries with 47 in the United States. There are 20 World Heritage Sites. Two World Heritage Sites are located in Alaska: Wrangell-St. Elias National Park and Preserve, Glacier Bay National Park and Preserve. Glacier Bay National Park and Preserve is also a biosphere reserve. There are over 51 million acres set aside in these international designations and over 40 million of those acres are in Alaska.

A big concern is that these designations will become an open invitation to certain environmental groups to block all development. This has been happening regularly around the world so the concern is not imaginary. A good example is that immediately following the recent designation of a portion of Kamchatka as a World Heritage Site, strong efforts began by environmental groups to block investment insurance for development projects on Kamchatka, even though the local communities supported the projects.

Alaska's National Parks and National Wildlife Refuge Systems are unique. In exchange for the delineation of large federal land withdrawals in our state, major concessions on further use by Alaskans were incorporated in their purposes and mission. Certain activities, normally excluded automatically in other similar areas of the United States, such as oil development, mining, hunting, fishing and trapping, were identified in some areas of Alaska as being legitimate potentially compatible uses. Congress specifically authorized existing transportation methods and means to assure continued traditional uses within the withdrawals. These methods also assure access to all the interspersed state and private lands within and surrounding federal lands. Could any proposed restrictions by the World Heritage Committee have the effect of over-riding congressional intent?

Another concern is if established subsistence uses could be eliminated within existing National Parks. It is not unrealistic to think that established transportation corridors could be closed to Alaskans. It has happened in the northern regions of Alaska already, and people fear that the international convention community might apply unilateral trapping standards to these areas. We object to the nomination and designation of any international sites in Alaska without Congressional approval and without the prior consent of the Alaska State Legislature.

I urge you to support HJR 15. Thank you.

**CS FOR HOUSE JOINT RESOLUTION NO. 15(WTR)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE HOUSE SPECIAL COMMITTEE ON WORLD TRADE AND STATE/FEDERAL  
RELATIONS**

Offered: 3/5/99

Referred: Resources

Sponsor(s): REPRESENTATIVE JAMES

**A RESOLUTION**

1 Relating to support for the "American Land Sovereignty Protection Act" in the  
2 United States Congress.

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 WHEREAS the United Nations has designated 67 sites in the United States as "World  
5 Heritage Sites" or "Biosphere Reserves," which altogether are about equal in size to the State  
6 of Colorado, the eighth largest state; and

7 WHEREAS art. IV, sec. 3, United States Constitution, provides that the United States  
8 Congress shall make all needed regulations governing lands belonging to the United States;  
9 and

10 WHEREAS many of the United Nations' designations include private property  
11 inholdings and contemplate "buffer zones" of adjacent land; and

12 WHEREAS some international land designations such as those under the United States  
13 Biosphere Reserve Program and the Man and Biosphere Program of the United Nations  
14 Scientific, Educational, and Culture Organization operate under independent national  
15 committees such as the United States National Man and Biosphere Committee that have no  
16 legislative directives or authorization from the Congress; and

1           **WHEREAS** these international designations as presently handled are an open invitation  
2 to the international community to interfere in domestic economies and land use decisions; and

3           **WHEREAS** local citizens and public officials concerned about job creation and  
4 resource based economies usually have no say in the designation of land near their homes for  
5 inclusion in an international land use program; and

6           **WHEREAS** former Assistant Secretary of the Interior George T. Frampton, Jr., and  
7 the President used the fact that Yellowstone National Park had been designated as a "World  
8 Heritage Site" as justification for intervening in the environmental impact statement process  
9 and blocking possible development of an underground mine on private land in Montana  
10 outside of the park; and

11           **WHEREAS** a recent designation of a portion of Kamchatka as a "World Heritage Site"  
12 was followed immediately by efforts from environmental groups to block investment insurance  
13 for development projects on Kamchatka that are supported by the local communities; and

14           **WHEREAS** environmental groups and the National Park Service have been working  
15 to establish an International Park, a World Heritage Site, and a Marine Biosphere Reserve  
16 covering parts of western Alaska, eastern Russia, and the Bering Sea; and

17           **WHEREAS**, as occurred in Montana, such designations could be used to block  
18 development projects on state and private land in western Alaska; and

19           **WHEREAS** foreign companies and countries could use such international designations  
20 in western Alaska to block economic development that they perceive as competition; and

21           **WHEREAS** animal rights activists could use such international designations to  
22 generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

23           **WHEREAS** such international designations could be used to harass or block any  
24 commercial activity, including pipelines, railroads, and power transmission lines; and

25           **WHEREAS** the President and the executive branch of the United States have, by  
26 Executive Order and other agreements, implemented these designations without approval by  
27 the Congress; and

28           **WHEREAS** the United States Department of Interior, in cooperation with the Federal  
29 Interagency Panel for World Heritage, has identified the Aleutian Island Unit of the Alaska  
30 Maritime National Wildlife Refuge, Arctic National Wildlife Refuge, Cape Krusenstern  
31 National Monument, Denali National Park, Gates of the Arctic National Park, and Katmai

1 National Park as likely to meet the criteria for future nomination as World Heritage Sites; and  
2       **WHEREAS** the Alaska State Legislature objects to the nomination or designation of  
3 any World Heritage Sites or Biosphere Reserves in Alaska without the specific consent of the  
4 Alaska State Legislature; and

5       **WHEREAS** actions by the President in applying international agreements to lands  
6 owned by the United States may circumvent the Congress; and

7       **WHEREAS** Congressman Don Young introduced House Resolution No. 901 in the  
8 105th Congress entitled the "American Land Sovereignty Protection Act of 1997" that required  
9 the explicit approval of the Congress prior to restricting any use of United States land under  
10 international agreements; and

11       **WHEREAS** Congressman Don Young has reintroduced this legislation in the 106th  
12 Congress as House Resolution No. ~~833~~<sup>883</sup>, which is entitled the "American Land Sovereignty  
13 Protection Act";

14       **BE IT RESOLVED** that the Alaska State Legislature supports House Resolution ~~833~~<sup>883</sup>,  
15 the "American Land Sovereignty Protection Act," that reaffirms the constitutional authority  
16 of the Congress as the elected representatives of the people over the federally owned land of  
17 the United States and urges the swift introduction and passage of such act by the 106th  
18 Congress; and be it

19       **FURTHER RESOLVED** that the Alaska State Legislature objects to the nomination  
20 or designation of any sites in Alaska as World Heritage Sites or Biosphere Reserves without  
21 the prior consent of the Alaska State Legislature.

22       **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the  
23 United States; Honorable Al Gore, Jr., Vice-President of the United States and President of  
24 the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable  
25 J. Dennis Hastert, Speaker of the U.S. House of Representatives; and to the Honorable Ted  
26 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,  
27 U.S. Representative, members of the Alaska delegation in Congress.

HR 883 IH

106th CONGRESS

1st Session

H. R. 883

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

IN THE HOUSE OF REPRESENTATIVES

March 1, 1999

Mr. YOUNG of Alaska (for himself, Ms. DANNER, Mr. DELAY, Mr. PICKETT, Mrs. EMERSON, Mr. TRAFICANT, Mr. COBURN, Mr. GOODE, Mr. POMBO, Mr. BARCIA, Mrs. CHENOWETH, Mr. HALL of Texas, Mrs. CUBIN, Mr. SHOWS, Mr. HASTINGS of Washington, Mr. BISHOP, Ms. DUNN, Mr. SISISKY, Mr. HERGER, Mr. CRAMER, Mrs. BONO, Mr. MCINTYRE, Mr. TAYLOR of North Carolina, Mr. GREEN of Texas, Mr. HILLEARY, Mr. DUNCAN, Mr. NORWOOD, Mr. KASICH, Mr. MCINTOSH, Mr. CUNNINGHAM, Mr. THOMAS, Mr. SKEEN, Mr. WELDON of Florida, Mr. NETHERCUTT, Mr. COMBEST, Mr. SENSENBRENNER, Mr. BACHUS, Mr. LEWIS of California, Mr. MCKEON, Mr. HOSTETTLER, Mr. STUMP, Mr. DOOLITTLE, Mr. STEARNS, Mr. LARGENT, Mr. GARY MILLER of California, Mr. HUTCHINSON, Mr. WELDON of Pennsylvania, Mr. CALVERT, Mr. KNOLLENBERG, Mr. GILLMOR, Mr. METCALF, Mr. LOBIONDO, Mr. WALDEN of Oregon, Mr. CRANE, Mr. BRYANT, Mr. ARCHER, Mr. TANCREDO, Mr. BLILEY, Mr. HILL of Montana, Mr. EVERETT, Mr. RADANOVICH, Mr. GOODLATTE, Mr. GIBBONS, Mr. MANZULLO, Mr. SPENCE, Mr. BARTLETT of Maryland, Mr. ISTOOK, Mr. HUNTER, Mr. BONILLA, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. PAUL, Mr. BILBRAY, Mr. PETERSON of Pennsylvania, Mr. FOLEY, Mr. LATHAM, Mr. BLUNT, Mr. LINDER, Mrs. MYRICK, Mr. SHADEGG, Mr. HOEKSTRA, Mr. PICKERING, Mr. NEY, Mr. MCINNIS, Mr. ROYCE, Mr. BAKER, Mr. CALLAHAN, Mr. WATKINS, Mr. DEAL of Georgia, Mr. PACKARD, Mr. ROGERS, Mr. BRADY of Texas, Mr. SMITH of Texas, Mr. SCHAFFER, Mr. LEWIS of Kentucky, Mr. WICKER, Mr. BURR of North Carolina, Mr. TIAHRT, Mr. COOKSEY, Mr. DICKEY, Mr. JONES of North Carolina, Mr. SOUDER, Mr. GRAHAM, Mr. DEMINT, Mr. HAYWORTH, Mr. ROGAN, Mr. OXLEY, Mr. PITTS, Mr. WELLER, Mr. BARR of Georgia, Mr. GOSS, Ms. GRANGER, Mr. CANNON, Mr. SAM JOHNSON of Texas, Mr. THORNBERRY, Mr. LUCAS of Oklahoma, Mr. BASS, Mr. MORAN of Kansas, Mr. WAMP, Mrs. FOWLER, Mr. SMITH of Michigan, Mr. SWEENEY, Mr. ADERHOLT, Mr. RILEY, Mr. GOODLING, Mr. SIMPSON, Mr. BARTON of Texas, and Mr. FLETCHER) introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'American Land Sovereignty Protection Act'.

## SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS- Congress finds the following:

- (1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.
- (2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.
- (3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.
- (4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.
- (5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.
- (6) Private property rights are essential for the protection of freedom.
- (7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.
- (8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE- The purposes of this Act are the following:

- (1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.
- (2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.
- (3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.
- (4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.
- (5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

## SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515; 94 Stat. 2987) is amended--

(1) in subsection (a) in the first sentence, by--

(A) striking 'The Secretary' and inserting 'Subject to subsections (b), (c), (d), and (e), the Secretary'; and

(B) inserting '(in this section referred to as the 'Convention')' after '1973'; and

(2) by adding at the end the following new subsections:

'(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless--

'(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

'(B) the Secretary has submitted to the Congress a report describing--

'(i) natural resources associated with the lands referred to in subparagraph (A); and

'(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

'(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

'(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

'(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless--

'(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing--

'(A) the necessity for including that property on the list;

'(B) the natural resources associated with the property; and

'(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

'(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).

'(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the

Senate, that contains for the year covered by the report the following information for the site:

- '(1) An accounting of all money expended to manage the site.
- '(2) A summary of Federal full time equivalent hours related to management of the site.
- '(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.
- '(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.'

#### **SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.**

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is amended by adding at the end the following new section:

'SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

'(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve--

- '(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;
- '(2) consists solely of lands that on that date of enactment are owned by the United States; and
- '(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

'(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

- '(1) An accounting of all money expended to manage the reserve.
- '(2) A summary of Federal full time equivalent hours related to management of the reserve.
- '(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.
- '(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.'

#### **SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.**

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is further amended by adding at the end the following new section:

'SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

'(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

'(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

'(d) This section shall not apply to--

'(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

'(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

'(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.'

## SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1(b)) is amended by striking 'Committee on Natural Resources' and inserting 'Committee on Resources'.

END

PROPERTY RIGHTS FOUNDATION BACKGROUND BRIEF *cc: Officers, Director, Mining District***DANGERS OF DESIGNATIONS****REGIONAL, FEDERAL, STATE AND INTERNATIONAL LAND-USE INTRUSIONS**  
*National/American Heritage Areas, UN Biosphere Reserves and UN World Heritage Sites***Myths**

*The Designation of National American Heritage Areas is merely honorary and has no regulatory power.*

*The designation of UN Biosphere Reserves is for research and education only.*

*The designation of UN World Heritage Sites does not bring foreign influence over land in the United States.*

*The designations are to promote tourism.*

*According to United Nations testimony before Congress, local officials are always consulted before Biosphere Reserves are proposed.*

**Reality**

Congressional bills and federal laws for National or American Heritage Areas require a contract between the state government regional entity and the U.S. Secretary of Interior to manage the land-use of the region for preservation. This means federal control of zoning, either directly, by the terms of the "management compact," or indirectly, by the use of funds dispensed by preservation agencies to influence zoning under a seductive porkbarrel system, the iron-clad zoning is enforced locally, with home-rule seemingly preserved, but private property owners' rights diminished and locally generated land-use patterns foreclosed.

The preponderance of research (published in specialized journals) about Biosphere Reserves is about "restoring" rural areas so that human influence on nature is eliminated. The "international significance" of the designated region is trumpeted by the national environmental groups to lobby for government land acquisition and more "environmental" restrictions on land-use.

Exactly what people feared happened near Yellowstone National Park, which is a World Heritage Site. When environmentalists acting in conjunction with the Clinton Administration persuaded UNESCO to declare the park a "World Heritage Site in Danger," United Nations officials left the U.S. from Paris to complain about a gold & copper mine that was planned outside the park, but inside an area the environmentalists call "Greater Yellowstone." President Clinton himself then stopped the environmental impact review required under the National Environmental Protection Act (NEPA) from being completed and disapproved the mine based on the UN World Heritage Committee's recommendation.

If the stated purpose of tourism succeeds for the National Heritage Areas, of which over 200 are proposed encompassing much of the West, the entire 2,500-mile Mississippi River and adjacent counties, and most of the land east of the Mississippi, the United States will theoretically become one vast "heritage" tourism complex, to the detriment of productive, less "beautiful" industries, agriculture and forestry. In addition, for Biosphere Reserves and World Heritage Sites to be successful, areas must be off-limits to hunting, and many roads used by hunters and tourists closed. Tourism is one of the first sectors to suffer from recessions and depressions. Much tourism is both weather-dependent and seasonal, and tourism jobs are predominately low-paid. The only things that are "sustainable" are the views that new restrictions protect. Flexibility to respond economically is lost. Most communities cannot afford to focus a large part of their resources on their past heritage. Communities with sagging economies become run-down and uninviting. Preservation zoning and lack of jobs force ordinary people to move away, whereby wealthier people may move in and gentrify the area without generating a productive local economy.

When state and local elected officials in New York learned from property rights activists about the secret proposal to designate the Catskill Mountains Biosphere Reserve, they were angry, and the application ultimately had to be withdrawn from the U.S. Department of State. Biosphere Reserve applications are usually done secretly, and local people and their elected representatives excluded from information.

Over...

# Dangers of Designations continued

## Myths

## Reality

*UN Biosphere Reserves and World Heritage Sites are approved only after public hearings and Congressional vote.*

The U.S. Congress failed to pass the legislation (H.R. 2379) to establish the Biosphere Reserve system when it was proposed in 1983. The World Heritage Convention was ratified by the U.S. Senate in 1973. Working in conjunction with the National Park Service, the Department of State does not consult Congress before designating individual Biosphere Reserves or World Heritage Sites. Neither of these agencies, nor Congress, holds public hearings and no Congressional vote takes place before the UN sites are designated.

*The Biosphere Reserve and World Heritage Site programs have potentially little impact on government or private property.*

There are 17 Biosphere Reserves and 20 World Heritage Sites in the United States. The designations involve not only government, but private property. The largest Biosphere Reserve in the U.S. is the 10-million acre, secretly designated Champlain-Adirondack Biosphere Reserve. Private landowners were not notified and their permission was not granted for the designation, but environmental groups quickly publicized it among their members, who thereupon lobbied for stricter environmental regulations of the private land in the region. Official goals for "core" and "buffer" regions of Biosphere Reserves and for World Heritage Sites are not consistent with the continued population of the regions.

*UN Biosphere Reserves and World Heritage Site designations present no threat to American sovereignty.*

"I think it perfectly understandable that people are concerned that when you set up a program, when you give it a designation, where you as International authorities recognize it, the implication is that down the road when there are conflicts, somebody's going to be leaned on, and the authority for this, at least the moral authority for this, will be an invocation of some very dubious International authority." - Dr. Jeremy Rabkin, Associate Professor, Cornell University, from testimony before the U.S. House of Representatives, Committee on Resources Sept. 12, 1996, on the American Land Sovereignty Protection Act.



**AVAILABLE FROM**

**THE PROPERTY RIGHTS FOUNDATION OF AMERICA:**

*National Heritage Areas*  
(Positions on Property, Jan-Apr 1996) ..... \$3.00 p./pl.

*The National Park Service, No. 2 - UNESCO Biosphere Reserves*  
(Positions on Property, Jan-Mar 1995, 12 pp) .. \$3.00 p./pl.

*The American Heritage Areas*  
Background Brief, July 1995, 2 pp ..... free

*Building & Zoning Codes*  
(Positions on Property May-Dec. 1996, 32 pp) .. \$6.00 p./pl.

Single copies priced as listed. Please enquire for multiple copies.

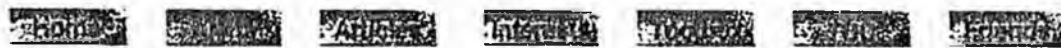
For up to 10 additional copies of *Dangers of Designations* at no charge, and additional information contact:  
The Property Rights Foundation of America, Inc.  
P.O. Box 75, Stony Creek, NY 12578 (518) 696 5748

The Property Rights Foundation of America, Inc. is a national, New York-based not-profit organization dedicated to the right to own and use private property guaranteed in the United States Constitution.

The Foundation publishes *Positions on Property* (\$25.<sup>00</sup> yearly), a quarterly journal of information, analysis and ideas on private property rights, and the *New York Property Rights Clearinghouse* (\$25.<sup>00</sup> yearly), a quarterly newsletter of current information on property rights across New York and the Northeast.



## American Land Rights Association



### Biosphere Reserves-World Heritage Programs Threaten You

Since the mid 1980's, ALRA has been warning its members about UNESCO's (United Nations Environmental, Scientific and Cultural Organization) Biosphere Reserve and World Heritage programs, now 25 years old.

To date, 20 World Heritage sites and 47 Biosphere Reserves have been designated in the US. Despite the fact that almost 43 million acres have been designated as Biosphere Reserves in the US, the Interior Department operates this program without any legislative direction and no authorization from Congress.

The 1995 designations of Glacier National Park in Montana and the Carlsbad Caverns in New Mexico as World Heritage Areas, preceded by the 1989 designation of the Greater Yellowstone Ecosystem as a Biosphere Reserve, were made with no public or Congressional input.

Federal agencies and non-governmental organizations, such as the Sierra Club, the Greater Yellowstone Coalition, the National Parks and Conservation Association are using these designations to support their efforts to get rid of inholders, buy up private land, limit mining (they stopped the New World Mine in Montana and hundreds of new jobs by calling in the United Nations), oil and gas, tourism, grazing, logging, farming, and development. Example, ALRA helped lead the fight to defeat the 1990 Greater Yellowstone Vision Document.

The Interior Department and the National Park Service, which actually runs the programs, say they get their authority from treaties. In the case of World Heritage Sites, it is the Convention on World Heritage and was ratified by the Senate in 1972. As we said before, there is no treaty and no authorizing legislative authority for Biosphere Reserves.

A treaty can override acts of Congress. This means that despite legislation that is made with public input and many compromises, the Park Service feels it may ignore that legislation and any guarantees of property rights included in it by relying on the authority in a treaty which was completed with no public input.

By definition, Biosphere Reserves are to have a legally constituted core protected area of sufficient size and minimal human activity plus a buffer zone around the core where non-compatible uses are limited. In the case of the New World Mine, the UN recommended a 50 mile buffer zone after their inspection.

Congressman Don Young (R-AK) introduced the American Lands Sovereignty Protection Act late in 1996 and expects to reintroduce it in January. This bill would require Congressional oversight of federal agency actions involving World Heritage Sites and Biosphere Reserves. Any "buffer zones" would have to be approved by Congress. The Young bill would preserve the sovereignty of the US over its own lands as well as state sovereignty and private property rights on surrounding non-federal lands before designations are made.

**Readers should call their Congressmen at  
(202) 225-3121**

**to urge them to co-sponsor the American Land Sovereignty Protection Act when Rep.  
Young reintroduces it in January.**

---

***For More Information Contact:***

**American Land Rights Association**  
Tel: 360-687-3087  
FAX: 360-687-2973



Send mail to [alra@pacifier.com](mailto:alra@pacifier.com) with questions or comments about this web site.

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Last modified: November 02, 1998



## Biosphere Reserves: Fact Sheet

Susan R. Fletcher  
Senior Analyst in International Environmental Policy  
Environment and Natural Resources Policy Division  
June 6, 1996  
96-517 ENR

"Biosphere Reserve" is a term denoting an area that has been nominated by the locality and the country in which it is located for participation in the worldwide Biosphere Reserve Program under the U.S. Man and the Biosphere Program (MAB), and accepted for such recognition by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Areas are nominated and recognized on the basis of their significance for research and study of representative biological regions of the world. The United States has 47 biosphere reserves, part of a worldwide network of 324 biosphere reserves in 82 countries.

Biosphere Reserve recognition does not convey any control or jurisdiction over such sites to the United Nations or to any other entity. The United States and/or state and local communities where biosphere reserves are located continue to exercise the same jurisdiction as that in place before designation. Areas are listed only at the request of the country in which they are located, and can be removed from the biosphere reserve list at any time by a request from that country.

**The Biosphere Reserve System.** The Biosphere Reserve network was established in 1968 as one program area of the Man and the Biosphere program of UNESCO, which operates through independent national committees in each of the 114 participating countries. The U.S. MAB program operates under the U.S. National MAB Committee, which coordinates six "directorates" studying various kinds of environmental and biological regions and issues. One of these six directorates is the Biosphere Reserve Directorate. The U.S. MAB Committee is composed of scientists from universities, government agencies, and other members from entities such as private conservation organizations.

The purpose of the Biosphere Reserve program is to promote cooperation and communication among a worldwide network of areas that would include all the major ecosystem types globally, with sites identified as areas where research on ecological concerns -- especially the impacts of human activity on ecological systems -- could be performed. A major goal of the network is to allow comparative work in various countries in similar, or dissimilar, areas to assess how the systems work and how they can be used productively without destroying their essential ecological properties and life-support potential.

The goals and functions of biosphere reserves are to enable research, study, and exchange of information among scientists and policymakers to facilitate these goals:

- conservation of important biological resources;
- development of environmentally sound economic growth;
- support of environmental research, monitoring, education, and training;
- creation of a framework to bring people together around these goals.

**Criteria for Biosphere Reserves.** In order to facilitate research on ecosystems in various stages of protection as well as development, biosphere reserves meet these criteria: (1) they have a legally protected core area relatively free from outside or human activity-in the United States, usually an already designated park, wilderness or wildlife refuge area; (2) there is a "buffer zone" or zones, surrounding or contiguous to the core area, where human activity is carried out, but generally at low/rural intensity and types of activity that are compatible with conservation objectives; and (3) transitional areas outside the buffer zone where human activity is more intensified, but presumably with some cooperative effort underway in these adjacent communities to achieve sustainable development in which conservation and economic development are jointly pursued according to the values and guidance of the local community.

When a local community, state or national MAB committee begins to pursue recognition of the area as a biosphere reserve, these criteria are usually already being met. It is not expected that steps will have to be taken to create core areas or change activity patterns after recognition. However, local communities are encouraged to develop cooperative mechanisms to maximize opportunities for the research and information focus of the Biosphere Reserve program.

**Designation Process for Biosphere Reserves.** An area to be considered for recognition as a Biosphere Reserve is nominated locally-always with the support of the local community, and the nomination is considered by the U.S. National Committee. Documentation on the recommended area and how it meets the criteria of the Biosphere Reserve system is assembled by the local proponents and forwarded by the U.S. MAB program to the International Coordinating Council (ICC) of the MAB Programme in Paris, which considers the recommendation and makes a decision, which is conveyed to the U.S. MAB Program.

**Policy Implications of Designation/Recognition.** There are no legally binding requirements on countries or communities regarding the management of biosphere reserves. Full sovereignty and control over the area continues as it was before recognition. The main effect of recognition is to publicize the inclusion of an area in the Biosphere Reserve Network, thus making it known that research on the area's ecosystem type and impacts of adjacent human development on the area is appropriate as part of an international network of such research. It is expected that research in such areas--conducted mainly by private and/or government scientists -- will be shared through the Biosphere Reserve program in order to maximize benefits of information exchange. Funding for the U.S. Biosphere Reserve program is provided by pooled resources from several participating Federal agencies; totaling some \$225,000 in FY 1996, funding goes almost entirely to U.S. programs and local organizations, with some relatively small amounts supporting research by U.S. scientists in other countries, or assisting developing country scientists to attend MAB meetings.

**State: Alaska****Biosphere Reserve: Aleutian Islands Biosphere Reserve**

**Administered by:** Alaska Maritime National Wildlife Refuge, Aleutian Islands Unit; U.S. Fish and Wildlife Service, Department of the Interior

**Role as Biosphere Reserve:**

Nearly all the islands in the Aleutian Island chain are part of the national wildlife refuge, a conservation unit in the Bering Sea Ecosystem. These islands exhibit extensive biological diversity closely tied with the surrounding marine environment. The refuge protects these islands for seabirds, marine mammals and other wildlife, Aleut archaeological resources and World War II historic sites. Presently, several Aleut villages are within the Aleutian Island chain, as well as private holdings belonging to The Aleut Corporation. Other stakeholders in the Aleutians include the U.S. Department of Defense, which has military bases in several locations. The U.S. Fish and Wildlife Service currently works closely with these partners in the Aleutians. Information centers are located in Adak and Homer offering distribution of refuge brochures. Naturalists are available on board the state ferry and commercial cruise ships.

**Major Issues:**

- Seabird populations and productivity.
- Eradication of introduced species, especially arctic foxes, Norway rats, and caribou.
- Aleutian Canada goose restoration.
- Marine mammals, especially Steller's sea lions and sea otters.
- Winter waterfowl populations monitoring.
- Removal of contaminants remaining from military activities.
- Prevention of rat introduction to rat-free islands.

**Accomplishments and Benefits:**

Several significant resource accomplishments and resource concerns have occurred in the Aleutian Islands region since its designation as a Biosphere Reserve in 1976. The Aleutian Canada Goose, formerly listed as an endangered species, is currently listed as a threatened species, due to restoration of its breeding habitat in the Aleutians as well as protection on its wintering grounds. The refuge continues

to focus on eradication of introduced foxes as the primary means for restoration of goose and seabird populations. Annual seabird monitoring sites have been established in the eastern, central, and western Aleutians to document populations and productivity.

Several issues of concern in recent years are the focus of attention in the Aleutian Islands. As of June 1997, the Aleutian population of Steller's sea lions is being listed as an endangered species. In the central Aleutians, an unexplained decline in sea otter numbers has occurred. Findings of contaminants left over from WW II military activities, and later nuclear test explosions, are necessitating further sampling to determine affects on the tundra environment and wildlife.

To accomplish refuge goals, and to expound on our understanding of the Bering Sea Ecosystem, the U.S. Fish and Wildlife Service has formed partnerships with other organizations resulting in mutual benefits. These include the National Marine Fisheries Service, the University of Alaska Institute of Marine Science, the U.S. Geological Service Biological Resources Division, numerous academic researchers, and other cooperators conducting biological and archaeological research.

Designation of the Aleutian Islands as a Biosphere Reserve in no way infringes on nor influences how these public lands are managed by the U.S. Fish and Wildlife Service. Management mandates are determined by statutes and agency policies. In the Aleutian Islands Unit of this refuge, no Man and the Biosphere funds were used to achieve the accomplishments noted above.

**Contact:**

Laura Greffenius, Unit Manager  
or Jeff Williams, AIU Wildlife Biologist,  
Aleutian Islands Unit,  
Alaska Maritime National Wildlife Refuge,  
PSC 486, Box 5251,  
Adak, Alaska FPO-AP 96506  
Tel. (907) 592-2406,  
Fax. (907) 592-3473,  
E-mail: R7AIUWR@mail.fws.gov

John Manager, Refuge Manager  
or Dan Boone, Deputy Refuge Manager,  
Alaska Maritime National Wildlife Refuge,  
2355 Kachemak Bay Dr., Suite 101,  
Homer, Alaska 99603-8021  
Tel. (907) 235-6546,  
Fax. (907) 235-7783,  
E-mail: R7AMNWR@mail.fws.gov

## Model Biosphere Reserve

A biosphere reserve is a unique category of protected area dedicated to solving problems associated with human impacts on natural ecosystems.

A model biosphere reserve consists of a protected (core) area, a managed use area (buffer zone), and a zone of cooperation (transition area.)

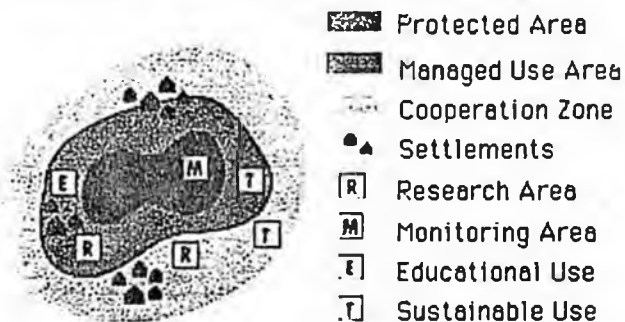
Biosphere reserve status is awarded by the United Nations Educational Scientific and Cultural Organizations (UNESCO) to those protected areas that combine scientific research and monitoring, conservation, education, and training. Each site is nominated by its country MAB Program. The Biosphere reserve designation does not provide any additional international protection to the site nominated. Together, the 352 biosphere reserves in 87 countries form an international network that represents the world's major ecoregions.

A protected area consists of examples of minimally disturbed ecosystems and has secure domestic legal protection. Only activities that do not adversely affect the natural habitat are allowed. The managed use area is adjacent to the protected area. Here, activities such as fishing, hunting, camping and other activities are encouraged.

The zone of cooperation is a regional size area which contains settlements, croplands, managed forests, recreation areas, and other economic uses characteristic of the region. The UNESCO Biosphere Reserve designation does not recognize the zone of cooperation. It is a suggested concept to promote the establishment of cooperative programs and partnerships between the protected area managers and the surrounding community.

Since 1984 the management agencies of a site have been asked to serve as focal points for regional environmental cooperation. Biosphere reserves thus help to bring together the diverse regional stakeholders so as to find practical strategies to deal with the complex and interrelated environmental, land use, and socioeconomic concerns affecting a particular region. The MAB Biosphere Reserve concept serves as a means of exchanging information and ideas regarding the conservation, sustainable use and management of natural resources in harmony with the needs of local populations.

### BIOSPHERE RESERVE ZONATION



## HOW ARE BIOSPHERE RESERVES ORGANIZED?

To carry out the complementary activities of nature conservation and use of natural resources, Biosphere Reserves are organized into three interrelated zones, known as the core area, the buffer zone and the transition area.

The protected area:

needs to be legally established and give long-term protection to the landscape, ecosystem and species it contains. It should be sufficiently large to meet these conservation objectives. As nature is rarely uniform and as historical land-use constraints exist in many parts of the world, there may be several protected areas in a single Biosphere Reserve to ensure a representative coverage of the mosaic of ecological systems. Normally, the protected area is not subject to human activity, except research and monitoring and, as the case may be, to traditional extractive uses by local communities.

Zones of managed use

which is clearly delineated and which surrounds or is contiguous to the protected area. Activities are organized here so that they do not hinder the conservation objectives of the protected area but rather help to protect it, hence the idea of "buffering". It can be an area for experimental research, for example to discover ways to manage natural vegetation, croplands, forests, fisheries, to enhance high quality production while conserving natural processes and biodiversity, including soil resources, to the maximum extent possible. In a similar manner, experiments can be carried out in the area of managed use to explore how to rehabilitate degraded areas.

An outer transition area:

or area of co-operation extending outwards, which may contain a variety of agricultural activities, human settlements and other uses. It is here that the local communities, conservation agencies, scientists, civil associations, cultural groups, private enterprises and other stakeholders must agree to work together to manage and sustainably develop the area's resources for the benefit of the people who live there. Given the role that Biosphere Reserves should play in promoting the sustainable management of the natural resources of the region in which they lie, the transition area is of great economic and social significance for regional development.

Although presented schematically as a series of concentric rings, the three zones are usually implemented in many different ways to accommodate local geographic conditions and constraints. This flexibility allows for creativity and adaptability, and is one of the greatest strengths of the concept.

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## U.S. MAB Biosphere Reserves

Fact Sheet released by the Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, July 1, 1998.

The main functions of biosphere reserves are:

- conservation of important biological resources;
- development of environmentally sound economic growth;
- support of environmental research, monitoring, education, and training;
- as a framework to bring people together to accomplish the above three.

The United States has 47 biosphere reserves with 99 administrative units. The *protected areas* and *managed use areas* are owned/administered by the National Park Service; U.S.D.A.-Forest Service; state, county, or city governments; U.S. Fish and Wildlife Service; The Nature Conservancy; universities; private owners; U.S.D.A.-Agricultural Research Service; National Oceanic and Atmospheric Administration; Bureau of Land Management; Tennessee Valley Authority; and the Department of Energy.

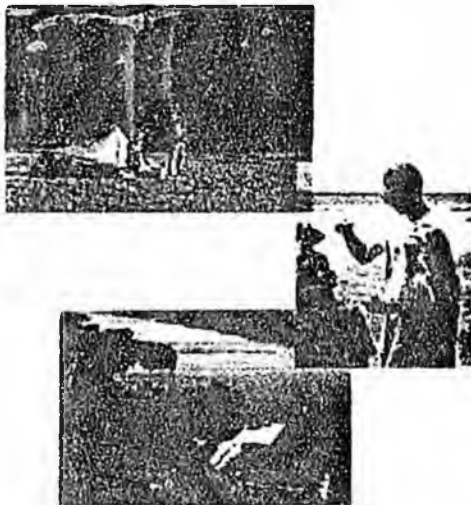
A biosphere reserve ideally consists of a "protected area", an adjacent managed use area" and a broader "zone of cooperation." The *protected area* is legally protected from activity which would adversely affect the natural features of the area. The *managed use area* contains lumbering, grazing, and fishing activities, settlements, recreational facilities etc., managed to benefit local residents and the local environment. The *zone of cooperation* is the larger region in which local residents, cultural groups, economic interests, scientists, managing agencies etc. work together to link conservation and economic development guided by the cultural values of the local community.

The biosphere reserve concept emphasizes cooperation among the landowners and local residents in developing a program of research, conservation, and development. No restrictions, land purchase authority, or land use regulations are conveyed with the award of biosphere reserve status.

The biosphere reserve designation facilitates sharing of scientific and land management information. A biosphere reserve is a member of a network of worldwide sites. As of October 1997 there are 352 biosphere reserves in 87 countries. Each nation exercises sovereignty over its sites.

A biosphere reserve is nominated locally, recommended nationally, designated internationally, and administered locally. The United Nations Educational, Scientific and Cultural Organization (UNESCO) awards the title of biosphere reserve and provides guidelines. The National Committee for the U.S. Man and the Biosphere Program (U.S. MAB) gives program support. The Biosphere Reserve Directorate of U.S. MAB coordinates national activities. The biosphere reserve generates program and activities for ecosystem conservation, management, and use with local cooperation.

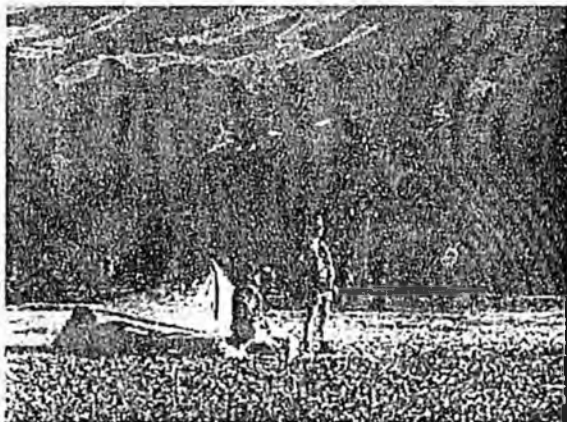
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## U.S. Biosphere Reserves

A brief explanation of the U.S. Biosphere Reserves Program.

There are presently over 352 biosphere reserves in 87 countries. The 47 U.S. biosphere reserves include 99 legally protected sites under government or private ownership.



Three Sisters Wilderness, USDA-Forest Service

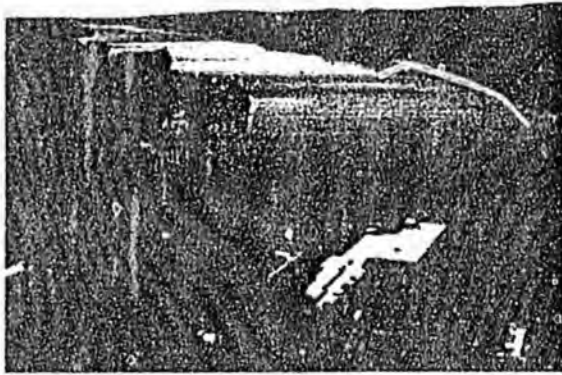
### Conservation

A biosphere reserve conserves the natural resources and special natural qualities of its region.

Each biosphere reserve must have at least one legally protected natural area. This area could be used for such activities as hiking, diving, bird watching, educational field trips, scientific research and monitoring of plant and animal life.

In the U.S. most biosphere reserves are either national parks (22) or national forests (15). Others are under federal, state, or private ownership and management.

One purpose of a biosphere reserve is to encourage local residents to maintain the variety of plants and animals representative of the region.



Isle Royale National Park

### Development

The ideal biosphere reserve has areas locally managed for economic development with respect for the conservation of the protected areas. These managed areas are used for tourism, agriculture, fishing, forestry, and recreation.

The managers of a protected area encourage the development of a zone of cooperation near the protected areas. This zone contains towns, factories, farms, fisheries, and other human activities. The economic and cultural development can also help protect the natural areas.

One purpose of a biosphere reserve is to promote economic and cultural development for generations to come.



Apalachicola Research Reserve

### Cooperation

The biosphere reserve is a place for long term study of changes in the physical, biological, and human environment. Scientists and managers at biosphere reserves cooperate with each other to share data from research and monitoring programs to better understand nature and mankind's impact on the environment.

The biosphere reserve is a place for education and training. Land management methods can be demonstrated. Local people, landowners, and organizations cooperate on conservation and development issues affecting the region. The involvement of local people is essential to a biosphere reserve.

One purpose of a biosphere reserve is to foster cooperation among residents and landowners to plan the research, development, conservation, and education activities of the area.

### Personal Comments

"We in Pittman Center have been involved with the Southern Appalachian Man and the Biosphere (SAMAB) Program for almost five years. I want to make it clear that the SAMAB Program does not infringe upon private property rights, try to depopulate an area, allow outsiders to direct future development, nor bring additional regulatory pressures. Our association with the program has resulted in many benefits to the community especially the recognition that economic development and natural resource protection are complementary goals, not competing ones!"

James B. Coykendall, III, Board of Alderman  
Pittman Center, Tennessee

"Let's keep humankind in touch with reality. Reality is that we exist within our natural world, part of nature and part of the family of living systems. The creation of biosphere reserves in our urban world allows us to continue being a part of total living systems."

Ann Azari, Mayor  
City of Fort Collins, Colorado

"In the Native American perspective, the preservation of the earth's environment is based on two key principles; time and relationship. Components of the earth's natural environment interact and complement each other. If man fails to recognize these fundamental relationships and does not institute preservation measures, the interaction will slowly decrease and eventually cease altogether. The long-term preservation concepts and success of the Biosphere Program will be measured by man's relationship with the earth's natural environment over time. The Man and the Biosphere Program is a necessity for the very existence of man."

Floyd Flores, O'odham Nations,  
Tucson, Arizona

"A Biosphere Reserve creates a biologically relevant framework to recognize and protect the broader range of resources required by many forms of wildlife. Natural systems can only be protected over larger areas. A Biosphere Reserve creates the collaborative goals between groups to accomplish more than would be accomplished individually."

Daniel Evans, Executive Director  
Point Reyes Bird Observatory, California

Biosphere reserve designation encourages voluntary cooperation, and requires no special programs, methods of management, financial obligations, or changes in ownership. U.S. MAB provides program support to U.S. Biosphere Reserves, but the local partners in the biosphere reserves are in charge.

### **Steps to Biosphere Reserve Designation**

1. A federal, state, or local agency, organization, or individual completes the nomination form. Owners and managers of the protected lands and local government leaders write letters of support.
2. The completed nomination form and letters of support are sent to the U.S. Man and the Biosphere Program (U.S. MAB) for review and recommendation.
3. U.S. MAB sends the recommended nomination to the United Nations Educational, Scientific, and Cultural Organization (UNESCO) office in Paris. The Man and the Biosphere Program office there makes the final approval and awards the biosphere reserve designation.

For further information please contact:

U.S. MAB Program  
U.S. Department of State  
OES/ETC/MAB

Washington, DC, 20522-4401  
Tel. (202) 776-8318, Fax. (202) 776-8367

Department of State Publication, released September 1996, updated July 1, 1998

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## WHY DO WE NEED BIOSPHERE RESERVES

### To conserve biological diversity.

Human pressures on land and water resources are drastically reducing the diversity of genes, plant and animal species, ecosystems and landscapes on the planet. This threatens human welfare, since this biodiversity is the potential source of foods, fibers, medicines, and raw material for industry and building. It constitutes an irreplaceable wealth for research, education and recreation for the whole of humankind. The core areas and buffer zones of Biosphere Reserves serve as repositories to safeguard samples of the biodiversity of the world's major biogeographical regions, and as reference and study sites to help improve our knowledge on biodiversity.

### To maintain healthy ecosystems.

Biosphere reserves, which may represent large areas of land and water, contribute significantly to the maintenance of the life support systems which serve to avoid soil erosion, maintain soil fertility, regulate river flow, recharge aquifers, recycle nutrients, and absorb air and water pollutants.

### To learn about natural systems and how they are changing.

Research may be conducted on the structure and dynamics of the minimally disturbed natural systems of the core areas of Biosphere Reserves, and compared with the functioning of human-affected landscapes in the buffer and transition areas. Such studies, when carried out over the long term, show how these systems may be changing over time. Setting up similar long-term monitoring plots, and harmonizing methods and measurements allows comparison of results regionally and worldwide. The information thus obtained allows us to better understand global environmental changes.

### To learn about traditional forms of land-use.

People in many parts of the world have devised, over a long period of time, ingenious land-use practices which do not deplete the natural resources and which can provide valuable knowledge for modern production systems. Biosphere Reserves are areas where such peoples can maintain their traditions, as well as improving their economic well-being through the use of culturally and environmentally appropriate technologies. Moreover, such traditional systems are highly useful for conserving ancient breeds of livestock and old land races of crops, which are invaluable gene pools for modern agriculture.

page 2: Frequently Asked Questions: Why do we need

### To share knowledge on how to manage natural resources in a sustainable way.

Research to find land-use practices that improve human well-being, without degrading the environment, is a central purpose of Biosphere Reserves. The lessons learned are transmitted at the field level through on-the-spot training and demonstrations. They can then be applied in the transition area and in the region beyond. Government officials, national and foreign scientists, visitors, as well as local community leaders, all benefit from this experience. The Biosphere Reserve thus serves to share knowledge and skills at the local, national and international levels.

### To co-operate in solving natural resources problems.

A major obstacle to reconciling environment with development is the sectoral structure of our institutions. Biosphere Reserves provide places where conflicts in interest can be debated by all the stakeholders concerned: local officials, local landowners, nature conservation associations, government leaders, scientists, local farmers, fishermen, private enterprises, etc. -- all must work together to find appropriate co-ordination mechanisms to plan and manage the Biosphere Reserve. Biosphere Reserves therefore provide opportunities for conflict resolution which could be applied in other land and water development issues.

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