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A constitutional amendment to amend Article II, Section 11 of the ASUCD Constitution.

BACKGROUND: Over the past year the ASUCD President has been given an unprecedented amount of power due to several resignations and vacancies on the ASUCD Senate. In early 2005, twenty-five percent of the ASUCD Senate was composed of presidential appointees. This violation of the concept of separation of powers between the executive and legislative branches of government has caused many to criticize the current procedure for filling vacancies on the ASUCD Senate. Likewise, issues have been raised as to whether or not the presidential appointees truly represent the voters or the interests of the president.

The Countback Election would allow for the voters who elected the vacating Senator to choose the replacement Senator, thereby ensuring that the Senate remains a representative and accurate cross-section of the voting population. It would also ensure a separation of the legislative and executive branches of government by taking power away from the President and returning it to the voters. Also, because of the implementation of Choice Voting in ASUCD elections, the Countback Election can be held instead of having a separate election to fill vacancies.

This Constitutional Amendment also ensures that candidates in the Countback Election must receive a percentage of the threshold to be elected as the replacement Senator. In the unlikely event that no candidate receives this percentage of the threshold, it reverts to the process of presidential appointment.

Section 1. The ASUCD Senate hereby amends ASUCD Constitution, Article II, Section 11:

(1) Filling Vacancies -- ASUCD Senate vacancies shall be filled by a "Countback Election" using the ballots cast by voters during the election in which the vacating candidate(s) originally ran. The Countback Election will be conducted in the following manner.

(2) For the purpose of this section, an "election cycle" shall refer to either of the pools of candidates running in the most recent Fall or Winter ASUCD General Election. For each election cycle, ASUCD shall maintain, for each ASUCD Senator or Senator-elect, a list of the weighted ballots assigned them at the conclusion of the most recent General Election or Countback Election. ASUCD shall also maintain, for each election cycle, a list of the weighted exhausted ballots at the conclusion of the most recent General or Countback Election.

(3) In the event of a vacancy or vacancies, all candidates of the election cycle that are eligible to assume ASUCD office and that have not won a previous General Election or Countback Election for that election cycle shall be contacted within two (2) academic days from the time at which the vacancy or vacancies occurred. All contacted candidates will be given one (1) week from the time at which they were contacted to respond as to whether or not they are willing to accept the position of ASUCD Senator should they be elected in the Countback Election. All candidates who decline to serve or do not respond within the one (1) week period shall be excluded from the Countback Election. ASUCD shall provide a public list, updated daily, of all candidates participating in the Countback Election prior to the Countback Election. After the one (1) week response period, or once all candidates have responded, ASUCD shall conduct, within (3) academic days, a Single Transferable

Vote tally using the ballots of all vacating Senator(s) combined with all exhausted ballots of that election cycle. The number of winners of the tally shall equal the number of vacancies to fill from that election cycle.

(4) Each winning candidate that receives at least fifty percent (50%) of the threshold for the Countback Election will be issued a certificate of election at the next Senate meeting. Upon receipt of the certificate, each candidate will immediately assume office as an ASUCD Senator for the remainder of the original term. For each winning candidate that does not receive at least fifty percent (50%) of the threshold, the vacancy will be filled in the following manner.

(5) The ASUCD President shall have responsibility for filling the vacancy on an interim basis. The President shall exclusively appoint a successor from among applications received during a one week advertising period. The advertising period must be within two (2) academic days from the time at which the Countback Election was held ~~vacancy occurs~~, and must be at least five (5) academic days in length during the regular academic year (summer sessions shall not be considered part of the regular academic year). The President must appoint an interim Senator within two (2) weeks from the time at which the ~~vacancy occurs~~ Countback Election was held. Any appointments made by the President shall be confirmed by a majority of the remaining members of the Senate. In the event that five (5) or more vacancies exist on the Senate, a quorum need not be present in order to confirm the interim appointment of the replacement Senate members made by the President.

(6) The appointed replacement member shall serve as an interim member of the ASUCD Senate until the vacated Senate seat is filled on a permanent basis at the next regularly scheduled Senate election.