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ATTORNEYS FOR PLAINTIFFS

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

STEVE BARRETT; ROBERT KNIGHT; MONTANA FEDERATION OF PUBLIC EMPLOYEES; Dr. LAWRENCE PETTIT; MONTANA UNIVERSITY SYSTEM FACULTY ASSOCIATION REPRESENTATIVES; FACULTY SENATE OF MONTANA STATE UNIVERSITY; Dr. JOY C. HONEA; Dr. ANNJEANETTE BELCOURT; Dr. FRANKE WILMER; MONTANA PUBLIC INTEREST RESEARCH GROUP; ASSOCIATED STUDENTS OF MONTANA STATE UNIVERSITY; ASHLEY PHELAN; JOSEPH KNAPPENBERGER; NICOLE BONDURANT; and MAE NAN ELLINGSON, Plaintiffs, v. STATE OF MONTANA; GREG GIANFORTE; and AUSTIN KNUDSEN, Defendants.	Cause No. DV-21-581B Hon. Rienne H. McElyea **PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

email 7/18/22 3:31 pm

The State's brief focuses on standing, giving short shrift to the merits.[1] That is no surprise. The State's argument for plenary legislative authority on university campuses was recently rejected by the Montana Supreme Court in *Board of Regents of Higher Education v. State of Montana*, 2022 MT 128, ___ Mont. ___, ___ P.3d ___ (hereinafter *"Regents"*). *Regents* held HB 102 unconstitutional, reaffirmed the Board's broad constitutional authority to administer the Montana University System, and is dispositive of this case.

Each of the remaining challenged bills, like HB 102, infringes upon the Regents' authority and intrudes into matters of internal university system governance. It is simply not the prerogative of the legislature to micromanage student groups and activities, their funding, student disciplinary matters, or the use of campus facilities and university resources. As much as campus security, these matters fall within the Board's "full" power to supervise, coordinate, manage and control the MUS under Article X, § 9 of the Montana Constitution.

It bears repeating that this is not a challenge to the merits of the disputed legislation. This Court need not decide, for example, who is right about whether HB 349 prevents or invites discrimination, or whether HB 112 would be good for college sports. These are questions for the Board of Regents to answer. That is the point. If the Board approves of the legislature's policy judgments and believes that the ideas these bills embrace would advance the mission of the MUS, then the Board can revise its policies accordingly. The question for this Court is whether the bills are attempting to directly manage university affairs and sidestep the Board. They clearly are.

The Court should enter summary judgment, declare the challenged bills unconstitutional, permanently enjoin their enforcement on MUS property, and award Plaintiffs their fees.

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[1] Plaintiffs will address the standing issue in a separate response to the State's cross-motion.

I. *REGENTS* IS DISPOSITIVE.

Earlier in this case, at the Rule 12 stage, this Court rejected the State's legal argument about the relative constitutional authority of the legislature and the Board of Regents, following the lead of Judge McMahon's decision in *Board of Regents of Higher Education v. State of Montana*, No. BDV-2021-598 (Mont. 1st Jud. Dist. Ct.). The Montana Supreme Court has now affirmed Judge McMahon's ruling and reaffirmed the Board's broad constitutional authority. To the extent there was any doubt before, the law is now clear.

The Court in *Regents*, tracking the history laid out in Plaintiff's opening brief, confirmed that the framers of the 1972 Constitution *specifically rejected* language that would have subjected the Board of Regents to legislative oversight. They instead vested the Board with the "full power, responsibility, and authority to supervise, coordinate, manage and control the [MUS] . . . ." *Regents*, ¶ 12. The framers "intended to place the MUS outside the reach of political changes of fortune" to safeguard the integrity of Montana's institutions of higher learning. *Id.* ¶ 13.

Regents rejected the State's argument that the Board's authority is strictly limited to "academic, financial and administrative affairs," leaving all other subjects to legislative device. *Id.* ¶¶ 18–21. Draft constitutional language to this effect was also considered and rejected in 1972. *Id.* ¶ 14, n. 2. Instead, the Board has implied power "to do all things necessary and proper to the exercise of its general powers" and to ensure the "health and stability of the MUS." *Id.* ¶ 17 (quoting *Sheehy v. Comm'r of Political Practices*, 2020 MT 37, ¶ 29, 399 Mont. 26, 458 P.3d 309). This includes formulating and implementing policies that are not strictly academic or financial but that help to create a safe, secure and orderly environment in classrooms, recreational and food service facilities, student housing, and other areas of campus, all of which is within the ambit

of the Board's mission and its constitutional charge. *Id.* ¶¶ 20–21.

In short, the legislature may not direct MUS policy and usurp the Board's prerogative to decide the priorities of Montana's colleges and universities. *Id.* ¶ 23. "[W]here legislative action infringes upon the constitutionally granted powers of the Board to supervise, coordinate, manage, and control the MUS, the legislative power must yield." *Id.* ¶ 24.

A. HB 349 impermissibly infringes upon the Board's constitutionally guaranteed authority. It is unconstitutional.

The State does not contest the Board's power to formulate anti-discrimination policy, to oversee student groups, or to regulate the use of campus facilities. The State argues, instead, that there has been no infringement because Plaintiffs have misunderstood HB 349 which actually works "in "tandem with" and "amplifies" the Board's anti-discrimination policy. Plaintiffs have not misunderstood. They simply contend that the State's characterization of the purpose and effect of HB 349 is disingenuous. The legislature does not have concurrent authority, in any case.

While claiming Plaintiffs misunderstand the bill, the State does not refute any of the details of its operation. The State does not contest that HB 349 purports to dictate whether certain groups are entitled to the benefit of university resources and the use of campus facilities, or that it purports to limit or forbid discipline for certain kinds of harassment and discrimination, *see* Ex. A and § 20-25-519, MCA (institutions of higher learning "may not enforce" policies "prohibiting student-on-student discriminatory harassment" unless the harassing or discriminatory conduct is "so severe, pervasive, and subjectively and objectively offensive that a student is effectively denied equal access to education opportunities or benefits . . . .").

Instead, the State summarily asserts that HB 349 enhances the Board's anti-discrimination agenda by protecting the ability of student organizations (particularly religious

groups) to exclude other students from their membership, the restriction of which the State characterizes as a form of discrimination. The United States Supreme Court disagrees. *See Christian Legal Society v. Martinez*, 561 U.S. 661 (2010) (neutral open-membership requirements are not discriminatory and public universities are not required to recognize or fund student organizations that exclude students based on their beliefs or sexual orientation).

The State's characterization of HB 349 as an anti-discrimination bill is reminiscent of Karl Popper's "paradox of tolerance." Popper observed the difficulty of trying to tolerate and include all viewpoints and beliefs when some are, themselves, inherently intolerant or exclusive. Thus, an attempt to respond to discrimination may invite accusations of discrimination, or an attempt to curb hate speech may be decried as suppressive. Of course, Popper's paradox was offered as an illustration of the *danger* of this kind of rhetoric, which creates a slippery slope toward open discrimination in the name of free speech and association. *See* Karl Popper, The Open Society and its Enemies (1945); *see also* John Rawls, A Theory of Justice (1971) (concurring that the goal should be to tolerate all viewpoints, but only insofar as it does not endanger the liberties of others). It is one of the principal functions of social institutions to resolve this paradox by setting reasoned boundaries that balance competing interests.

That is precisely what the Board has done with its neutral anti-discrimination policy, pursuant to which the member schools have implemented open-membership rules for student groups. Under the existing policy, all student groups—including religious groups—are treated the same and entitled to the same protections and benefits.

These policies reflect a judgment about how to balance conflicting beliefs and interests in a way that best serves the university community and comports with academic values. Montana

law is clear that the principal purpose of Article X, § 9 is to grant the Board sufficient autonomy to "determin[e] its own priorities" and the priorities of higher education. *Board of Regents v. Judge*, 168 Mont. 433, 454, 543 P.2d 1323, 1335 (1975). It is not for the legislature to elevate its judgment that protecting the ability of religious groups to *not associate* with certain students is a higher priority or a better way to address concerns about discrimination.

In any case, the State mistakes the passage that it cites for the proposition that the legislature can pass laws that work in "tandem" with Board policy, even on subject matters that are committed to the Board's oversight. *See Regents*, ¶ 16 (distinguishing *Duck Inn v. MSU-Northern*, 285 Mont. 519, 949 P.2d 1179 (1997)). *Regents* rejected the argument that the legislature can concurrently act as to matters within the Board's constitutional domain. As the Court explained, *Duck Inn* involved a different situation. It was a non-delegation doctrine challenge concerning a statute promulgated, not under the 1972 Constitution, but under the 1884 Constitution when the Board's powers and duties were still "prescribed and regulated by law." *Id.* "The delegation in *Duck Inn*, thus, did not infringe upon the Board's inherent constitutional authority . . . ." *Id.* The Court did not broadly hold that the legislature has concurrent authority as to all subject matters, even those committed to the Board's oversight, except when there is a direct conflict with existing policy. That idea is contrary to express constitutional directive that, since 1972, the Board has "full" authority and responsibility to manage and oversee the MUS.

Even assuming, for the sake of argument, that the legislature *is* entitled to directly manage university affairs so long as there is not a conflict with established policy, there is a conflict here so legislative will must yield. *Regents*, ¶ 24. HB 349 would carve out exceptions to the existing anti-discrimination policy and prevent the Board and MUS member schools from enforcing their

rules. Framing the issue correctly, HB 349 unquestionably infringes on matters that are committed to the Board's oversight. The legislature does not have concurrent authority to manage student groups, discipline, eligibility for university recognition, access to resources, or use of campus facilities. HB 349 violates Article X, § 9 and is unconstitutional.

B. HB 112 impermissibly infringes upon the Board's constitutionally guaranteed authority. It is unconstitutional.

The State does not argue that HB 112 is an appropriate exercise of concurrent legislative authority. It principally argues, instead, that HB 112 is a legitimate exercise of legislative power because it is a "neutral statewide law" that does not target the MUS (citing *Regents*, ¶ 17).

This snippet of *Regents* harkens back to Justice McKinnon's concurrence in *Sheehy*, which observed that extant caselaw did not fully answer whether a "neutral law of state-wide concern" could unconstitutionally infringe the Board's authority. *See id.* ¶ 39 (McKinnon, J., concurring).

The *Sheehy* concurrence did not suggest, and *Regents* did not hold, that laws of statewide concern and broad application will necessarily pass constitutional muster. *See id.* (citing *Dreps v. Bd. of Regents of Univ. of Idaho*, 139 P.2d467 (Idaho 1943), holding a statewide anti-nepotism statute could not be extended to the state's independent board of regents). Justice McKinnon explained that courts should consider whether a challenged law is "aimed at the Board" or "at any activities under the authority of the Board" and whether the effect of the law would be to "take away powers or duties" conferred by Article X, § 9. *Sheehy*, ¶ 47.

HB 112 is undoubtedly aimed at activities under the Board's authority. Extracurricular activities, including athletics, are "aspects of education under our Montana Constitution." *State ex rel. Bartmess v. Bd. of Trustees of Sch. Dist. No. 1*, 223 Mont. 269, 274, 726 P.3d 801, 804 (1986).

Moreover, the fact that that HB 112 has potential applications outside the MUS does not

make it a law of statewide concern. HB 102 also has applications outside the MUS but the aspects of that bill that targeted the MUS are unconstitutional. *See Regents*, ¶ 17 (HB 102 "is aimed directly at the Board and squarely implicates the Board's constitutional authority"). HB 112 is no different. It has other applications but it specifically targets the MUS, implicating the Board's authority to oversee collegiate athletics. *See* Ex. B and § 20-7-1306(1), MCA (specifically applying the Act to sports teams and programs sponsored by any "public institution of higher education"). The legislature retains authority over public schools outside the MUS. *See Regents*, ¶ 12. If the legislature could circumvent the Board, whenever it enacts a law that purports to apply to all public education institutions, it would effectively subject the Board to legislative oversight and the MUS to direct legislative control. That is contrary to the framers' intent and clear constitutional directive.

Nor is HB 112 "neutral." HB 112 does not apply equally to all people or to all students. It targets a particular class of already often marginalized student athletes who are under the Board's oversight and duty of protection. The intent to single out and exclude such students is telegraphed even more clearly in the original draft of the bill, before the deletion of the prefatory language that waxes on for pages about the inherent biological differences between men and women and the potential exploitation of the inherent "gender gap" if student athletes are not required to participate under their biological sex assigned at birth. *See* HB 112, Jan 5, 2021 draft (https://legiscan.com/MT/text/HB112/id/2242329).

In summary, HB 112 is not a neutral law of statewide concern and it is not excused from the operation of Article X, § 9. HB 112 is indistinguishable from HB 102. In both cases, there are general applications of the law outside the university system that do not violate Article X, § 9, as

well as applications that target the MUS and infringe upon the Board's authority.

The State argues, next, that there is no infringement of the Board's authority because there is no existing Board policy that addresses this issue—only national association rules and regulations. As explained above, even if that were true, Board inaction does not give the legislature license to usurp the Board's authority over matters committed to its oversight.

The State's assertion that there is no existing Board policy, and no conflict with HB 112, is also false. The relevant policy is BOR Policy 1202.1:

> Each campus will comply with National Collegiate Athletic Association or National Association of Intercollegiate Athletics regulation, whichever is applicable in accordance with campus membership, and with the rules established by the athletic conferences to which each campus now belongs or may join.

Id. (https://mus.edu/borpol/bor1200/1202-1.pdf).

The State's argument implies that a failure to adopt particularized policies that track each and every national association rule means there is a vacuum the legislature can fill. The State offers no authority for this inference. And, as a practical matter, it is anathema to what the Board is trying to accomplish by its general policy, which is to ensure compliance with an evolving, national body of rules and regulations governing interstate competition. The debate over participation of transgender athletes is ongoing and participation rules are in flux. The current NCAA policy is newly effective this year. *See* Jan 19, 2022, Board of Governors updates transgender participation policy (https://www.ncaa.org/news/2022/1/19/media-center-board-of-governors-updates -transgender-participation-policy.aspx). The NCAA policy, in turn, follows a sport-by-sport approach and incorporates the participation guidelines set by the national and

international governing bodies for each sport. *See id.* The Board's general policy maintains necessary flexibility and makes good sense.

Deviating from this policy may invite consequences for collegiate athletics programs and individual athletes. The NCAA is aware of the "Save Women's Sports Act" and has stated that it opposes such legislation and is monitoring the situation. *See* Jan. 30, 2021 NCAA Statement on Montana HB 112 (https://www.ncaa.org/news/2021/1/30/ncaa-statement-on-montana-hb-112.aspx); Apr. 12, 2021 NCAA Board of Governors Statement on Transgender Participation (https://www.ncaa.org/news/2021/4/12/ncaa-board-of-governors-statement-on-transgender-participation.aspx). The NCAA has, in the past, sanctioned and withdrawn support from member schools when state law prevents them from complying with its non-discrimination policies. For example, in 2017, the NCAA barred North Carolina universities from hosting the Division 1 Men's Basketball Championship Tournament after the state legislature enacted a transgender "bathroom bill," and a long-term ban was narrowly avoided by a last-minute repeal of the law. The NCAA statement on transgender participation sends a clear message that laws like HB 112 may invite such consequences: "NCAA policy directs that only locations where hosts can commit to providing an environment that is safe health and free of discrimination should be selected." *Id.* The MUS opposed HB 112, in part, because of such concerns about compliance and eligibility. *See* HB 112 Policy Implications (https://leg.mt.gov/bills/2021/Minutes/Senate/Exhibits/jus53a10.pdf).

In summary, HB 112 is neither a "neutral" law nor a matter of "statewide concern." It is also untrue that the Board is idle and has chosen to leave this matter up to the legislature. The Board has established a policy to ensure fairness and eligibility and that serves to protect students

and the MUS's substantial investment in its sports programs. HB 112 improperly second-guesses the Board's judgment and targets people and programs under the Board's oversight. HB 112 violates Article X, § 9 and is unconstitutional.

C. SB 319 impermissibly infringes upon the Board's constitutionally guaranteed authority. It is unconstitutional.

As for SB 319, the State again argues that there is no relevant Board policy. The State does not dispute that the Board has authority to oversee student groups and financial affairs. It argues that the Board is not doing so here, and the MontPIRG fee is actually decided by the students, so there is no infringement of the Board's authority if the legislature steps in.

First, this is legally erroneous. The State again reframes the question as whether there is a conflict between the bill and established policy, rather than whether the bill infringes upon matters constitutionally committed to the Board's oversight.

Second, the State is wrong, again, in its assertion that there is no relevant policy and that the legislature is not stepping on the Board's toes. The approval of the MontPIRG fee is not a standing policy but the product of a series of bienniel requests and approvals. *See, e.g.*, 2021 MontPIRG fee approval request (https://mus.edu/board/meetings/2021/july/195-1003-R0721.pdf and https://mus.edu/board/meetings/2021/july/195-1003-R0721_A1.pdf). The request-and-approval process occurs pursuant to the Board's general policies governing fee schedules and the setting of tuition. *See* BOR Policy 940.12.1 – Tuition and fee approval (https://mus.edu/borpol/bor900/940-12-1.pdf) and BOR Policy 940.31 – Policy Statement on Tuition (https://mus.edu/borpol/bor900/940-31.pdf). One of the stated goals of the Board's fiscal policy is to discourage the proliferation of mandatory fees to ensure that tuition remains

affordable. *See* BOR Policy 940.12.1, § B; BOR Policy 940.31, § II(H). Accordingly, the Board requires that all optional and "student driven fees," including the MontPIRG fee, must be submitted to a vote of the affected student body to secure their approval and consent before adding it to the annual fee schedule. *See* BOR Policy 940.12.1 §§ A, D and Definitions § B(3); *see also* BOR Policy 940.31, § IV(B)-(C) (the procedure for establishing tuition requires soliciting recommendations and input from affected students). All of this happens under the oversight of the Board of Regents and pursuant to its policies and procedures.

In summary, the Board has developed policies that allow the MontPIRG fee which SB 319 contravenes. The State's argument that the Board has declined to exercise its authority in this realm is wrong. The MontPIRG fee is ultimately approved (or not) by the Board. It additionally requires student input and approval because the Board's policies say so.

SB 319 intercedes the Board's authority over university finances and student groups. It contradicts established policy and procedure, intermeddles in internal university affairs, and infringes upon the Board's constitutional authority. It is unconstitutional.

II. THE HB 2 CONDITIONAL APPROPRIATION ISSUE IS MOOT.

Plaintiffs did not move for summary judgment on this issue. They consider it moot after the *Regents* decision. Since HB 102 has been permanently enjoined on university campuses, the issue of legislative appropriations for the cost of enforcement is no longer relevant.

III. THE COURT SHOULD AWARD FEES.

The purpose of the private attorney general doctrine ("PAGD") is to encourage private citizens to act when the state fails to safeguard public rights. *W. Trad. P'ship v. Mont. A.G.*, 2012 MT 271, ¶ 13, 367 Mont. 112, 291 P.3d 545. Fees are awardable, in particular, when the Attorney

General chooses to defend an unconstitutional agenda. *See id*, ¶¶ 17–18 (the PAGD is a check on the AG's discretion "to decide whether or not to defend" an allegedly unconstitutional act).

The State claims that Plaintiffs "admit" courts only award fees when the State's defense is "frivolous or in bad faith." This is a mischaracterization of Plaintiff's brief and a misstatement of the law. Plaintiffs examined the history of the PAGD and explained that the Montana Supreme Court has, in the past, required a showing of "frivolousness" or "bad faith" based on standards imported from § 25-10-711, MCA. *But* this approach improperly blended separate fee-shifting mechanisms, turning the PAGD into a sanction which is not its function. Justice McKinnon's concurrence in *Clark Fork Coalition v. Tubbs*, 2017 MT 184, 388 Mont. 205, 399 P.3d 295, acknowledged the Court's rejection of these factors as elements of a PAGD claim but urged the majority to nonetheless consider them as non-controlling "guideposts." *Id.* ¶ 28. The majority declined to do so in *Tubbs* and in subsequent cases. *See, e.g., Burns v. Musselshell Cnty.*, 2019 MT 291, 398 Mont. 140, 454 P.3d 685 (directing an award of PAGD fees without proof or analysis of frivolousness or bad faith); *Comm' Ass'n for N. Shore Conserv., Inc. v. Flathead Cnty.*, 2019 MT 147, ¶¶ 47–54, 396 Mont. 194, 445 P.3d 1195 (separately analyzing a PAGD fee claim and a claim for fees as a sanction under § 25-10-711). Plaintiffs do not seek sanctions under § 25-10-711, so it is unnecessary for the Court to find frivolousness or bad faith. Plaintiffs simply ask to be reimbursed for the expense of litigating a case that they should not have had to bring.

Notwithstanding, to the extent frivolousness and bad faith are still "guideposts" for evaluating PAGD fee claims, these considerations support fee shifting, too. This constitutional conflict is not a surprise. It was invited. The legislature had ample warning that what it was doing

was impermissible and would result in costly legal challenges.[2] Moreover, this case is not like *Western Tradition Partnership* where PAGD fees were excused under § 711 because the State mounted a good faith defense of a historic—if ultimately unconstitutional—measure that had broad public support and that protected legitimate public interests. *See id.* ¶ 20. This case is about an attempt to capitalize on the current political trifecta to push through highly partisan and contentious legislation that upends decades of tradition and that is contrary to clear constitutional mandate. The State has attempted to avoid the merits, in order to preserve facially unconstitutional legislation and subvert the framers' intent, based on specious standing and justiciability arguments. It has forced Plaintiffs to expend time and resources responding to burdensome make-work written discovery in a case involving purely legal questions, most of which either targets moot issues (i.e. HB 102) or is entirely irrelevant and harassing (e.g. attempting to probe plaintiff's medical histories). *See* State's Ex. A. Even after *Regents* made clear the State's position is wrong, it continues to defend bills that are patently unconstitutional. In short, the State's defense is frivolous. It is a bad faith defense of bad faith legislation.

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[2] *See* Special Joint Select Comm. on Jud. Transp'y and Acct'y, Minority Report (Apr. 2021) (reporting a pattern of disregard for the Constitution in the 2021 session and that majority leaders "have been told by legislative attorneys the legislation they're trying to pass violates our Montana Constitution" and they "know full well these bills will likely be held unconstitutional in the court") (https://leg.mt.gov/content/Committees/JointSlctJudical/FINAL-MINORITY-REPORT-SIGNED.pdf)); *see also, e.g.*, Jan. 6, 2021 H. Jud'y Comm., 1:32:30–1:35:40 (re: HB 102, warning of "constitutional conformity issues" with Art. X, § 9) (http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20210106/-1/39662#info_); Apr. 20, 2021 S. Conf. Comm., 0:03:25–0:04:32 (forecasting costly legal disputes re: HB 112) (http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20210420/-1/43340); Apr. 27, 2021 S. Free Comm., 00:02:08–00:03:32: (flagging SB 319 as another constitutionally problematic case of "trying to step in" and tell the Regents "what they can and cannot do" with their own resources) (http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20210427/-1/43496).

The State's final observation on this point, that PAGD fees have been awarded against the State only rarely, does not counsel against a fee award. First, as explained above, there were, until recently, additional hurdles to PAGD fee shifting. *See W. Trad. P'ship*, ¶¶ 13, 20. Second, the rarity of fee awards against the State in the past does not mean that the doctrine is disfavored. PAGD fees have been awarded in many cases, though usually against political subdivisions of the State. *See, e.g., Tubbs* and *Burns, supra.* That fees are rarely assessed against the State itself perhaps signals that the State's central democratic institutions have been more respectful of the Constitution and public rights, at least historically. The recent coordinated assault on the Constitution is, after all, rather unprecedented. *See* note 2, *supra.* This is not a reason to demur but a further reason to award fees, to ensure government accountability and so, next time, private citizens will not hesitate to raise important issues out of fear that standing up for public rights will impose an unbearable economic burden.

CONCLUSION

The theory the State advanced at the start of this case cannot withstand the *Regents* decision, so the State pivots into arguing thin distinctions and exceptions that are factually and legally erroneous. There can be no doubt that the challenged bills directly target the MUS and substantially impact university finances, facilities, student groups, discipline, and other internal matters that are the responsibility of the Board of Regents. Simply put, the legislature has no business trying to micromanage Montana's public universities. It cannot, by its intransigence, unmake or avoid Article X, § 9, which was drafted with the specific purpose to guard against this kind of legislative overreach. The Court should declare that each of the challenged bills is unconstitutional beyond a reasonable doubt and as a matter of law.

Submitted this 18th day of July, 2022

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served upon the following counsel of record, by the means designated below, this 18th day of July, 2022.

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