

To: Faculty Senate Executive Team

From: Susan Jaworowski, BLT Faculty Senate At-large member

Date: March 21, 2017

Re: Proposing a constitutional amendment to allow each department full representation by giving the Faculty Senate chair the power to vote

Proposal

I propose an amendment to change the Faculty Senate Constitution to permit the chair to vote, by deleting Article II, section 2(C)3: "3. The Chair shall vote only to break a tie." The two most applicable models, the Hawaii State Senate and the United States Senate, allow their presiding members to vote to ensure that their constituents are not disenfranchised. Our departments deserve a similar level of full representation

Rationale

A. The Hawaii State Senate President can vote

In the Hawaii State Senate, the Senate President is entitled to vote on every vote. I was the Senate Majority Attorney for three years, sat on the floor for every session, and can personally vouch for that statement. A review of the current version of the Hawaii State Senate rules does not indicate any change to that. I have attached the .pdf of the rules if anyone would like to review it. Every State Senator represents a unique district (in the distant past, Hawaii had multi-member districts, but it has not had that for decades), and if a Senator was denied the opportunity to vote due to his/her position as president, the voters would be left unrepresented, and that would not be acceptable. Therefore, every Senator can vote on every issue.

B. The US Senate President Pro Tem and Presiding Officer can vote

Congress has the vestigial appendix of the official Senate President, who is the Vice President of the United States, and, as everyone knows, the Vice President only votes in case of a tie. But the US Constitution actually provides for two officers in the Senate:

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided. The Senate shall chuse [sic] their other Officers, and also a President pro tempore, in the absence of the Vice President [.]
(emphasis added)

United States Constitution, Article I, section 3.

So while the Vice President votes only in case of a tie in the Senate (I am assuming because the Senate always has an even number of members as each state has two, so there is always the possibility of a tie), the person who serves as president pro tem is always entitled to vote.

In addition to the president pro tem's ability to vote on all matters, the Senate presiding officer is also entitled to vote on all matters. Today, the president pro tem is a courtesy title extended to the longest-serving senator of the majority party than an actual political force. The real power to run the Senate on a day to day basis is held by the presiding officer, defined as "A majority-party senator who presides over the Senate and is charged with maintaining order and decorum, recognizing members to speak, and interpreting the Senate's rules, practices and precedents." https://www.senate.gov/reference/glossary_term/presiding_officer.htm. The presiding officer also is entitled to vote. For some recent examples, Dan Inouye voted consistently during the period when he was president pro tem (June 2010 - December 2012) (sample:

https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=1&vote=00233), and Harry Reid voted during the time he was Senate Majority Leader (2007-2015) (sample: https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=2&vote=00090).

So the model of the Vice President not voting unless there is a tie is a red herring: the Vice President is not elected as part of the legislative branch and does not represent any individual state in the Senate. All of the members elected to the US Senate are entitled to vote, even the presiding officer and president pro tem. The people who elect them should not lack representation, and the vote is the strongest manifestation of that representation.

Therefore, I think KCC has been following a mistaken model that disenfranchises the department whose member serves as Faculty Senate chair, and this is not only unfair to that department, but is contrary to the state and federal models for elected senators. This means that there will not be a person to cast a tie-breaking vote, but that is fine; under Robert's Rules, which the Senate follows, a motion that does not exceed 50% fails, so there is a normal procedural channel to handles ties even without the chair. A tiebreaker is not as necessary to the Senate as full representation of each department is.