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### SB79-16/17: Resolution Requesting the Expeditious Addition of a Student Representative on the University of Montana Foundation Board of Trustees

Sam Forstag

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1                                   **The Associated Students of the University of Montana**  
2                                   **Resolution Requesting the Expedient Addition of a Student Representative**  
3                                   **on the University of Montana Foundation Board of Trustees**

4                                   **04/12/2017**

5                                   **SB79 - 16/17**

6                                   **Authored by: Sam Forstag, ASUM President;**

7                                   **Sponsored by: Elle Fettig, ASUM Senator; Braden Fitzgerald, ASUM Senator;**

8                                   **Elizabeth Engebretson, ASUM Vice President**

9  
10       Whereas, the Associated Students of the University of Montana (ASUM) represents and serves  
11       as the official voice for the over 11,000 students of the University of Montana (UM) student  
12       body;

13  
14       Whereas, decisions made by the University of Montana Foundation (UM Foundation) Board of  
15       Trustees directly impact UM students in a wide variety of areas;

16  
17       Whereas, meaningful student participation within the UM Foundation Board of Trustees would  
18       provide a significant benefit to the both the UM Foundation's pursuit of its philanthropic mission  
19       and UM students' vested interest in one of our campus's largest annual funding sources;

20  
21       Whereas, ASUM is cognizant of the substantial value that the UM Foundation adds to our  
22       University, and of the significant resources that the Foundation and Foundation Trustees help  
23       provide to the University of Montana campus and students;

24  
25       Whereas, ASUM passed a resolution on September 7<sup>th</sup>, 2016, and submitted a formal proposal to  
26       the same effect, requesting the creation of an ex officio student seat on the UM Foundation  
27       Board of Trustees to be filled annually by the ASUM President <sup>1,2</sup>;

28  
29       Whereas, a March 21<sup>st</sup>, 2017 letter from Mary Olson, Chair of the UM Foundation Board of  
30       Trustees rejected ASUM's proposal for the creation of an ex officio student representative,  
31       stating that: "*the Trustees concluded that the goal of improving engagement with students does*  
32       *not require creation of an ex officio Trustee position for the ASUM President*" <sup>3</sup>;

33  
34       Whereas, this same March 21<sup>st</sup>, 2017 letter instead suggested the alternative that "*a UM*  
35       *Foundation staff member and one or more Trustees attend a Senate meeting in the fall and*  
36       *spring of each year*" <sup>3</sup>;

37  
38       Whereas, a March 21<sup>st</sup>, 2016 letter from former UM Foundation President Shane Giese on behalf  
39       of the UM Foundation Board of Trustees stated that "*as a separate private organization, the*  
40       *Foundation's Board and Committee meetings are private, and therefore are not open to the*  
41       *public*" <sup>4</sup>;

42  
43       Whereas, the UM Foundation Board of Trustees' bylaws are not currently publicly available,  
44       making verification of said bylaws and specific request to work within currently set bylaw  
45       constraints necessarily difficult and imprecise;

<sup>1</sup> Forstag, Sam and Engebretson, Elizabeth. "SB10-16/17: Regarding Student Representation on the UM Foundation Board of Trustees" (2016). Resolutions, 2007-Present. 537. [http://scholarworks.umt.edu/asum\\_resolutions/537](http://scholarworks.umt.edu/asum_resolutions/537)

<sup>2</sup> Forstag, Sam. "Proposal to Create a Student Seat on the University of Montana Foundation Board of Trustees" (2016)

<sup>3</sup> Olson, Mary. 21 March, 2017

<sup>4</sup> Giese, Shane. 21 March, 2016

46  
47 Whereas, Foundation representatives attending the April 5<sup>th</sup>, 2017 ASUM meeting stated that a  
48 large portion of Board work and decision-making takes place outside of the twice-annual full  
49 Board meetings;

50  
51 Whereas, the regular attendance and participation of the UM Foundation President & CEO as a  
52 ‘staff liaison’ at full Board of Trustees meetings and with committees including the Board  
53 Governance Committee and Executive Committee serves as a useful model for meaningful  
54 participation by an annually-appointed student representative;

55  
56 Whereas, a similar request from students to the Montana State University (MSU) Alumni  
57 Foundation Board of Directors, a similarly structured and purposed organization, was accepted  
58 and expeditiously honored in fall of 2016 by instituting a student seat without the immediate  
59 changing of the MSU Alumni Foundation Board of Directors’ bylaws;

60  
61 Whereas, Article II, Section 9, of the Montana Constitution delineates the public’s ‘Right to  
62 know,’ and reads:<sup>5</sup>

63  
64 *“Right to know. No person shall be deprived of the right to examine documents or to*  
65 *observe the deliberations of all public bodies or agencies of state government and its*  
66 *subdivisions, except in cases in which the demand of individual privacy clearly exceeds*  
67 *the merits of public disclosure”*

68  
69 Whereas, Article II, Section 8 of the Montana Constitution delineates the public’s ‘Right of  
70 participation,’ and reads:<sup>6</sup>

71  
72 *“The public has the right to expect governmental agencies to afford such reasonable*  
73 *opportunity for citizen participation in the operation of the agencies prior to the final*  
74 *decision as may be provided by law.”*

75  
76 Whereas, Section 2-3-203 of Montana Code Annotated reads:<sup>7</sup>

77  
78 *“(1) All meetings of public or governmental bodies, boards, bureaus, commissions,*  
79 *agencies of the state, or any political subdivision of the state or organizations or*  
80 *agencies supported in whole or in part by public funds or expending public funds,*  
81 *including the supreme court, must be open to the public.”*

82  
83 Whereas, student participation in processes requiring strict confidentiality exists across UM,  
84 including Collective Bargaining negotiations, all administrative search committees, complex  
85 Discrimination Grievance cases, pay negotiations for professional staff, campus appeals  
86 committees, Beverage Contract negotiations, and the President’s Cabinet;

87

<sup>5</sup> MT Const. art II, § 9

<sup>6</sup> MT Const. art II, § 8

<sup>7</sup> 2-2-203, MCA

<sup>8</sup> Peters, Jonathan W., and Jackie Spinner. "How university foundations try to avoid public scrutiny—and what reporters can do." *Columbia Journalism Review* (2015): n. pag. Web. 9 Apr. 2017.

<[http://www.cjr.org/united\\_states\\_project/how\\_university\\_foundations\\_try\\_to\\_avoid\\_public\\_scrutiny\\_and\\_what\\_reporters\\_can\\_do.php](http://www.cjr.org/united_states_project/how_university_foundations_try_to_avoid_public_scrutiny_and_what_reporters_can_do.php)>.

88 Whereas, the UM Foundation is incorporated under the Montana Secretary of State as a ‘public  
89 benefit without members’;  
90

91 Whereas, a 2015 study of University-affiliated Foundations classification under public records  
92 laws found that the issue has been raised in at least 20 states, “*and in at least 11 of them, the*  
93 *classification favors the finding that foundations are the alter ego of their universities and*  
94 *subject to public-records laws.*”<sup>8</sup>  
95

96 Therefore, Let it Be Resolved, that the Associated Students of the University of Montana  
97 (ASUM) finds the University of Montana Foundation (UM Foundation) Board of Trustees’  
98 suggested alternative to the creation of a permanent student seat on the Board of Trustees to be  
99 woefully inadequate as a standalone means of incorporating meaningful student participation and  
100 involvement in the various Board decisions that directly impact University of Montana students;  
101

102 Therefore, Let it Further Be Resolved, that ASUM urges the UM Foundation Board of Trustees  
103 to reconsider and reverse its decision to decline ASUM’s proposal to institute a permanent,  
104 annually-appointed student representative to serve on the Board at the soonest possible juncture;  
105

106 Therefore, Let it Further Be Resolved, that ASUM urges the UM Foundation proceed forthwith  
107 with appointing the 2017-18 ASUM President as an ex-officio seat on the UM Foundation Board  
108 of Trustees to begin serving no later than the Board’s fall meeting, with the goal of  
109 institutionalizing this avenue of student representation and involvement through an eventual  
110 amendment of the Board’s bylaws;  
111

112 Therefore, Let it Further Be Resolved, that ASUM requests that any such student representative  
113 serving on the Board of Trustees serve as a student liaison in at least two Board Committees to  
114 ensure the opportunity for meaningful and reasonable student involvement in the UM  
115 Foundation’s decision-making process, which was previously characterized as largely occurring  
116 via Board Committees;  
117

118 Therefore, Let it Further Be Resolved, that the appointment of the ASUM President to the Board  
119 of Trustees should by no means preclude instituting additional avenues of student involvement,  
120 input, and participation between the UM Foundation and ASUM, such as those suggested in  
121 Board Chair Mary Olson’s March 21<sup>st</sup> letter to ASUM President Sam Forstag;  
122

123 Therefore, Let it Further Be Resolved, that ASUM asks that the UM Foundation issue a formal  
124 response to the continued question of instituting a permanent student representative on the UM  
125 Foundation Board of Trustees no later than April 19<sup>th</sup>, 2017;  
126

127 Therefore, Let it Further Be Resolved, that if a response which sufficiently addresses the ongoing  
128 issue of a lack of opportunity for meaningful student involvement and participation with the UM  
129 Foundation Board of Trustees is not issued by the aforementioned date, ASUM will proceed to

<sup>5</sup> MT Const. art II, § 9

<sup>6</sup> MT Const. art II, § 8

<sup>7</sup> 2-2-203, MCA

<sup>8</sup> Peters, Jonathan W., and Jackie Spinner. "How university foundations try to avoid public scrutiny—and what reporters can do." *Columbia Journalism Review* (2015): n. pag. Web. 9 Apr. 2017.

<[http://www.cjr.org/united\\_states\\_project/how\\_university\\_foundations\\_try\\_to\\_avoid\\_public\\_scrutiny\\_and\\_what\\_reporters\\_can\\_do.php](http://www.cjr.org/united_states_project/how_university_foundations_try_to_avoid_public_scrutiny_and_what_reporters_can_do.php)>.

130 investigate and pursue avenues of legal action regarding the Constitutionality of continuing to  
131 deny students access and participation in UM Foundation Board of Trustees meetings;

132  
133 Therefore, Let it Further Be Resolved, that a copy of this resolution be sent to: Mary Olson,  
134 Chair of the UM Foundation Board of Trustees; Cindy Williams, Interim President & CEO of the  
135 UM Foundation; Bill Mercer, Chair of the Governance Committee of the UM Foundation Board  
136 of Trustees; Sheila Stearns, Interim President of the University of Montana; Levi Birky, Montana  
137 University System Student Regent; Paul Tuss, Chair of the Montana Board of Regents; Fran  
138 Albrecht, Vice Chair of the Montana Board of Regents.

139  
140  
141 Passed by Committee: \_\_\_\_\_, 2017

142  
143 Passed by ASUM Senate: \_\_\_\_\_, 2017

144  
145  
146  
147  
148 \_\_\_\_\_  
149  
150 Connor Fitzpatrick, Elizabeth Engebretson  
151 Chair of Relations & Affairs Chair of the Senate

<sup>5</sup> MT Const. art II, § 9

<sup>6</sup> MT Const. art II, § 8

<sup>7</sup> 2-2-203, MCA

<sup>8</sup> Peters, Jonathan W., and Jackie Spinner. "How university foundations try to avoid public scrutiny—and what reporters can do." Columbia Journalism Review (2015): n. pag. Web. 9 Apr. 2017.  
<[http://www.cjr.org/united\\_states\\_project/how\\_university\\_foundations\\_try\\_to\\_avoid\\_public\\_scrutiny\\_and\\_what\\_reporters\\_can\\_do.php](http://www.cjr.org/united_states_project/how_university_foundations_try_to_avoid_public_scrutiny_and_what_reporters_can_do.php)>.