

SENATE Bill/RESOLUTION #2938

TITLE: A Bill to Establish a Germane Process

DATE INTRODUCED: 01/16/2024

AUTHOR: Chief of Legislative Affairs Knopp, Director of Policy and Analysis Meester

SPONSORS: Vice President Murfitt, Senators Knull and Hennigar

1. WHEREAS, the purpose of the Associated Students of the University of Wyoming
2. (ASUW) is to serve our fellow students in the best manner possible; and,
3. WHEREAS, previously in the 111th administration a bill was submitted that attempted to
4. codify the process of germane; and,
5. WHEREAS, this bill was failed on the basis that Germane would unduly limit freedom of
6. expression; and,
7. WHEREAS, the lack of germane has led to an increase in non-topicality on the senate floor;
8. and,
9. WHEREAS, a process of germane as outlined in Addendum A would not be content based.
10. and therefore, not a means to limit freedom of expression, but rather to ensure that
11. discussion is focused on the question before the senate; and,
12. WHEREAS, germane would be a Point of Order subject to section 23:2 “Point of Order” in
13. Roberts Rules of Order under which the ASUW Senate is governed; and,
14. WHEREAS, the aforementioned section provides several safeguards to prevent the
15. infringement of a speakers freedom of expression; and,
16. WHEREAS, these safeguards include the ability of the chair to make germane debatable if
17. there is reasonable doubt as to whether or not the comment is germane, more specifically:
18. “In cases where the chair, being in doubt, refers the point of order to the judgment of the
19. assembly and where the point thereby becomes debatable”; and,

20. WHEREAS, in the event that a speaker believes that the ruling of the chair is incorrect the
21. following section from Roberts Rules of Order (23:3) describe that Points of Order be
22. subject to appeals “In any event, when the presiding officer has made a ruling, any two
23. members can appeal”; and,

24. WHEREAS, this appeal is applied to *all* decisions of the chair and is outlined by Roberts
25. Rules of Order section 24 as follows: “24:1 By electing a presiding officer, the assembly
26. delegates to them the authority and duty to make necessary rulings on questions of
27. parliamentary law. But any two members have the right to Appeal from their decision on
28. such a question. By one member making (or “taking”) the appeal and another seconding it,
29. the question is taken from the chair and vested in the assembly for final decision. 24:2
30. Members have no right to criticize a ruling of the chair unless they appeal from their
31. decision”; and,

32. WHEREAS, if a speaker were to be germaned the speaker would not be deprived of their
33. speaking rights, but instead would be asked by the chair to redirect their comments to a
34. topical nature; and,

35. WHEREAS, Processing exists as an alternative avenue for speakers to voice their opinions
36. that are not topical, which insures that speakers can voice their opinions about a non-topical
37. subject to the body without deviating from the discussion on a question before the assembly;
38. and,

39. WHEREAS, this Bill would substantially decrease the amount of non topical comments in
40. the senate leading to more efficient and timely discussion.

41. THEREFORE, be it enacted by the Associated Students of the University of

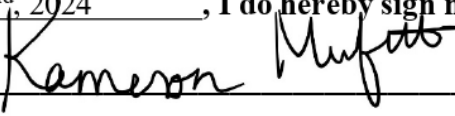
42. Wyoming (ASUW) Student Government that the Rules and Procedures be amended as

43. outlined in Addendum A; and,

44. THEREFORE, be it further enacted that these changes take effect upon this bill's passage.

Referred to: AD&P, Steering, and PID

Date of Passage: January 23rd, 2024 Signed: 
(ASUW Chairperson)

“Being enacted on January 23rd, 2024, I do hereby sign my name hereto and approve
this Senate action.” 
ASUW President

Addendum A

RULES AND PROCEDURES

ASSOCIATED STUDENTS OF THE UNIVERSITY OF WYOMING

6. After being reported out of committee, the ASUW Vice President shall place the bill or resolution on the agenda and it shall be read a second time and recommendations of the committee(s) shall be given by the chairperson(s) of the committee(s) to whom it was assigned. The bill or resolution is now open for debate and subject to amendments. During debate, no Senator may propose any amendment that contradicts or changes the intent of the original legislation. Intent of legislation shall be derived from the title. The title may not be amended after the legislation is submitted.

7. During debate, a form of point of order called Germane may be called. This process shall occur when a speaker deviates from apparent reasonable topicality or a debate has become overly redundant, at which point "Point of Order: Germane" may be called by a member of the chamber with speaking rights. Should germane be recognized, the speaker must choose to revert to a more topical subject matter, reach their point in a more timely manner, or reach a less redundant point.

a) Germane proceeds automatically unless appealed by the germaned senator. If appealed, the decision to uphold the point goes to the chair, at which point the chair may decide to accept or deny the appeal. If the appeal is accepted, the speaker may proceed as they were. The chair may decide to add clarification to the decision, or modify the terms of the germane, at their discretion. The chair may also ask the speaker to clarify their intention.

b) The chair may not call germane on a speaker.

c) Senators shouting "Germane!", abusing germane rights, or creating a disruptive or hostile environment in the eyes of the chair may have their germane rights terminated for the duration of the meeting. Repeated violations can result in the senator being called before Steering.

8. ~~7~~. After being reported out of committee, the ASUW Vice President shall place the bill or resolution on the agenda and it shall be read a second time and recommendations of the committee(s) shall be given by the chairperson(s) of the committee(s) to whom it was assigned. The bill or resolution is now open for debate and subject to amendments. During debate, no Senator may propose any amendment that contradicts or changes the intent of the original legislation or propose an amendment that would cause the legislation to violate the "Sole Subject" Rule as outlined in Section 6.01, Clause 2 of these Rules and Procedures. Intent of legislation shall be derived from the title. The title may not be amended after the legislation is submitted.

Addendum B

For transparency purposes and because the Authors recognize not everyone has the time or resources to read and/or acquire a copy of Roberts Rules of Order the Entire sections referenced in this Bill are referenced in this addendum in full.

§23. POINT OF ORDER

23:1 When a member thinks that the rules of the assembly are being violated, they can make a Point of Order (or “raise a question of order,” as it is sometimes expressed), thereby calling upon the chair for a ruling and an enforcement of the regular rules.

Standard Descriptive Characteristics

23:2 A Point of Order:

1. Takes precedence over any pending question out of which it may arise. It yields to all privileged motions and (if it adheres to pending question(s), 10:35) it yields to a motion to lay the main question on the table, in cases where these motions are in order at the time according to the order of precedence of motions. Except for yielding to the motion to Lay on the Table when it adheres to pending question(s) as just stated, it does not yield to any subsidiary motion so long as it is handled in the normal manner—that is, by being ruled upon by the chair without debate. Consequently, under this normal procedure:

- If a point of order which adheres to pending question(s) is raised while any one of the six lower-ranking subsidiary motions is immediately pending, no other subsidiary motion except Lay on the Table can be made until the point of order is disposed of; but in such a case, Lay on the Table or any privileged motion can be moved and must be considered before the point of order is ruled upon.
- If a point of order which does not adhere to pending question(s) is raised while any subsidiary motion is immediately pending, no subsidiary motion can be made until the point of order is disposed of, but any privileged

motion can be moved and must be considered first.

- With reference to either of the above cases, on the other hand, if a motion to Lay on the Table or a privileged motion is pending and a point of order arises out of the parliamentary situation existing then, the point of order is disposed of first, although it can be interrupted by a still higher-ranking privileged motion.

In cases where the chair, being in doubt, refers the point of order to the judgment of the assembly and where the point thereby becomes debatable (see Standard Characteristic 5, below), it—like a debatable appeal (24)—also: yields to the subsidiary motions to Limit or Extend Limits of Debate and for the Previous Question; yields to the motions to Commit and to Postpone Definitely provided that they are in order at the time according to the order of precedence of motions; and yields to incidental motions arising out of itself.

2. Can be applied to any breach of the assembly's rules. So long as it is handled in the normal manner by being ruled upon by the chair, no subsidiary motion can be applied to it—except that, if it adheres to pending question(s), then (unless the motion to Lay on the Table was already pending when the point of order arose) the main question can be laid on the table while the point of order is pending, and the point of order also goes to the table with all adhering motions. If the chair, being in doubt, refers the point of order to the judgment of the assembly and it thereby becomes debatable (see Standard Characteristic 5, below), the application of subsidiary motions to it is governed by the same rules as stated for debatable appeals under Standard Characteristic 2, 24:3(2).

3. Is in order when another has the floor, even interrupting a person speaking or reading a report if the point genuinely requires attention at such a time (see Timeliness Requirement for a Point of Order, 23:5).

4. Does not require a second.

5. Is not debatable—but, with the chair's consent, a member may be permitted to explain his point and knowledgeable or interested members can be heard by way of explanation. If the chair submits the point to a vote of the assembly, the rules governing its debatability are the same as for an Appeal (see 23:19; see also 24:3(5)).

6. Is not amendable.

7. Is normally ruled upon by the chair. No vote is taken unless the chair is in doubt or his ruling is appealed.

8. Cannot be reconsidered; that is, the chair's ruling on a point of order cannot be reconsidered. If the chair submits the point to a vote of the assembly, however, the vote of the assembly can be reconsidered.

Further Rules and Explanation

23:3 Grounds for a Point of Order. It is the right of every member who notices a breach of the rules to insist on their enforcement. If the chair notices a breach, he corrects the matter immediately; but if he fails to do so—through oversight or otherwise—any member can make the appropriate Point of Order. The presiding officer may wish to engage in brief research or consult with the parliamentarian before ruling, and may allow the assembly to stand at ease (see 8:2(4)) while they do so. In any event, when the presiding officer has made a ruling, any two members can appeal (one making the appeal and the other seconding it), as described in 24.

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23:4 If a member is uncertain as to whether there is a breach on which a point of order can be made, they can make a parliamentary inquiry of the chair (see 33:3–5). In ordinary meetings it is undesirable to raise points of order on minor irregularities of a purely technical character, if it is clear that no one's rights are being infringed upon and no real harm is being done to the proper transaction of business.

23:5 Timeliness Requirement for a Point of Order. The general rule is that if a question of order is to be raised, it must be raised promptly at the time the breach occurs. For example, if the chair is stating the question on a motion that has not been seconded, or on a motion that is not in order in the existing parliamentary situation, the time to raise these points of order is when the chair states the motion. After debate on such a motion has begun—no matter how clear it is that the chair should not have stated the question on the motion—a point of order is too late. If a member is unsure of his point or wishes to hear what the maker has to say on behalf of the motion before pressing a point of order, he may, with the chair's sufferance, "reserve a point of order" against the motion; but after the maker has spoken, he must insist upon his point of order or withdraw it. Points of order regarding the conduct of a vote must be raised immediately following the announcement of the

voting result (see 45:9).

23:6 The only exceptions to the requirement that a point of order must be made promptly at the time of the breach arise in connection with breaches that are of a continuing nature, whereby the action taken in violation of the rules is null and void. In such cases, a point of order can be made at any time during the continuance of the breach—that is, at any time that the action has continuing force and effect—regardless of how much time has elapsed. Instances of this kind occur when:

a) a main motion has been adopted that conflicts with the bylaws (or constitution) of the organization or assembly,

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b) a main motion has been adopted that conflicts with a main motion previously adopted and still in force, unless the subsequently adopted motion was adopted by the vote required to rescind or amend the previously adopted motion,

c) any action has been taken in violation of applicable procedural rules prescribed by federal, state, or local law,

d) any action has been taken in violation of a fundamental principle of parliamentary law (25:9), or

e) any action has been taken in violation of a rule protecting absentees, a rule in the bylaws protecting the secrecy of the members' votes (as on a ballot vote), or a rule protecting a basic right of an individual member (25:7, 25:10–11).

(For particular rules applicable to boards, see 23:9.)

23:7 Remedy for Violation of the Right to Vote. If one or more members have been denied the right to vote, or the right to attend all or part of a regular or properly called meeting during which a vote was taken while a quorum was present, a point of order concerning the action taken in denying the basic rights of the individual members can be raised so long as the decision arrived at as a result of the vote has continuing force and effect. If there is any possibility that the members' vote(s) would have affected the outcome, then the results of the vote must be declared invalid if the point of order is sustained. If there is no such possibility, the results of the vote itself can be made invalid only if the point of order is raised immediately following the chair's announcement of the vote. If the vote was such that the number of members excluded from participating would not have affected the outcome, a member may wish, in the appropriate circumstances, to move to Rescind or Amend Something Previously Adopted (35), to move to Reconsider

(37), or to renew a motion (38), arguing that comments in debate by the excluded members could have led to a different result; but the action resulting from the vote is not invalidated by a ruling in response to a point of order raised at a later time.

23:8 Remedy for Inclusion of Improper Votes. If the announced result of a vote included votes cast in violation of a fundamental principle of parliamentary law, such as votes cast by nonmembers or by absent members, or multiple votes improperly cast by a single member, a point of order can be raised so long as the decision arrived at as a result of the vote has continuing force and effect. If there is any possibility that the vote(s) would have affected the outcome, the results of the vote must be declared invalid if the point of order is sustained.

23:9 Remedy When Action Taken by an Executive Board Is Null and Void. If the executive board of a society takes action that exceeds the board's instructions or authority, that conflicts with a decision made by the assembly of the society, or that falls under any of the categories listed in 23:6, a point of order can be raised at a board meeting at any time during the continuance of the breach. If the point of order is sustained, the action must be declared null and void. Alternatively, the society's assembly can adopt an incidental main motion by majority vote declaring that the board's action is null and void; or, if it is affecting business at a meeting of the assembly, the board's action can be declared null and void by a ruling of the chair relating to the affected business or on a relevant point of order raised by a member. It is also possible for the assembly to bring disciplinary measures against the board members who voted for the improper action. If the assembly finds itself in sympathy with the board's action and the action is one that that assembly could have authorized in advance, the assembly can instead ratify the action as explained in 10:54–57.

23:10 Precedent. The minutes include the reasons given by the chair for his or her ruling (see 48:4(10)). The ruling and its rationale serve as a precedent for future reference by the chair and the assembly, unless overturned on appeal, the result of which is also recorded in the minutes and may create a contrary precedent. When similar issues arise in the future, such precedents are persuasive in resolving them—that is, they carry weight in the absence of overriding reasons for following a different course—but they are not binding on the chair or the assembly. The weight given to precedent

increases with the number of times the same or similar rulings have been repeated and with the length of time during which the assembly has consistently adhered to them.

23:11 If an assembly is or becomes dissatisfied with a precedent, it may be overruled, in whole or in part, by a later ruling of the chair or a decision of the assembly in an appeal in a similar situation, which will then create a new precedent. Alternatively, adoption, rescission, or amendment (35) of a bylaw provision, special rule of order, standing rule, or other motion may alter the rule or policy on which the unsatisfactory precedent was based.

Form and Example

23:12 When a member notices a breach of order that may do harm if allowed to pass, he rises and, without waiting for recognition, immediately addresses the chair as follows:

MEMBER A: I rise to a point of order. [Or, "Point of order!"]

23:13 Anyone who is speaking takes his seat. If the point relates to a transgression of the rules of debate, the form used may be:

MEMBER A: Mr. President, I call the gentleman to order.

23:14 The chair then asks the member to state his point of order, or what words in the debate he objects to.

MEMBER A: I make the point of order that...

23:15 On completing his statement, the member resumes his seat. The chair then rules whether "the point of order is well taken" or "is not well taken," stating briefly his reasons, which are recorded in the minutes. If the chair desires, he can review the parliamentary situation without leaving the chair, but standing, before giving his ruling.

23:16 If the chair's decision requires any action and no appeal is made, he sees that the necessary action is taken before proceeding with the pending business. Thus, if the point of order relates to a breach of decorum in debate that is not serious, the chair can allow the member to continue his speech. But if the member's remarks are decided to be improper and anyone objects, the member cannot continue speaking without a vote of the assembly to that effect (see 61:11).

23:17 Before rendering his decision, the chair can consult the parliamentarian, if there is one. The chair can also request the advice of experienced members, but no one has the right to express such opinions in the meeting unless requested to do

so by the chair.

23:18 When the chair is in doubt as to how to rule on an important point, he can submit it to the assembly for decision in some such manner as:

CHAIR: Mr. Downey raises a point of order that the amendment is not germane to the resolution. The chair is in doubt and submits the question to the assembly. The resolution is [reading it]. The proposed amendment is [reading it]. The question is, "Is the amendment germane to the resolution?"

23:19 Since no appeal can be made from a decision of the assembly itself, this question is open to debate whenever an appeal would be—that is, the question submitted by the chair to the assembly for decision is debatable except when it relates to indecorum or transgression of the rules of speaking, or to the priority of business, or when an undebatable question is immediately pending or involved in the point of order. As in the case of debate on an appeal (24), when a point of order that is submitted to a vote is debatable, no member can speak more than once in the debate except the chair, who can speak in preference to other members the first time, and who is also entitled to speak a second time at the close of debate.

23:20 In the example given above, the question may be put as follows:

CHAIR: Those of the opinion that the amendment is germane, say aye. ... Those of the opinion that it is not germane, say no.... The ayes have it and the amendment is in order. The question is on the adoption of the amendment.

Or:

CHAIR: ... The noes have it and the amendment is not in order. The question is on the adoption of the resolution.

23:21 When a point of order is submitted to a vote of the assembly and the point relates to stopping something from being done, it is usually best to put the question so that an affirmative vote will be in favor of allowing the proceedings to continue as if the point had not been raised. Thus, if a point is made that the chair is admitting a motion which is not in order, the question should be put so that an affirmative result of the vote will mean that the motion is in order—as in the example above, or as follows: "... Those of the opinion that the motion is in order, say aye.... ; etc." When a member has been called to order because of indecorum in debate, the corresponding form is: "... Those of the opinion that the member should be

allowed to resume speaking, say aye....” If the foregoing principle has no clear application to the case, the question can be put so that an affirmative result will uphold the point of order: “... Those of the opinion that the point is well taken, say aye....”³

§24. APPEAL

24:1 By electing a presiding officer, the assembly delegates to them the authority and duty to make necessary rulings on questions of parliamentary law. But any two members have the right to Appeal from his decision on such a question. By one member making (or “taking”) the appeal and another seconding it, the question is taken from the chair and vested in the assembly for final decision.

24:2 Members have no right to criticize a ruling of the chair unless they appeal from his decision

