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ANGIE SPARKS, Clerk of District Court  
By  Deputy Clerk

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MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY

<p>BOARD OF REGENTS OF HIGHER EDUCATION OF THE STATE OF MONTANA,</p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>THE STATE OF MONTANA, by and through Austin Knudsen, Attorney General of the State of Montana in his official capacity,</p> <p style="text-align: right;">Respondent.</p>	<p>Cause No. BDV-2021-598</p> <p>Hon. Michael F. McMahon <i>(email)</i></p> <p><b>STATE OF MONTANA'S RESPONSE TO MOTIONS TO INTERVENE</b></p>
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On June 7, 2021, the Montana Shooting Sports Association (MSSA) filed a motion to intervene in this case. (Doc. 20.) As noted in MSSA's

motion, the State consented to MSSA's intervention. On June 9, David Diacon filed a motion to intervene. (Doc. 22.) In his motion, Mr. Diacon stated that no party had indicated whether it opposed his intervention. Counsel for the State subsequently told Mr. Diacon that it does not oppose his intervention, and the State now writes in support of these motions to intervene.

As indicated by their respective filings in support of their motions, MSSA and Mr. Diacon bring valuable perspectives to the litigation. The proposed intervenors seek leave to assert the individual right to keep and bear arms in different and important ways. These perspectives are especially important because the Board of Regents seeks to enjoin, *inter alia*, § 5 of House Bill 102, which prohibits the Board from enforcing rules that restrict a person's right to keep or bear arms. *See Kitzmiller v. Dover Area Sch. Dist.*, 229 F.R.D. 463, 471 (M.D. Pa. 2005) (noting that permissive intervention involves consideration of "whether the proposed intervenors will add anything to the litigation"); *D.C. v. Heller*, 554 U.S. 570, 595 (2008) (stating that the Second Amendment confers an *individual* right to keep and bear arms); *see also* Mont. Const. Art. II, § 12 (stating "[t]he right of *any person* to keep or bear arms . . . shall not

be called in question”) (emphasis added). Accordingly, the State asks that this Court grant these two motions to intervene.

Respectfully submitted June 22, 2021.

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By: /s/ David M.S. Dewhirst  
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## CERTIFICATE OF SERVICE

Pursuant to the parties' Stipulation of Electronic Service (Doc. 26),

I certify a true and correct copy of the foregoing was delivered by email  
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Date: June 22, 2021

  
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