

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court No. DA 21-0605

BOARD OF REGENTS OF HIGHER EDUCATION
OF THE STATE OF MONTANA,

Petitioner and Appellee,

v.

STATE OF MONTANA, by and through Austin Knudsen,
Attorney General of the State of Montana in his official capacity,

Respondent and Appellant.

BRIEF OF AMICI STUDENTS, FACULTY & UNIVERSITY EMPLOYEES

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ARGUMENT

I. THE PEOPLE ACTUALLY AFFECTED BY “CAMPUS CARRY” OVERWHELMINGLY OPPOSE IT.

This brief is submitted on behalf of a diverse coalition of University System stakeholders. The *amici* include the Montana Federation of Public Employees (“MFPE”); Associated Students of Montana State University (“ASMSU”); Montana University System Faculty Association Representatives (“MUSFAR”); Faculty Senate of Montana State University;¹ former Regents Steve Barrett and Robert Knight; Montana’s First Commissioner of Higher Education, Dr. Lawrence Pettit; university professors Dr. Joy C. Honea, Dr. Annjeanette Belcourt, and Dr. Franke Wilmer; Montana Public Interest Research Group (“MontPIRG”); students Ashley Phelan, Joseph Knappenberger, and Nicole Bondurant; and Mae Nan Ellingson, a delegate to the 1972 Montana Constitutional Convention.

A. By constitutional design, decision-making by the Board of Regents is closer to the university stakeholders it serves than the Legislature.

Under the Montana Constitution, the Board of Regents is positioned to be

¹ MFPE represents the interests of more than 23,000 public employees including public educators, higher education faculty, graduate employees, university system support personnel, and campus police. MUSFAR, ASMSU and the Faculty Senate are elected bodies that represent the interests of, and advocate for, university faculty and students. ASUM, the corresponding student government body for the University of Montana, is participating separately as *amicus* in this case.

close to the University System stakeholders it serves. By statute, by policy, and in *amici*'s own experiences before the Board, the Board of Regents has made good on its constitutional position by structuring a governance process that invites public comment and reflects stakeholder views at every turn.

The Board meets regularly to hear from students, faculty, employees, and the public. Meetings of the Board of Regents rotate throughout the state, each one held at a different campus. Meeting dates and locations are noticed to the public as much as two years in advance. "Public comment is welcome on all items" before the Board at its meetings, either in person or by written submission.² Like most public institutions in Montana, the Board provides notice of its meetings and agenda items to the public at large. But unlike other institutions, the Board has adopted a policy that specifically requires notice and outreach about its agenda items—and an invitation to attend and provide comment—to "students, faculty, and other university employees." Board Policy 203.2.2(II)(B).³ Both the Governor and the Superintendent of Public Instruction, statewide elected officials, are *ex officio* members of the Board and have standing agenda items at the Board's meetings. They participate regularly.

² *E.g.*, Montana Board of Regents, March 10-11, 2022 Meeting Agenda, *available at* <https://mus.edu/board/meetings/2022/march/index.html>

³ *Available at* <https://mus.edu/borpol/bor200/203-2-2.pdf>

Both the Board and University System stakeholders rely on the system of shared governance that has resulted. This cooperative, open, and stakeholder-driven mode of governance hews closely to the views and concerns of the people who make up the Montana University System.

Student voices are front and center. Notably, the Board always has a Student Regent drawn from the study body that the Montana University System ultimately exists to serve. The Student Regent weighs in on every single Board action and is a credible, often decisive, voice in governance matters affecting campus life. Individual students and student representatives attend every meeting, offering comment and collaboration on the diversity of matters that come before the Board.

Faculty and employees are integral to the process, too. The Board's mode of governance promotes labor peace by giving employees and their bargaining representatives, like MFPE, a forum to address concerns before they snowball.

In sum, this process functions as the Montana Constitution intends: the Board of Regents operates close to the people and organizations it governs, free from legislative micromanagement. The top-down, political and ideological governance embodied by HB102 (and a multitude of other bills in the 2021 session) threatens to disrupt this system of shared governance.

Norris Blossom, the President of the Associated Students of Montana State

University, testified that the students he represents “feel that the power traditionally delegated to the Board of Regents which provides the venues for that student voice and governance is being disregarded.” Rogers Decl., ¶ 19 and Listening Session Tr. at pp. 25–26.⁴ For Montana students, “the student role and shared governance of higher education” go hand in hand with “the constitutional powers of the Board of Regents.” *Id.* With the constitutional intrusion of HB102, “[s]tudents’ voices and rights are at risk, when the Board of Regents’ power is overruled. If a policy such as this is necessary for the universities in Montana, then it should originate from the Board of Regents.” *Id.* at 26.

B. University System stakeholders overwhelmingly oppose HB102 and interference into Board of Regents governance.

While the State and its *amici* celebrate HB102 as a purported expression of the will of the people, the university community—including the Regents, students, faculty, administrators, staff, campus police, and others who stand to be affected by HB102’s campus carry provision—overwhelmingly oppose it. They denounce it as an intrusion into the internal affairs of the Montana University System and an assault on the constitutionally guaranteed independence of the Board of Regents.

⁴ May 27, 2021 Declaration of Regent Brianne Rogers, *Board of Regents v. State of Mont.*, Mont. 1st Jud. Dist. Ct. BDV 2021-598, Dkt. 6, with internal Ex. A, containing a transcript of public comments made at the May 12, 2021 Board of Regents listening session regarding HB 102 (“Listening Session Tr.”).

This conspicuous disconnect between the legislature and affected stakeholders confirms the wisdom of the framers of the 1972 Montana Constitution.

For half a century, Article X, § 9 has ensured the autonomy of Montana's higher-education system and safeguarded it against politically motivated intermeddling. The *amici* respectfully submit that HB102 is an aspect of a broader effort to displace traditional modes of governance in the University System and subordinate academic values to transient political will. This movement is not isolated to Montana, either. Nationwide debates abound, ranging from campus carry to recent high-profile controversies involving attempts to legislate course content and micromanage curricula on controversial subjects.

To illustrate, the *amici* are also plaintiffs in a separate pending case, Cause No. DV-21-581B (Mont. 18th Jud. Dist. Ct.), which raises similar concerns about legislative encroachment into university affairs. The State's principal defense of HB102 is that it is a "public safety" law of general application and statewide concern (this premise is challenged in Section II below). But HB102 is only one of a bevy of problematic bills from the 2021 legislative session. Plaintiffs are challenging bills addressed to various topics that uniquely concern the Montana University System and have *nothing* to do with public safety, including efforts to legislate university policy about student participation in extracurricular activities, use of

university facilities, and the supervision and funding of student organizations.

Senate Bill 319, for example, specifically targets student groups at public postsecondary institutions. The bill purports to prohibit longstanding and Board approved funding measures for MontPIRG, a student-directed, non-partisan public advocacy group. The bill would also prohibit MontPIRG and similar groups from using campus facilities for voter registration drives, ballot collection, signature gathering (seemingly targeting ballot initiatives and petitions), and similar activities. The goal is, transparently, to suppress student votes and discourage their participation in the political process, which the Legislature would accomplish by displacing the Regents' traditional authority to oversee student organizations, student fee assessments, and use of campus facilities.

The other challenged bills are similarly intrusive.

House Bill 112 purports to dictate eligibility requirements for participation in student athletics. The bill specifically targets transgender intercollegiate athletes, in derogation of policies developed by university athletic directors under the supervision and approval of the Regents.

Under the guise of safeguarding free speech, House Bill 349 would displace policies that define, prohibit, and respond to discrimination and harassment on campus. The bill forbids discipline for certain kinds of discrimination and

guarantees the use of campus facilities for groups that engage in the same, further invading the Regents' authority over campus facilities and student affairs.

In summary, HB102 is just one aspect of a full-on assault on the Montana University System, involving a coordinated effort to incrementally strip the Montana Board of Regents of Higher Education of its constitutionally guaranteed autonomy. Montana's students, teachers, administrators, and others who live, work, and learn on university campuses, respectfully urge the Court to enforce the Constitution and preserve the integrity of Montana's system of higher education.

II. HB102 INTERFERES WITH THE REGENTS' CORE FUNCTIONS AND ENCROACHES UPON SPHERES OF EXCLUSIVE CONSTITUTIONAL AUTHORITY.

“Inherent in the constitutional provision granting the Regents their power [Article X, § 9] is the realization that the Board of Regents is the competent body for determining priorities in higher education.” *Board of Regents of Higher Ed. v. Judge*, 168 Mont. 433, 454, 543 P.2d 1323, 1334 (1975). The Court will “look to the impact” of a challenged legislative measure to determine whether it encroaches upon the prerogatives of the Board of Regents by inhibiting its ability to direct academic and fiscal policy and administer the Montana University System. *Id.* (holding that certain budget conditions, though ostensibly within the Legislature's power of appropriation, improperly interfered with personnel decisions reserved to

the Regents under the Montana Constitution). As the State puts it, correctly conceding the Board's authority in certain realms, the question is whether HB102 "affects 'academic, administrative and financial matters of substantial importance to the system.'" State's Op. Br, p. 18 (discussing *Judge and Sheehy v. COPP*, 2020 MT 37, 399 Mont. 26, 458 P.3d 309). The answer is, unequivocally, "yes."

A. HB102 is inimical to academic freedom and undermines the educational mission of the Montana University System.

Contrary to the State's suggestion that HB102 is a neutral public safety law of general applicability, it expressly targets the universities and interferes with the Board of Regents' authority over educational policy and personnel matters.

"Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us" *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967). "The classroom is peculiarly the 'marketplace of ideas'" and depends on "robust" and open discourse. *Id.* at 607. "Scholarship cannot flourish in an atmosphere of suspicion and distrust." *Id.* at 603 (quoting *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957)). So, educators must be equipped to foster the essential "habits of open-mindedness and critical inquiry . . . by precept and practice, [and] by the very atmosphere which they generate" *Wieman v. Updegraff*, 344 U.S. 183, 196 (1952) (Frankfurter, J., concurring). Educators "cannot carry out their noble task if the conditions for the practice of a responsible

and critical mind are denied to them.” *Id.*

Institutional academic autonomy entails four “essential freedoms”: “who may teach, what may be taught, how it shall be taught, and who may be admitted to study.” *Sweezy*, 354 U.S. at 263 (Frankfurter, J., concurring). The third essential freedom—to decide *how* to teach—transcends freedom of ideological speech. Its concern is the cultivation of an atmosphere “conducive to speculation, experiment and creation[,]” *id.* at 263, which requires both tolerance and “security.” J. Peter Byrne, *Academic Freedom: A ‘Special Concern of the First Amendment’*, 99 Yale L.J. 251, 314, 339–40 (1989); see Shaundra K. Lewis, *Bullets and Books by Legislative Fiat: Why Academic Freedom and Public Policy Permit Higher Education Institutions to Say No to Guns*, 48 Idaho L. Rev. 1, 13 (2011); Judith Areen, *Government as Educator*, 97 Geo. L.J. 945, 947 (2009) (academic freedom requires autonomy to govern academic institutions in a way “that accords with academic values.”).

HB102 is in many ways inimical to academic freedom and undermines the University System’s critical educational mission by stripping the Board of its constitutional power to decide whether concealed weapons, on campus and in the classroom, negatively impact the educational environment. Research drawn from other states that have already legalized campus carry—most lacking the same kind of constitutional safeguards for higher education as Montana—shows that allowing

firearms on campus may erect barriers to hiring and retention of qualified faculty, chill free speech, disrupt classroom dynamics, and otherwise invite undesirable downstream academic consequences and personnel issues.

For example, the State acknowledges that the hiring and keeping of personnel is a priority in higher education that “fall[s] squarely within the Board’s power.” State’s Op. Br, p. 18 (citing *Judge, supra*). But the State neglects the growing body of empirical evidence that campus carry laws can interfere with the recruitment and retention of qualified educators and administrators.

After the Texas legislature legalized campus carry in 2016, for example, state universities experienced a rash of resignations, transfers, and declined offers of employment due to concerns about safety, hostile work environment, and political interference with learning. *See* Hennessy-Fiske (2016);⁵ Somers (2017) (“Faculty and staff turnover...are not uncommon[,]” adding examples from Kansas);⁶ *see also* Listening Session Tr., pp. 20–21 (comments of Julia Haggerty, MSU faculty).

Surveys of affected university communities overwhelmingly show that, for those teachers and students that remain, guns loom large in the classroom and

⁵ M. Hennessy-Fiske, *New Law Allowing Concealed Guns on Campus Roils University of Texas*, LA Times (Mar. 24, 2016) (App. 1).

⁶ P. Somers, et al., *Duck and Cover, Little Lady: Women and Campus Carry*, 33:2 Thoughts & Action 37 (Summer 2017) (App. 2).

interfere with academic engagement. Indeed, the mere *perception* that there could be a weapon in the classroom can interrupt teacher-student dynamics and “chill” academic discourse. Jones (2019).⁷ In one survey, more than half of educators felt that the specter of a concealed firearm would cause them to self-censor or “tone down” their treatment of sensitive issues. Flaherty (2017);⁸ *see also* Shepperd (2018) (even among those in favor of campus carry, most believed guns in the classroom hurt the academic atmosphere and discourage free exchange of ideas); Gregory P. Magarian, *Conflicting Reports: When Gun Rights Threaten Free Speech*, 83 Law & Contemp. Probs. 169, 177 (2020) (summarizing findings that “both professors and students would be less likely to teach and engage in debate over controversial topics in the presence of a firearm.”) (citing Reimal (2019)⁹ and Flaherty, *supra*));¹⁰ M. Hennessy-Fiske (2016) (reporting that Texas educators were encouraged to drop sensitive topics from their curricula and to not “go there” if students became emotional or defensive).

⁷ H.E. Jones, et al., *Guns on Campus: Campus Carry and Instructor-Student Communication*, 68:4 Comm. Ed. 417 (Jul. 2019) (App. 3).

⁸ C. Flaherty, *Not in My Classroom*, Inside Higher Ed (Apr. 28, 2017) (App. 4).

⁹ E. Reimal, et al., *Guns on College Campuses: Students’ and University Officials’ Perceptions of Campus Carry Legislation in Kansas*, Urban Inst. (Aug. 2019) (App. 5).

¹⁰ J.A. Shepperd, et al., *The Anticipated Consequences of Legalizing Guns on College Campuses*, 5:1 J. of Threat Assessment and Mgmt. 21-34 (2018) (App. 6).

The public comments received by the Board of Regents on HB102 reveal a pervasive concern among MUS students and faculty about these kinds of impacts on learning. *See, e.g.*, Listening Session Tr., pp. 7–8 (Dr. Douglas Coffin, UM faculty, expressing concern that HB102 may impair the universities’ ability to provide “safe, positive learning environments”); *id.* at 17 (MSU student Emma Carlson expressing fear about going to class); *id.* at 24–25 (MSU instructor Katherine McWalters opining that campus carry undermines educational values of inclusion and collaboration); *id.* at 32 (UM Bitterroot College director Dr. Victoria Clark warning that firearms would create distractions and detract from learning).

Even more threatening to the university’s role as a “marketplace of ideas” and a sanctuary for critical thought, campus carry may stifle diverse viewpoints and quiet already historically marginalized voices. That is to say, the “chilling” effect may disproportionally fall on people from vulnerable populations who are more likely to view an armed classroom as unsafe. *See* Soboroff (2019) (finding that women, minorities, and students with disabilities or social disadvantages were most discouraged from participating in classroom activities after campus carry);¹¹ Flaherty, *supra* (in the Texas survey, educators of Asian descent felt most

¹¹ S. Soboroff, et al., *Social Status and the Effects of Legal Concealed Firearms on College Campuses*, 30:3 J. of Crim. Just. Ed. 376 (2019) (App. 7).

restrained in their ability to teach controversial subjects); Somers, *supra* (campus carry exacerbated “extant inequities” including as to race, sexual orientation, disability, and social status); *see also, e.g.*, Listening Session Tr., pp. 17–18 (comments of Dr. Annie Belcourt, UM faculty and *amicus*, sharing her safety concerns as a woman of color and a survivor of domestic violence); *id.* at 59–60 (comments of UM tribal outreach specialist Dr. Brad Hall, noting the particular safety concerns of indigenous people and women in the university community).

The wedge that concealed firearms can drive between educators and their students is, in many cases, even more concrete.

Some higher education faculty reported that they responded to the passage of campus carry laws by restricting office hours, or avoiding private meetings with students altogether, out of concern for personal safety. Jones (2019), pp. 10–13; Somers (2017), p. 46. Others tried to conduct meetings under “controlled circumstances,” such as by rearranging furniture to create physical barriers and distance between teacher and student, or by instituting recording and chaperone policies. *Id.*; *see also* M. Hennessy-Fiske (2016).

Some educators have reported a reluctance to confront struggling students about negative outcomes, while others defensively changed their teaching practices to try to avoid hard conversations, such as by relaxing class rules and policies to the

extreme of excusing missed tests and deadlines. Jones (2019), p. 12; Somers (2017), p. 46. Others became more lenient with grading, at the expense of honest feedback and fueling grade inflation. Jones (2019), p. 12. Some educators even admitted that, when confronted by an upset student, “they would not be against changing grades if they perceived a threat to their safety and shared stories of colleagues engaging in similar practices.” *Id.* (one survey participant, who confessed to relaxing his grading standards, quipped that he wished he knew who was carrying so he “would know who to give automatic A’s to . . .”).

In summary, effective pedagogy in higher education depends on the creation of a secure environment that can foster intellectual risk and tolerate vigorous debate, controversy, and criticism. The experiences of students and educators in campus carry states reveal a negative impact on the educational environment, and related personnel issues, that are of grave concern to the Montana University System and the Board of Regents—and clearly germane to the Board’s prerogative to regulate matters clearly affecting academic affairs.

B. HB102 undermines the Regents’ policies that address particularized campus safety concerns.

In addition to stewarding the University System’s core academic mission, the Board of Regents is also ultimately responsible for ensuring a safe living, learning, and working environment for students, faculty, and staff. HB102

undermines existing policies that already balance, with carefully considered stakeholder input, important security, wellness, and safety concerns.

A study by the Johns Hopkins Center for Gun Policy and Research and the Bloomberg School of Public Health, the first and most comprehensive of its kind, compiled research about concealed carry in light of a variety of factors “that are unique to public safety on college campuses.” Webster (2016).¹² The study concluded that, although there is no credible evidence that well-meaning armed citizens are a prophylactic or a cure for mass shootings,¹³ there are many negative externalities that can flow from allowing concealed weapons on campus. Increasing the availability of firearms is correlated with an increase in more common forms of

¹² D.W. Webster, et al., *Firearms on College Campuses: Research Evidence and Policy Implications*, Johns Hopkins Ctr. for Gun Pol. and Res. and Bloomberg Sch. of Pub. Health (2016) (App. 8).

¹³ This “good guy with a gun” narrative, advanced by the sponsors of HB102 and the other *amici*, is statistically discredited and largely a matter of cultural fantasy. The belief that violent criminals target gun-free zones is not supported by any credible data and cases of armed civilians stopping a mass shooter, in any setting, are vanishingly rare. Most such incidents are ended by the offender (by surrender or suicide) or by intervention of law enforcement or an *unarmed* civilian. See Webster, *supra*; see also J.P. Blair, et al., *A Study of Active Shooter Incidents in the United States between 2000 and 2013*, Texas State Univ. and FBI, U.S. Dep’t of Justice (2014) (App. 9). Trained police, on average, hit their intended targets less than 20% of the time during such high-stress altercations and a significant percentage of officers who are killed in the line of duty are actually disarmed and killed with their own service weapon. See Lewis, *supra*, p. 23 (posing the question: “Can we expect college students to fare any better...?”).

violence (e.g. targeted assaults, spontaneous fights and suicides, all of which become far more deadly) and may otherwise “have a deleterious impacts on the safety of students, faculty and staff.” *Id.* at 3.

Webster observed a substantially unique danger in campus environments due to a confluence of demographic, cultural, behavioral, and environmental risk factors. Notably, college age students are at significantly heightened risk of anxiety, depression, and other mental illness. At the same time, they are introduced to a high-stress environment with limited supervision, ready access to drugs and alcohol, and a culture that often embraces binge drinking and drug abuse—all substantial risk factors for violent altercations, accidents, and self-harm. *Id.* at 3, 19–21; *see also* Magarian, *supra*; Brian J. Siebel, *The Case Against Guns on Campus*, 18 Geo. Mason. U. Civ. Rts. L.J. 319, 323–24 (2008) (university students “face severe social and academic pressure” during some of the “most volatile times” of their lives); Lewis, *supra* (collecting data and testimony about the high incidence of stress and depression among college students and correlations to violent incidents).

The concern about self-inflicted injury is particularly pronounced, here. The majority of firearm deaths in Montana are suicides (as much as 85%) and Montana is consistently among the highest ranked states (and often first) for suicide events

per capita. *See* CDC National Center for Health Statistics, *Stats of the States*,¹⁴ *see also* Lewis, *supra*, p. 24 (collecting research showing that increasing access to guns increases likelihood of suicide and dramatically increases the success rate for suicide attempts); Gavran (2019) (collecting examples of student suicides involving firearms, among other incidents, in states that have legalized campus carry).¹⁵

Public comments about HB102 reveal a substantial concern among students, parents, and informed professionals in the university community about these risks. *See* Rogers Decl., ¶ 20 and Listening Session Tr., pp. 8–9 (comments of MSU student Jack Pearlman expressing concern about guns on campus in light of student mental health issues); *id.* at 13–14 (suicide prevention coordinator Rosie Ayers emphasizing the heightened risk of self-harm for college students); *id.* at 22–23 (Father Jim Hogan speaking to his experiences in campus ministry and reflecting on the prevalence of student alcohol abuse and rash decision making); *id.* at 27–28 (MSU Dean of Students Matthew Caires cautioning that college students are often prone to risky and impulsive behavior); *id.* at 35–36 (MSU student Abigail Murray was wary of introducing guns to a setting “where mental health resources are

¹⁴ Available at <https://www.cdc.gov/nchs/pressroom/sosmap/suicide-mortality/suicide.htm>

¹⁵ J. Gavran, *Incidents on Campus in States That Allow Guns on Campus*, The Campaign to Keep Guns off Campus (last updated Feb. 21, 2019) (App. 10).

frankly stretched”); *id.* at 37–38 (suicide prevention coordinator Nancy Hobbins, warning against increasing access to firearms for a very “vulnerable” population); *id.* at 42–43 (MSU Medical Services-University Health Partners physician Catherine Woods urging caution because “about 50% of what I deal with on a daily basis is mental health”); *id.* at 44 (MSU College of Nursing professor Dorothy “Dale” Mayer, emphasizing the fragility of student mental health and forecasting that allowing firearms on campus will precipitate mental health crises).

For similar reasons, the risk of accidental injury is also a matter of heightened concern. Students and faculty alike have accidentally discharged guns and caused injuries in campus carry states. *See Gavran, supra.*

The introduction of firearms into the equation is also problematic for campus policing. The types of incidents that campus police commonly respond to—disorderly conduct, alcohol and drug abuse, intimate partner violence, suicide threats, student-faculty disputes, fights, and trespass—are all made more complicated and dangerous if officers must assume that any given person is armed. This “may compromise [law enforcement’s] ability to effectively respond to and de-escalate” crisis situations and, perversely, increase the incidence of violent conflicts with police. *See Webster*, pp. 2–3, 21–22; *see also Gavran, supra* (collecting cases of police-on-student violence in response to mental health crises and

situations involving uncertainty about whether the student might be armed).

This is another topic of concern that has been brought before the Board of Regents. *See* Listening Session Tr., pp. 9–10 (MSU student and resident advisor Lindy Kolb expressing concern about introducing firearms into densely packed residence halls); *id.* at 12 (Jeffrey Renz, retired UM law professor and former MUSFAR representative, questioning how campus police will be able to tell the difference “between the good guys and bad guys” if students are armed); *id.* at 27–28 (Dean Caires called out the possession and storage of guns in residence halls as the “single most dangerous element” of HB102); *id.* at 48–49 (MSU resident director Bryce Gill, reflecting on dozens of interpersonal conflicts, mental health crises, and student emergencies he has seen over the years and concluding that there was “not a single situation in which adding a firearm into the mix would have resulted in a more positive outcome”).

These problems may be amplified by the fact that introducing more guns into campus environments invites their proliferation through loss or theft. Campus-carry states have already experienced a number of incidents involving lawfully carried firearms that were misplaced on buses, in bathrooms, and in classroom buildings. *See* Gavran, *supra*.

III. CONCLUSION

All of the above-discussed issues are, of course, the subject of ongoing research and intense debate. Reasonable minds can and do differ, but the question is not who is right. The question is who is empowered to decide under the Montana Constitution. What is clear is HB102 directly impacts classroom experiences, teacher-student dynamics, hiring and personnel matters, student and faculty mental health, campus life and security, and other concerns about university governance and administration that are traditionally and constitutionally committed to the Regents' oversight. The regulation of firearms on campus is clearly within the scope of the Regents' plenary authority to supervise, coordinate, manage and control the Montana University System. The Court should affirm the District Court's order declaring HB102 unconstitutional.

DATED this 21st day of March 2022.

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Rule 11(4), M.R.App.P., that the foregoing brief is proportionally spaced, printed in 14-point Equity font (a Roman-style, non-script typeface), is double spaced, and is not more than 5,000 words (4,482), excluding the Table of Contents, Table of Authorities, and this Certificate of Compliance.

DATED this 21st day of March 2022.

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