SB38-19/20: Resolution Regarding Referendum Language for Articles 1, 2, 5, 10, 11, 12, 13, and 14 of the ASUM Constitution

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The Associated Students of the University of Montana
Resolution Regarding Referendum Language for Articles 1, 2, 5, 10, 11, 12, 13, and 14 of
the ASUM Constitution
November 12, 2019
SB38-19/20
Authored by: Cierra Anderson, ASUM Senator; Noah Durnell, ASUM Senator; Brian
Fulton, ASUM Senator; Matthew Hurley, ASUM Senator; Christian Pfeifer, ASUM
Senator;
Sponsored by: Zoe Nelson, ASUM Senator;

Whereas, A Constitution establishes a system of government, defines the powers and functions
of the institutions of government, provides limits to state and non-state action, and regulates the
relations between institutions and its people;

Whereas, The Constitution of the Associated Students of the University of Montana (ASUM)
regulates the interactions between students of the University, members, and the Associated
Government;

Whereas, “ASUM shall be the representative body of the members of the Association, organized
exclusively for educational and non-profit purposes,” and “The primary responsibility of the
Association is to serve as an advocate for the general welfare of the students.”;

Whereas, The ASUM Constitutional Revision Ad Hoc Committee has been charged with
exploring amendments to the constitution to be enumerated and brought forth as amendments or
revisions;

Whereas, Articles 1, 2, 5, 10, 11, 12, 13, and 14 of the ASUM Constitution currently reads:

"Article 1: Name and Membership

- Section 1. The name of this organization shall be the Associated Students of the
  University of Montana.
- Section 2. For the purposes of this Constitution, member shall be defined as any Student
  Activity Fee paying student of the University of Montana.
- Section 3. For purposes of this Constitution, student shall be defined as anyone currently
  enrolled in The University of Montana.

Article 2: Associated Government

- Section 1. ASUM shall be the representative body of the members of the Association,
  organized exclusively for educational and non-profit purposes. The primary
  responsibility of the Association is to serve as an advocate for the general welfare of the
  students.
- Section 2. ASUM may also cooperate with other student associations to further common
  interests.
- Section 3. The government and activities of the Association shall be carried on through
  (1) the Association as a whole with a general governing body known as the ASUM
  Senate, (2) an executive, consisting of the ASUM President, Vice President, and Business
Manager, and (3) boards and standing committees as provided for in Article 5 of this
Constitution.

- Section 4. The ASUM government and activities must comply with Montana State law
and the policies of the Montana Board of Regents on Higher Education.

**Article 5: Committees**

- Section 1. The affairs and activities of ASUM shall be handled through such standing
committees as enumerated in the Bylaws and any other committee which the ASUM
Senate shall deem necessary for the administration of ASUM.
- Section 2. Committees shall be subject to the general supervision of the ASUM Senate,
and new committees shall be brought before the Senate for approval.
- Section 3. All chairs and members of these committees shall be recommended for
appointment by the President of ASUM and confirmed by the ASUM Senate by a two-
thirds (2/3) vote.

**Article 10: Constitutional Referenda**

- Section 1. This Constitution may only be changed by amendment or revision submitted to
the members of the Association as a Constitutional Referendum.
- Section 2. Upon the petition of five percent (5%) of the membership of the ASUM, or an
ASUM policy calling for the support of a new University of Montana or ASUM fee, the
ASUM Senate shall be obligated to conduct a referendum. Alternatively, the Senate may
initiate a referendum by a two-thirds (2/3) vote. In order to pass, at least twelve percent
(12%) of ASUM members must vote, and a majority (50% plus one) of those voting must
vote to ratify the referendum proposal. Notice of such a referendum must be published in
the Montana Kaimin in each of the four issues preceding the referendum voting date.
- Section 3. There are three types of student fees that can be levied by referenda:
  a. Mandatory/All students pay
  b. Student must opt-in at registration
  c. Student can opt-out after registration

Only the ASUM Senate, ASUM Agencies, recognized student groups, or The University of
Montana can institute a mandatory or opt-out fee structure.

All other groups are limited to an opt-in fee structure, where a student may decide upon
registration whether or not to pay the fee.

**Article 11: Initiative**

- Section 1. An ASUM Senate-generated initiative may be submitted to members or
students, as defined in Article 1, as determined by the Senate.
- Section 2. A member-generated initiative will be submitted to the members of the
Association if the initiative involves a change in the ASUM Bylaws. If a change involves
ASUM policy, a student-generated initiative may be submitted to a vote of all students.
- Section 3. Votes involving changes of Bylaws or ASUM policy may be initiated by the
ASUM Senate or by a petition of five percent (5%) of the members of the Association.
- Section 4. In order for an initiative to produce a binding change in the ASUM Bylaws or
policy, twelve percent (12%) of eligible voters must vote and a majority (50% plus one)
of those voters must ratify the initiative.
**Article 12: Constitutional Review Board**

- **Section 1.** There shall be a Constitutional Review Board which will decide upon questions relating to the constitutionality of ASUM Bylaws or policies.
- **Section 2.** The Constitutional Review Board shall consist of five (5) members recommended by the President and confirmed by a two-thirds (2/3) vote of the ASUM Senate. No ASUM Executive or Senate member may serve as a member of the Constitutional Review Board.
- **Section 3.** Any member of the Association may petition the Board to review any matter concerning the constitutionality of ASUM Bylaws or policies.
- **Section 4.** All decisions made by the Constitutional Review Board shall be binding. Appeals to decisions of the Board shall be in the form of a Constitutional Amendment.
- **Section 5.** Decisions of the Board shall be enforced by the relevant boards, executives, or the ASUM Senate. If decisions are not enforced, the Board shall initiate removal proceedings against the relevant officer or member. The Board may direct the Board on Budget and Finance to freeze funds of a board, committee, or other part of ASUM which is not in compliance with the Constitution.

**Article 13: Enactment and Status of the Constitution**

- **Section 1.** In the event of a conflict between this Constitution and any Bylaws or policy of ASUM, the Constitution shall be considered superior.
- **Section 2.** This Constitution shall replace and repeal all previous Constitutions.
- **Section 3.** This Constitution is, pursuant to Section 506.2 (1) of the Montana University System Policies and Procedures Manual, subject to approval by the President of the University of Montana.
- **Section 4.** This Constitution shall go into effect February 1, 1988. A majority vote of Association members voting in a special election will be sufficient to ratify this Constitution. The term of office of any person in any ASUM position shall continue until two weeks following the March 1988 elections.

**Article 14: Recall Mechanism**

- **Section 1.** Any ASUM officer (President, Vice-President, Business Manager, or Senator) may be recalled from office for grounds with a 60% majority vote of at least 23% of the ASUM membership as defined in Article 1, Section 2.
- **Section 2.** Grounds will include, but not be limited to, any violation of the specific office's duties as defined in the ASUM Constitution, ASUM Bylaws, ASUM House Rules of Order, ASUM Personnel Policy, or other governing documents. Other grounds will only be accepted if they satisfy cause for termination as defined by Montana State law.
- **Section 3.** A recall election will be held between two and four weeks following the submission of the signatures of 5% of the ASUM membership as defined in Article 1, Section 2. If the election dates as mandated would conflict with Finals Week or a University holiday, the election may be postponed until the first Wednesday and Thursday of classes following.
- **Section 4.** The Election will be held on a Wednesday and conclude on the immediately following Thursday with the polls to be open for at least seven (7) hours each day. The process will be supervised by the ASUM Elections Committee.
- **Section 5.** Vacancies created by recall shall be filled as follows:
(a) For Executive Officers, following the order of succession stated in Article 3, Section 5.
(b) For Senators, following the presidential appointment procedure specified in Article 4, Section 2.
- Section 6. The recall procedure detailed in Article 14 shall be effective immediately if passed according to the initiative process detailed in Article 11.

Whereas, Articles 1, 2, 5, 10, 11, 12, 13, and 14 of the ASUM Constitution were in need of general updates to read well and be grammatically accurate;

Whereas, The ASUM Constitutional Revision Ad Hoc Committee has recommended minimal amendments to articles 1, 2, 5, 10, 11, 12, 13, and 14, and recommends that they be consolidated into one referendum;

Therefore, Let It Be Resolved, That in accordance with Article 10, Section 1 of the ASUM Constitution, the following question be placed before the student body of the University of Montana for a vote during the 2020 ASUM General Election:

"The following articles of the ASUM Constitution need general revision to reflect the functions of ASUM as a governing body. The proposed changes will be in bold or be strikethrough:

Article 1: Name and Membership

Section 1. The name of this organization shall be the Associated Students of the University of Montana.

Section 2. For the purposes of this Constitution, Member shall be defined as any student of the University of Montana who has paid the Student Activity Fee.

Section 3. For purposes of this Constitution, Student shall be defined as anyone currently enrolled in The University of Montana.

Section 4. For the purposes of this Constitution, the Associated Students of the University of Montana shall be abbreviated as "ASUM".

Article 2: Associated Government

Section 1. ASUM shall be the representative body of the members of the Association, organized exclusively for educational and non-profit purposes. The primary responsibility of the Association is to serve as an advocate for the general welfare of the students.

Section 2. ASUM may also cooperate with other student associations to further common interests.

Section 3. The government and activities of the Association shall be carried on through (1) the Association as a whole with a general governing body known as the ASUM Senate, (2) the Executive Officers, consisting of the ASUM President, Vice President, and Business Manager, and (3) boards and standing committees as provided for in Article 5 of this Constitution.

Section 4. The ASUM government and activities must comply with Montana State law and the policies of the Montana Board of Regents on Higher Education.
Article 5: Committees

Section 1. The affairs and activities of ASUM shall be handled through such standing committees as enumerated in the Bylaws and any other committee which the ASUM Senate shall deem necessary for the administration of ASUM.

Section 2. Committees shall be subject to the general supervision of the ASUM Senate, and new committees shall be brought before the Senate for approval.

Section 3. All chairs and members of these committees shall be recommended for appointment by the President of ASUM and confirmed by the ASUM Senate by a two-thirds (2/3) vote.

Article 10: Constitutional Referenda

Section 1. This Constitution may only be changed by amendment or revision submitted to the voting members of the Association as a Constitutional Referendum.

Section 2. Upon the petition of five percent (5%) of the membership of the ASUM Association or an ASUM policy calling for the support of a new University of Montana or ASUM fee, the ASUM Senate shall be obligated to conduct a referendum. Alternatively, the Senate may initiate a referendum by a two-thirds (2/3) vote. In order to pass, at least twelve percent (12%) of ASUM Association members must vote, and a majority (50% plus one) of those voting must vote to ratify the referendum proposal. Notice of such a referendum must be published in the Montana Kaimin in each of the four issues preceding the referendum voting date.

Section 3. There are three types of student fees that can be levied by referenda:
   1. Mandatory/All students pay
   2. Student must opt-in at registration
   3. Student can opt-out after registration

Section 4. Only the ASUM Senate, ASUM Agencies, recognized student groups, or The University of Montana can institute a mandatory or opt-out fee structure. All other groups are limited to an opt-in fee structure, where a student may decide upon registration whether or not to pay the fee.

Article 11: Initiative

Section 1. An ASUM Senate-generated initiative may be submitted to members or students, as defined in Article 1, as determined by the Senate.

Section 2. A member-generated initiative will be submitted to the members of the Association if the initiative involves a change in the ASUM Bylaws. If a change involves ASUM policies, a student-generated initiative may be submitted to a vote of all students.

Section 3. Votes involving changes of ASUM Bylaws or ASUM policies may be initiated by the ASUM Senate or by a petition of five percent (5%) of the members of the Association.

Section 4. In order for an initiative to produce a binding change in the ASUM Bylaws or policy, twelve percent (12%) of eligible voters must vote and a majority (50% plus one) of those voters must ratify the initiative.
Article 12: Constitutional Review Board

Section 1. There shall be a Constitutional Review Board which will decide upon questions relating to the constitutionality of ASUM Bylaws or policies.

Section 2. The Constitutional Review Board shall consist of five (5) members recommended by the President and confirmed by a two-thirds (2/3) vote of the ASUM Senate. No ASUM Executive or Senate member may serve as a member of the Constitutional Review Board.

Section 3. Any member of the Association may petition the Board to review any matter concerning the constitutionality of ASUM Bylaws or policies.

Section 4. All decisions made by the Constitutional Review Board shall be binding. Appeals to decisions of the Board shall be in the form of a Constitutional Amendment.

Section 5. Decisions of the Board shall be enforced by the relevant boards, executives, or the ASUM Senate. If decisions are not enforced, the Board shall initiate removal proceedings against the relevant officer or member. The Board may direct the Board on Budget and Finance to freeze funds of a board, committee, or other part of ASUM which is not in compliance with the Constitution.

Article 13: Enactment and Status of the Constitution

Section 1. In the event of a conflict between this Constitution and any Bylaws or policy of ASUM, the Constitution shall be considered superior.

Section 2. This Constitution shall replace and repeal all previous Constitutions.

Section 3. This Constitution is, pursuant to Section 506.2 (i) of the Montana University System Policies and Procedures Manual, subject to approval by the President of the University of Montana.

Section 4. This Constitution shall go into effect February 1, 1988. A majority vote of Association members voting in a special election will be sufficient to ratify this Constitution. The term of office of any person in any ASUM position shall continue until two weeks following the March 1988 elections.

Article 14: Recall Mechanism

Section 1. Any ASUM officer (President, Vice-President, Business Manager, or Senator) may be recalled from office for grounds with a 60% majority vote of at least 23% of the ASUM membership as defined in Article 1, Section 2.

Section 2. Grounds will include, but not be limited to, any violation of the specific office's duties as defined in the ASUM Constitution, ASUM Bylaws, ASUM House Rules of Order, ASUM Personnel Policy, or other governing documents. Other grounds will only be accepted if they satisfy cause for termination as defined by Montana State law.

Section 3. A recall election will be held between two and four weeks following the submission of the signatures of 5% of the ASUM membership as defined in Article 1, Section 2. If the election dates as mandated would conflict with Finals Week or a University holiday, the election may be postponed until the first Wednesday and Thursday of classes following.
Section 4. The Election will be held on a Wednesday and conclude on the immediately following Thursday with the polls to be open for at least seven (7) hours each day. The process will be supervised by the ASUM Elections Committee.

Section 5. Vacancies created by recall shall be filled as follows:
   1. For Executive Officers, following the order of succession stated in Article 3, Section 5.
   2. For Senators, following the presidential appointment procedure specified in Article 4, Section 2.

Section 6. The recall procedure detailed in Article 14 shall be effective immediately if passed according to the initiative process detailed in Article 11.

Do you support these changes as a revision to the ASUM Constitution?

____ Yes, I support these changes to the ASUM Constitution.

____ No, I do not support these changes to the ASUM Constitution.

Therefore, Let It Be Further Resolved, That this resolution be sent to Grace Dunnehoff, Chair of Elections Committee.

Passed by Committee: November 17th, 2019

Passed by ASUM Senate: December 4th, 2019

Alexandra Akmal,
Chair of the Relations and Affairs Committee

Ethan Hanley,
Chair of the Senate

Resolution Passed: 23 Yes 0 No 1 Abstention