**Office of the Attorney General**

**Official Opinion**

**TO:** Isabelle Diaz, *ASNMSU Pro Tempore*

**FROM:** Devon Harrison, *ASNMSU Attorney General*

**DATE:** July 18th, 2024

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**Subject:**

Recommendations on the equation present in the ASNMSU Bylaws, which is used to do the Senate seat apportionments.

**Applicable Bylaw:**

**ASNMSU Bylaws:**

2-5-4. POSITIONS AVAILABLE AND TERM LIMITS

$$\frac{\text{University College Enrollment}}{30}$$

A. Number of ASNMSU Senators in each College =

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E. Seat changes shall be made based on the actual fall enrollment figures:

1. No College shall have less than two (2) ASNMSU Senate seats at any given time and shall be determined annually by the ASNMSU Attorney General; and

2. The ASNMSU Senate Rules Committee shall be responsible for drafting and proposing legislation to make any needed changes.

**Past ASNMSU Bylaws:**

(2007-2008):

2-6-1 SENATORIAL POSITIONS AVAILABLE

A. Number of senators in each college = $\left(\dfrac{\text{ASNMSU College Enrollment}}{\text{Total ASNMSU University Enrollment}} \times 23\right) + 1$

B. The Thirty seats of the ASNMSU Senate shall be numbered as follows:

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(2014-2015):
2-7-1 SENATORIAL POSITIONS AVAILABLE

A. Number of senators in each college = $\left(\dfrac{\text{ASNMSU College Enrollment}}{\text{University Enrollment}}\right) / 30$

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**Opinion Rendered:**

The current equation for seat apportionment based on college enrollment in the ASNMSU Bylaws is flawed and impractical. For instance - using Fall 2023 enrollment figures, which can be found at oia.nmsu.edu - the calculation yields non-feasible results, such as 171.83 seats for the College of Arts & Sciences. This necessitates urgent revision.

My first course of action was to adopt a system akin to the NAS Math formula used by the U.S. House of Representatives, which has been effective since 1940. And is mandated in Title 2 of the U.S. code. However, adapting it directly poses challenges due to the absence of electoral districts within smaller colleges compared to larger ones. This could result in disproportionate representation, such as Arts and Sciences occupying 20 out of 30 seats. My math will be on an excel sheet that is attached to the email I send this official opinion in. The equation is $v = \frac{p}{\sqrt{n(n-1)}}$ where V is the priority value that determines who the seat goes to, P is the colleges apportionment population, and N is the number of seats the college would have if it gained a seat.

Historically, previous Bylaws (2007-2008 and 2014-2015) have almost achieved suitable solutions, though not without shortcomings. For example, using Fall 2023 data, the 2007-2008 formula would either leave one seat vacant or exceed the total allotted seats by one, while the 2014-2015 formula faces similar issues.

Therefore, my recommendation includes introducing a quota rule specifying each college's nearest integer number of seats, like the U.S. government's method. This approach distributes surplus seats based on fractional parts, aiming to mitigate issues like the "Alabama paradox" encountered in seat apportionment systems. With this section in place, either the 2007-2008 or the 2014-2015 equation would function. However, there is a desire to not fall back on past out ruled equations, Article I, Section II of the Constitution says that each state shall have at least one U.S. Representative, while the total size of a state's delegation to the House depends on its population. The number of Representatives also cannot be greater than one for every thirty thousand people. So, we could implement something similar on a smaller level. I'd recommend we have a goal to limit the number of students each senator represents. For example, if we divided the total number of students by 30 (the number of seats) we'd end up with 492 (with the fall 2023 numbers), which we can round up to 500. Using 500 we would divide the number of students in each college by 500 and then follow the quota rule for any remaining seats. This option makes it to where each senator roughly represents the same number of students. Not to mention how adding a subsection setting a fixed number of Senate seats, such as 30, would ensure consistency and clarity.

Additionally, Bylaw 2-5-4 E, which mandates seat adjustments based on "actual" enrollment figures, requires revision. According to Dr. Edwards, *Director, <u>Student Involvement and Leadership Programs</u>*, who the ASNMSU Attorney General gets the official student enrollment numbers from, there is a history of not using the official numbers. You see, the official numbers aren't finalized until census day, which tends to be after or during the senate seat election timeline; so, she always works with the current attorney general talking through possible

strategies that they've done before in order to for the attorney general to meet their obligations with what is available. Due to practical constraints in obtaining finalized census data before election timelines, I suggest replacing "actual" with "closest approximation".

In conclusion, these proposed amendments aim to establish a fair and functional equation for Senate seat apportionment that addresses past shortcomings and aligns with practical realities. This approach ensures equitable representation while maintaining administrative feasibility.

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