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**SB47-20/21: Resolution Calling Upon Missoula Legislators to
Revise the Montana State Constitution and Montana Statute to
Provide for Marriage Equality Language**

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1 **The Associated Students of the University of Montana**
2 **Resolution Calling Upon Missoula Legislators to Revise the Montana State Constitution**
3 **and Montana Statute to Provide for Marriage Equality Language**

4 **January 21, 2021**

5 **SB47 - 20/21**

6 **Authored by: Nicholas Ververis, ASUM Senator; Noah Durnell, ASUM Senator;**
7 **Sponsored by: Maggie Bornstein, SPA Director; Taylor Gregory, ASUM President;**
8 **Garrett Miglin, UM Student;**

9
10 Whereas, The Associated Students of the University of Montana (ASUM) represents the interests
11 of all students of the University of Montana (UM);

12
13 Whereas, In ASUM SB 8, ASUM's core values were amended to include diversity, equity and
14 inclusivity;

15
16 Whereas, In ASUM SB 46, ASUM's fourth legislative priority is as follows:

17
18 *Promote non-discrimination policies.*

- 19 • *Equity Protection under the laws of Montana for all*
20 *students regardless of race, sex, gender expression, sexual*
21 *orientation, ability, culture, genetic information, age,*
22 *veteran status, social origin or condition, or political or*
23 *religious ideas;*

24
25 Whereas, Article XIII Section 7 of The Constitution of the State of Montana reads:

26
27 *Only a marriage between one man and one woman shall be valid*
28 *or recognized as a marriage in this state.¹;*

29
30 Whereas, Montana Code Annotated § 40-1-103 reads:

31
32 *Marriage is a personal relationship between a man and a woman arising*
33 *out of a civil contract to which the consent of the parties is essential.²;*

34
35 Whereas, Montana Code Annotated § 40-1-401 reads:

36
37 *(1) the following marriages are prohibited:*
38 *...(d) a marriage between persons of the same sex.³;*

39

¹ MT CONST Art. 13, § 7, https://leg.mt.gov/bills/mca/title_0000/article_0130/part_0010/section_0070/0000-0130-0010-0070.html

²Mont. Code Ann. § 40-1-103, https://leg.mt.gov/bills/mca/title_0400/chapter_0010/part_0010/section_0030/0400-0010-0010-0030.html

³Mont. Code Ann. § 40-1-401, https://leg.mt.gov/bills/mca/title_0400/chapter_0010/part_0040/section_0010/0400-0010-0040-0010.html

40 Whereas, Montana Code Annotated uses gender specific language throughout, creating
41 exclusivity and superiority to a marriage between one man and one woman⁴;

42
43 Whereas, In 2014, the United States District Court, District of Montana held in *Rolando*
44 *v. Fox* states that:

45
46 *Montana's laws that ban same-sex marriage, including Article*
47 *XIII, section 7 of the Montana Constitution, and Montana Code*
48 *Annotated section 40-1-103 and section 40-1-401, violate*
49 *Plaintiffs' rights to equal protection of the laws as guaranteed by*
50 *the Equal Protection Clause of the Fourteenth Amendment to the*
51 *United States Constitution.*⁵;

52
53 Whereas, House Bill 282 (HB 282), written by Montana Representative Bryce Bennett,
54 was seen before the House Judiciary Committee in the 64th session of the Montana
55 Legislature on January 30, 2015;

56
57 Whereas, HB 282 proposed amendments to Mont. Code Ann. §§ 40-1-103 and 401,
58 pursuant to *Rolando v. Fox*;

59
60 Whereas, HB 282 failed in committee due to concerns over the pending appeal before the
61 United States Supreme Court (SCOTUS) regarding the legality of same-sex marriage;

62
63 Whereas, In 2015, SCOTUS ruled in *Obergefell v. Hodges* that:

64
65 *The Court, in this decision, holds same-sex couples may exercise*
66 *the fundamental right to marry in all States. It follows that the*
67 *Court also must hold—and it now does hold—that there is no*
68 *lawful basis for a State to refuse to recognize a lawful same-sex*
69 *marriage performed in another State on the ground of its same-sex*
70 *character.*⁶;

71
72 Whereas, the constitutionality of same-sex marriage is now legally undisputed under the
73 color of law through the aforementioned cases;

74
75 Therefore, Let It Be Resolved, That ASUM calls upon Missoula senators and representatives to
76 put forth and advocate for legislation to amend the Montana Code Annotated to provide for
77 marriage equality language to reflect the decisions of *Rolando v. Fox* and *Obergefell v. Hodges*;

78
79 Therefore, Let It Be Further Resolved, That ASUM calls upon Missoula senators and
80 representatives to put forth and advocate for legislation to amend the Montana Constitution to
81 provide for marriage equality language to reflect the decisions of *Rolando v. Fox* and *Obergefell*
82 *v. Hodges*;

⁴See generally Mont. Code Ann., <https://leg.mt.gov/bills/mca/index.html>

⁵*Rolando v. Fox*, 23 F.Supp.3d. 1227, 1236 (2014)

⁶*Obergefell v. Hodges*, 56 U.S. 644 (2015)

83
84 Therefore, Let it Be Further Resolved, That this resolution be sent to: Dave Kuntz, University of
85 Montana Lobbyist; Jack Rinck, ASUM Lobbyist; Janelle Booth, Montana University System
86 Lobbyist; Bryce Bennett, Senator for Senate District 50; Ellie Boldman, Senator for Senate
87 District 45; Willis Curdy, Representative for House District 98; Tom France, Representative for
88 House District 94; Mike Hopkins, Representative for House District 92; Connie Keogh,
89 Representative for House District 91; Marilyn Marler, Representative for House District 90;
90 Shane Morigeau, Senator for Senate District 48; Shannon O'Brien, Senator for Senate District
91 46; Andrea Olson, Representative for House District 100; Diane Sands, Senator for Senate
92 District 49; Katie Sullivan, Representative for House District 89; Danny Tenenbaum,
93 Representative for House District 95; Mark Thane, Representative for House District 99; Brad
94 Tschida, Representative for House District 97; Kathy Whitman, Representative for House
95 District 96.

96
97
98 Passed by ASUM Senate: January 13, 2021
99

100
101
102 _____
103 Patrick James Flanagan,
Chair of the Senate