

Austin Knudsen

Montana Attorney General

Thane Johnson

Michael Russell

Alwyn Lansing

Michael Noonan

Assistant Attorneys General

MONTANA DEPARTMENT OF
JUSTICE

PO Box 201401

Helena, MT 59620-1401

Phone: (406) 444-2026

Fax: (406) 444-3549

thane.johnson@mt.gov

michael.russell@mt.gov

alwyn.lansing@mt.gov

michael.noonan@mt.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, HELENA DIVISION

MONTANA PUBLIC INTEREST
RESEARCH GROUP; MONTANA
FEDERATION OF PUBLIC
EMPLOYEES,

Plaintiffs,

v.

CHRISTI JACOBSEN, in her official
capacity as Montana Secretary of
State; AUSTIN KNUDSEN, in his
official capacity as Montana Attorney
General; CHRIS GALLUS, in his
official capacity as Montana
Commissioner of Political Practices,

Defendants.

Cause No. 6:23-cv-070-BMM

**DEFENDANTS' ANSWER TO
PLAINTIFFS' COMPLAINT**

For their Answer to Plaintiffs' Complaint for Declaratory and Injunctive Relief ("Complaint") (Doc. 1), Christi Jacobsen, in her official capacity as Montana Secretary of State; Austin Knudsen, in his official capacity as Montana Attorney General; and Chris Gallus, in his official capacity as Montana Commissioner of Political Practices (collectively, "Defendants") state as follows:

INTRODUCTION

1. The allegations in Paragraph 1 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. To the extent a response may be required, Defendants deny the allegations in Paragraph 1 as stated.

2. The allegations in Paragraph 2 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 2 also purport to characterize 2023 House Bill 892 ("HB 892"), which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny the allegations in Paragraph 2 as stated.

3. The allegations in Paragraph 3 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 3 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny the allegations in Paragraph 3 as stated.

4. The allegations in Paragraph 4 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 4 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny that "HB 892's reach far exceeds its stated (and legitimate) purpose of prohibiting double voting[,]” as well as the remaining allegations in Paragraph 4 as stated.

5. The allegations in Paragraph 5 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 5 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny that “[b]y employing vague language and unclear standards in a criminal statute...HB892 violates the U.S. Constitution’s guarantee of due process[,]” as well as the remaining allegations in Paragraph 5 as stated.

6. The allegations in Paragraph 6 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. To the extent a response may be required, Defendants deny that “[i]njunctive relief from this Court is needed to ensure that Montanans can freely exercise their fundamental constitutional rights during the 2024 election cycle—and beyond.”

JURISDICTION AND VENUE

7. Defendants admit the allegations in Paragraph 7 of Plaintiffs' Complaint.

8. Defendants admit the allegations in Paragraph 8 of Plaintiffs' Complaint.

9. Defendants admit the allegations in Paragraph 9 of Plaintiffs' Complaint.

PARTIES

10. Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 10 of Plaintiffs' Complaint.

11. Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 11 of Plaintiffs' Complaint.

12. The allegations in Paragraph 12 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 12 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny that HB 892 will "frustrate MontPIRG's organizational mission of registering young Montana voters and encouraging robust participation in the political process[,] as well as the remaining allegations in Paragraph 12 as stated.

13. The allegations in Paragraph 13 of Plaintiffs' Complaint are legal

conclusions and arguments of counsel, which require no response. The allegations in Paragraph 13 also purport to characterize HB 892, Mont. Code Ann. § 13-35-105, and § 45-2-302, which speak for themselves and are the best evidence of their contents; therefore, no response is required. To the extent a response may be required, Defendants deny the allegations in Paragraph 13 as stated.

14. Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 14 of Plaintiffs' Complaint.

15. The allegations in Paragraph 15 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 15 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 15 of Plaintiffs' Complaint.

16. The allegations in Paragraph 16 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 16 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 16 of Plaintiffs' Complaint.

17. Defendants admit the allegations in Paragraph 17 of Plaintiffs' Complaint.

18. Defendants admit the allegations in Paragraph 18 of Plaintiffs' Complaint.

19. Defendants admit the allegations in Paragraph 19 of Plaintiffs' Complaint.

LEGAL AND FACTUAL BACKGROUND

20. The allegations in Paragraph 20 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 20 also purport to characterize the legislative record, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

21. The allegations in Paragraph 21 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 21 also purport to characterize Mont. Code Ann. § 13-35-210 (2021), which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response may be required, Defendants deny the allegations in Paragraph 21 as stated.

22. The allegations in Paragraph 22 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 22 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

23. The allegations in Paragraph 23 of Plaintiffs' Complaint are legal

conclusions and arguments of counsel, which require no response. The allegations in Paragraph 23 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

24. The allegations in Paragraph 24 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 24 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

25. The allegations in Paragraph 25 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 25 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

26. The allegations in Paragraph 26 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 26 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

27. The allegations in Paragraph 27 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations

in Paragraph 27 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

28. Defendants admit that HB 892 was signed into law on May 22, 2023. The remaining allegations in Paragraph 28 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The remaining allegations in Paragraph 28 also purport to characterize the legislative record and HB 892, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

29. The allegations in Paragraph 29 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 29 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent that a response may be required, Defendants deny the allegations in Paragraph 29.

30. The allegations in Paragraph 30 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 30 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

31. The allegations in Paragraph 31 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 31 also purport to characterize HB 892, which speaks for itself and is

the best evidence of its contents; therefore, no response is required. To the extent that a response may be required, Defendants deny that “[i]t is unclear what it means to ‘purposefully remain registered,’” as well as the remaining allegations in Paragraph 31 as stated.

32. The allegations in Paragraph 32 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 32 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

33. The allegations in Paragraph 33 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 33 also purport to characterize HB 892 and *Lynce v. Mathis*, 519 U.S. 433, 441 (1997), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

34. The allegations in Paragraph 34 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 34 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent that a response may be required, Defendants deny that “HB892’s requirement that voters provide ‘previous registration information’ on their voter-registration applications is [] vague[,]” as well as the remaining allegations in Paragraph 34 as stated.

35. The allegations in Paragraph 35 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 35 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

36. The allegations in Paragraph 36 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 36 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

37. The allegations in Paragraph 37 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 37 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

38. The allegations in Paragraph 38 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 38 also purport to characterize *Common Cause Ind. v. Lawson*, 937 F.3d 944, 960 (7th Cir. 2019) and the National Conference of State Legislatures, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

39. The allegations in Paragraph 39 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 39 also purport to characterize *Common Cause Ind. v. Lawson*, 937

F.3d 944, 960 (7th Cir. 2019), which speaks for itself and is the best evidence of its contents; therefore, no response is required.

40. The allegations in Paragraph 40 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 40 also purport to characterize HB 892 and Mont. Code Ann. § 45-2-101, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

41. The allegations in Paragraph 41 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 41 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

42. The allegations in Paragraph 42 of Plaintiffs' Complaint are legal conclusions and arguments of counsel. The allegations in Paragraph 42 also purport to characterize HB 892 and Mont. Code Ann. § 13-35-105, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

43. Defendants deny the allegations in Paragraph 43 of Plaintiffs' Complaint.

44. Defendants deny the allegations in Paragraph 44 of Plaintiffs' Complaint.

45. The allegations in Paragraph 45 of Plaintiffs' Complaint are legal

conclusions and arguments of counsel, which require no response. The allegations in Paragraph 45 also purport to characterize HB 892 and Mont. Code Ann. § 13-1-111, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

46. The allegations in Paragraph 46 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 46 also purport to characterize HB 892, Mont. Code Ann. § 13-1-111, § 13-1-112, § 13-2-110, § 13-2-402, and *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 (2008), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

47. The allegations in Paragraph 47 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 47 also purport to characterize HB 892, *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 (2008), and 52 U.S.C. § 10307(e), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

48. The allegations in Paragraph 48 of Plaintiffs' Complaint are legal conclusions and arguments of counsel. The allegations in Paragraph 48 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent that a response may be required, Defendants deny the allegations in Paragraph 48.

COUNT I: U.S. CONST. AMEND. XIV; 42 U.S.C. § 1983
(Vagueness)

49. Defendants restate and incorporate by reference their responses to Paragraphs 1–48 of Plaintiffs’ Complaint.

50. The allegations in Paragraph 50 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 50 also purport to characterize *Butcher v. Knudsen*, 38 F.4th 1163, 1169 (9th Cir. 2022), which speaks for itself and is the best evidence of its contents; therefore, no response is required.

51. The allegations in Paragraph 51 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 51 also purport to characterize *Village of Hoffman Estates v. Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 498 (1982) and *Forbes v. Napolitano*, 236 F.3d 1009, 1011 (9th Cir. 2000), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

52. The allegations in Paragraph 52 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 52 also purport to characterize *Baggett v. Bullitt*, 377 U.S. 360, 372 (1964) and *Ariz. Democratic Party v. Hobbs*, 18 F.4th 1179, 1186 (9th Cir. 2021), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

53. The allegations in Paragraph 53 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 53 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

54. Defendants deny the allegations in Paragraph 54 of Plaintiffs' Complaint.

COUNT II: U.S. CONST. AMEND. I and XIV; 42 U.S.C. § 1983
(Overbreadth)

55. Defendants restate and incorporate by reference their responses to Paragraphs 1–54 of Plaintiffs' Complaint.

56. The allegations in Paragraph 56 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 56 also purport to characterize *City of Chicago v. Morales*, 527 U.S. 41, 52 (1999), which speaks for itself and is the best evidence of its contents; therefore, no response is required.

57. The allegations in Paragraph 57 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 57 also purport to characterize *PEST Comm. v. Miller*, 626 F.3d 1097, 1112 (9th Cir. 2010), which speaks for itself and is the best evidence of its contents; therefore, no response is required.

58. The allegations in Paragraph 58 of Plaintiffs' Complaint are legal

conclusions and arguments of counsel, which require no response. The allegations in Paragraph 58 also purport to characterize HB 892 and *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983), which speak for themselves and are the best evidence of their contents; therefore, no response is required. To the extent that a response may be required, Defendants deny that “HB892 goes beyond its legitimate objective...[,]” as well as the remaining allegations in Paragraph 58 as stated.

59. The allegations in Paragraph 59 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 59 also purport to characterize HB 892, Mont. Code Ann. § 13-35-105, and *Preminger v. Peake*, 552 F.3d 757, 765 (9th Cir. 2008), which speak for themselves and are the best evidence of their contents; therefore, no response is required. To the extent that a response may be required, Defendants deny the allegations in Paragraph 59.

60. Defendants deny the allegations of Paragraph 60 of Plaintiffs’ Complaint.

COUNT III: U.S. CONST. AMEND. I and XIV; 42 U.S.C. § 1983
(Right to Vote)

61. Defendants restate and incorporate by reference their responses to Paragraphs 1–60 of Plaintiffs’ Complaint.

62. The allegations in Paragraph 62 of Plaintiffs’ Complaint are legal conclusions and arguments of counsel, which require no response. The allegations

in Paragraph 62 also purport to characterize *Ariz. Democratic Party v. Hobbs*, 18 F.4th 1179, 1187 (9th Cir. 2021) and *Pub. Integrity All., Inc. v. City of Tucson*, 836 F.3d 1019, 1024 (9th Cir. 2016), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

63. The allegations in Paragraph 63 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 63 also purport to characterize *Nader v. Brewer*, 531 F.3d 1028, 1035 (9th Cir. 2008), which speaks for itself and is the best evidence of its contents; therefore, no response is required.

64. Defendants deny the allegations in Paragraph 64 of Plaintiffs' Complaint.

65. The allegations in Paragraph 65 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 65 also purport to characterize HB 892 and *Common Cause Ind. v. Lawson*, 937 F.3d 944, 960 (7th Cir. 2019), which speak for themselves and are the best evidence of their contents; therefore, no response is required.

66. The allegations in Paragraph 66 of Plaintiffs' Complaint are legal conclusions and arguments of counsel, which require no response. The allegations in Paragraph 66 also purport to characterize HB 892, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

67. Defendants deny the allegations in Paragraph 67 of Plaintiffs' Complaint.

PRAYER FOR RELIEF

68. Defendants deny that Plaintiffs are entitled to the relief requested in Page 23 of Plaintiffs' Complaint.

GENERAL DENIAL

69. Defendants deny each and every allegation of Plaintiffs' Complaint not specifically admitted herein.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

2. Plaintiffs lack standing.

3. Plaintiffs' claims are not justiciable.

4. Plaintiffs' Complaint fails to allege sufficient facts showing they are entitled to the requested relief.

5. HB 892 does not violate the United States Constitution, the Constitution of the State of Montana, or Montana law.

6. HB 892 serves and is supported by rational, legitimate, and compelling state interests, including but not limited to preserving the integrity of elections in Montana.

7. Defendants have not deprived Plaintiffs, or any Plaintiff, of any

constitutional rights under color of law.

8. Defendants have taken no enforcement actions against Plaintiffs, or any Plaintiff.

9. Defendants may be subject to absolute immunity, qualified immunity, or sovereign immunity.

10. Controlling Supreme Court and legal precedent bars some or all of Plaintiffs' claims.

11. HB 892 is not vague or overbroad.

12. HB 892 does not violate due process under federal or state law.

13. HB 892 does not discriminate against or disparately impact anyone based on race or age.

14. Defendants raise the above defenses so they will not be waived and reserve the right to add defenses that may become apparent during discovery or to dismiss those which may later show not to apply.

WHEREFORE, Defendants respectfully request the following relief:

1. That Plaintiffs take nothing by their Complaint;
2. For judgment in favor of Defendants on all counts of Plaintiffs' Complaint;
3. For costs of suit and attorneys' fees as allowed by law; and
4. For all other relief the Court deems just and proper.

DATED this 17th day of November, 2023.

Austin Knudsen
MONTANA ATTORNEY GENERAL

/s/ Michael Noonan

Michael Noonan

Thane Johnson

Michael Russell

Alwyn Lansing

Assistant Attorneys General

Montana Department of Justice

PO Box 201401

Helena, MT 59620-1401

ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I certify that on this date, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered counsel.

Dated: November 17, 2023

/s/ Michael Noonan

Michael Noonan

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