

1 Hon. Jason Marks, District Court Judge
2 Fourth Judicial District, Dept. No. 4
3 Missoula County Courthouse
4 200 West Broadway
5 Missoula, Montana 59802
6 (406) 258-4774

7 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

8 MONTANA PUBLIC INTEREST
9 RESEARCH GROUP,
10
11 Plaintiff,
12 v.
13 STATE OF MONTANA and
14 CHRISTI JACOBSEN, in her official
capacity as Montana Secretary of State,
Defendants.

Dept. No. 4
Cause No. DV-25-419

**ORDER DENYING
DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS**

15 This matter comes before the Court on the State of Montana's and Christi
16 Jacobsen's, in her official capacity as Montana Secretary of State, (collectively
17 "Defendants") *Motion for Judgment on the Pleadings* ("Motion") (Doc. 22). The
18 Court has considered Defendants' *Motion*, the corresponding Brief in Support (Doc.
19 23), Plaintiff Montana Public Interest Research Group's ("MontPIRG") Brief in
20

1 Opposition (Doc. 29), and Defendants’ Reply Brief (Doc. 34). The Court is fully
2 informed and prepared to rule.

3 **ORDER**

4 The Court hereby DENIES Defendants’ *Motion*.

5 **MEMORANDUM**

6 **I. FACTUAL BACKGROUND**

7 This case arises out of constitutional challenges to House Bill 413 (“HB 413”),
8 titled, “An Act Revising Election Laws Related To Residency For Temporary
9 Residents.”

10 *Voting Eligibility Generally*

11 To be eligible to vote in Montana, a person must be a “citizen of the United
12 States 18 years of age or older” who “meets the . . . residence requirements provided
13 by [Montana] law.” Mont. Const. art. IV, § 2; *see also* Mont. Code Ann. § 13-1-111
14 (2025). To meet Montana’s residency requirements, a person must be “a resident of
15 the state of Montana and of the county in which the person offers to vote for at least
16 30 days” Mont. Code Ann. § 13-1-111(c). Under Montana’s “Rules for
17 determining residence” statute, the word “residence” is defined to mean “where the
18 individual’s habitation is fixed and to which, whenever the individual is absent, the
19 individual has the intention of returning.” Mont. Code Ann. § 13-1-112(1) (2025).

1 Prior to HB 413, subsection (5) of that statute barred anyone who entered
2 Montana for temporary purposes from gaining residency unless they also satisfied
3 the additional requirement of having an intention to make Montana home:

4 An individual may not gain a residence in a county if the individual
5 comes in for temporary purposes *without the intention of making that
county the individual's home.*

6 Mont. Code Ann. § 13-1-112(5) (2003) (emphasis added).

7 As of May 1, 2025, HB 413 altered the requirements set forth in subsection
8 (5). Now, anyone who relocates to or within Montana for temporary purposes is
9 barred from gaining residency—and therefore from voting—unless they satisfy the
10 additional requirements of making Montana their permanent home whenever their
11 temporary purpose concludes:

12 An individual may not gain **residency** in a county **or the state of**
13 **Montana** if the individual **relocates** for temporary purposes, **such as**
14 **temporary work, training, or an educational program**, without the
intention of making that county **or the state** the individual's
permanent home at the conclusion of the temporary work, training,
or educational program.

15 Mont. Code Ann. § 13-1-112(5) (2025) (changes in bold).

16 *HB 413's Legislative History*

17 HB 413 was initially introduced by Representative Jane Gillette in the
18 Montana House of Representatives on February 6, 2025. Am. Compl., ¶ 31 (Doc.
19 15.1). Students from across Montana testified against HB 413 and discussed the
20 harms it would cause them if enacted. *Id.*, ¶ 36. Montanans also expressed

1 dissatisfaction with the possibility that HB 413 could cause thousands of students to
2 lose their right to vote in local elections, giving them no say in how their
3 communities are run. *Id.*; *see also* Decl. Raphael Graybill Ex. 3, at 39:1–7 (Tr. of
4 March 4, 2025 Senate Comm. Hr’g); Decl. Graybill Ex. 2, at 7:3–9 (Tr. of Feb. 20,
5 2025 House Comm. Hr’g).

6 Representative Gillette testified that the bill’s purpose was to “basically just
7 clarif[y] the definition of temporary residency in relationship to determining who is
8 qualified to vote in our elections.” *Id.*, ¶ 32; *see also* Decl. Graybill Ex. 2, at 2:12–
9 15. But the few people who testified in favor of HB 413 voiced disapproval of
10 student voting in their communities. *Id.*, ¶ 37. One proponent who testified in favor
11 of the bill expressed his view that students were negatively “affecting elections[,]”
12 and stated “[Representative Gillette] agreed with me” when he “brought this to [her]
13 attention.” *Id.*; *see also* Decl. Graybill Ex. 3, at 16:1–10, 21:19–20.

14 Legislators and members of the public debated HB 413’s potential effect on
15 college and graduate students, and in each of the bill’s hearings, testimony
16 highlighted inconsistencies in its application. *Id.*, ¶ 34. Representative Gillette
17 provided the following example of a person who would not be considered a resident
18 under HB 413:

19 [A] student that comes from Helena and they go and temporarily live
20 in -- in Bozeman, and they go to MSU and they live in the dorms, and
. . . most every weekend they go home. They visit their parents

1 Their parents watch their cat, and she has a boyfriend there And in
2 summertime she goes back to Helena and she works in a local cafe.

3 *Id.*, ¶ 33; *see also* Decl. Graybill Ex. 2, at 6:7–21. Representative Gillette
4 immediately compared the former scenario to the following one:

5 [A] grad student that comes to MSU . . . in a PhD program for cell
6 biology. They’re there for three years. They’ve moved there with their
7 U-Haul. His girlfriend comes and lives with him. They have a plant.
8 They have a dog. He gets a fishing license there. He even has to renew
9 his driver’s license.

10 *Id.*; *see also* Decl. Graybill Ex. 2, at 6:22–7:16. Representative Gillette testified that
11 while the student in the former scenario would be barred from gaining residency, the
12 student in the latter scenario would not be because “we can acknowledge that people
13 move to difference places, maybe not being their forever home, but that they live
14 there for extended periods of time.” *Id.*; *see also* Decl. Graybill Ex. 2, at 7:9–14.

15 Representative Peter Strand tried to address concerns about HB 413’s effect
16 on students and fears about inconsistencies in its application by proposing an
17 amendment that would define the word “temporary” to require a two-week
18 timeframe. *Id.*, ¶ 35; *see also* Decl. Graybill Ex. 11; Supp. Decl. Graybill Ex. 2 (Doc.
19 37) (proposed amendment to read: “An individual may not gain a residency in a
20 county or the state of Montana if the individual relocates for temporary purposes,
such as work, training, or an educational program lasting fewer than 14 days, without
the intention of making that county or the state the individual’s permanent home at
the conclusion of the temporary work, training, or educational program.”).

1 Representative Gillette objected, stating “this is not a friendly amendment[,]” and
2 the proposed amendment failed. *Id.*

3 HB 413 received final passage by the Senate on April 11, 2025. *Id.*, ¶ 31. It
4 was signed into law by Governor Gianforte and went into immediate effect on May
5 1, 2025. *Id.*

6 **II. PROCEDURAL BACKGROUND**

7 On May 6, 2025, MontPIRG filed this lawsuit challenging HB 413 under both
8 the United States Constitution and the Montana Constitution. Defendants removed
9 the case to federal court.

10 MontPIRG filed an Amended Complaint on June 24, 2025, excising the
11 federal claims. Therein, it alleges that HB 413 creates a heightened residency
12 requirement for students and violates the right to suffrage, equal protection of the
13 laws, and the suffrage rights of young voters specifically. *Id.*, ¶¶ 38–44, 45–56, 61–
14 73. It also alleges that HB 413 is unconstitutionally vague, thereby deterring students
15 and others from registering and voting for fear of violating the law. *Id.*, ¶¶ 57–60.

16 On July 16, 2025, the case was remanded to District Court. On October 7,
17 2025, Defendants filed this *Motion*. Defendants’ position is that to permit individuals
18 who temporarily relocate to Montana to vote would be to interfere with and
19 undermine Montanans’ right to free and open elections. In support of this position,
20 Defendants argue that HB 413 “merely clarifies the meaning of Section 13-1-

1 112(5)'s 'temporary purposes[,]'" that the law "functionally remains unchanged[,]"
2 that it does not impose new requirements on anyone, and that the rules of statutory
3 interpretation combined with the presumption of constitutionality requires the Court
4 to enter judgment on the pleadings in their favor. Defs.' Br. in Supp., at 8, 19–20.

5 On November 4, 2025, MontPIRG filed a Brief in Opposition. Therein, it
6 argues that Defendants defend a fanciful version of HB 413 that cannot be squared
7 with the statute's text or legislative history. This approach, MontPIRG argues,
8 equates to Defendants effectively conceding that HB 413 is unconstitutional if it
9 means what it says. Moreover, MontPIRG argues that Defendants are not entitled to
10 judgment on any of its claims because the *Motion* does not engage with its
11 allegations; instead, it solely focuses on an effort to re-write HB 413.

12 The Court heard oral argument on the *Motion* on February 6, 2026.

13 **III. LEGAL STANDARD**

14 A party seeking judgment on the pleadings "must establish that no issues of
15 fact exist and that it is entitled to judgment as a matter of law." *Conway v. Benefis*
16 *Health Sys.*, 2013 MT 73, ¶ 20, 369 Mont. 309, 297 P.3d 1200. In evaluating a
17 motion brought pursuant to Rule 12(c), courts may consider any pleadings included
18 under Mont. R. Civ. P. 7(a). *Firelight Meadows, LLC v. 3 Rivers Tel. Co-op., Inc.*,
19 2008 MT 202, ¶ 16, 344 Mont. 117, 186 P.3d 869. Courts must assume that all of

1 the well-pleaded factual allegations in the nonmovant’s pleadings are true and that
2 all contravening assertions in the movant’s pleadings are false. *Id.*

3 **IV. ANALYSIS**

4 The parties agree that no issues of fact exist. Accordingly, Defendants must
5 establish that they are entitled to judgment as a matter of law on all four of
6 MontPIRG’s claims. Defendants advance two preliminary arguments concerning
7 statutory interpretation and the presumption of constitutionality prior to addressing
8 MontPIRG’s claims.

9 **A. Statutory Interpretation**

10 Defendants argue that the plain meaning of HB 413, § 1, subsection (5) is
11 facially constitutional based on a plain language interpretation. Courts “interpret a
12 statute first by looking to its plain language.” *Mont. Sports Shooting Ass’n v. State*,
13 2008 MT 190, ¶ 11, 344 Mont. 1, 185 P.3d 1003 (citing *State v. Letasky*, 2007 MT
14 51, ¶ 11, 336 Mont. 178, 152 P.3d 1288). “We construe a statute by reading and
15 interpreting the statute as a whole, ‘without isolating specific terms from the context
16 in which they are used by the Legislature.’” *Id.* (citing *City of Great Falls v. Morris*,
17 2006 MT 93, ¶ 19, 332 Mont. 85, 134 P.3d 692). “We will not interpret the statute
18 further if the language is clear and unambiguous.” *Id.*

19 Subsection (5) of HB 413 reads as follows:

20 An individual may not gain residency in a county or the state of
Montana if the individual relocates for temporary purposes, such as

1 temporary work, training, or an educational program, without the
2 intention of making that county or the state the individual’s permanent
home at the conclusion of the temporary work, training, or educational
program.

3 Mont. Code Ann. § 13-1-112(5) (2025).

4 HB 413’s plain language appears clear and unambiguous, using words’ plain
5 and ordinary meanings. For individuals who relocate to or within Montana for
6 temporary purposes, HB 413 explicitly makes residency contingent on their
7 intention to make Montana their permanent home after the conclusion of their
8 temporary purpose. “If the statutory language is clear and unambiguous, the statute
9 speaks for itself and there is nothing left for the Court to construe.” *Mont. Sports*
10 *Shooting Ass’n*, ¶ 34 (Nelson, J., dissenting) (citing *Mont. Contractors’ Ass’n v.*
11 *Dept. of Highways*, 220 Mont. 392, 392, 715 P.2d 1056, 1058 (1986)).

12 Defendants argue that the plain language “clarifies what a temporary purpose
13 is so to determine an individual’s residency[,]” and that Mont. Code Ann. § 13-1-
14 112 “functionally remains unchanged but now offers greater clarity of ‘temporary
15 purposes.’” Defs.’ Br. in Supp., at 8. The Court agrees that the addition of “work,
16 training, or an educational program” provides examples of what is included in
17 “temporary purposes” sweep, thereby providing at least some clarification.
18 However, Defendants’ argument that subsection (5) was “functionally unchanged”
19 by HB 413 is unpersuasive. Prior to HB 413, subsection (5) only barred individuals
20 entering the state for temporary purposes from gaining residency if they entered

1 “without the intention of making that county the individual’s home.” Mont. Code
2 Ann. § 13-1-112 (2003). HB 413’s new language heightens the residency
3 requirement for persons relocating to or within Montana for temporary purposes
4 from needing a present intention of making that county the individual’s home to
5 needing a future “intention of making that county or the state the individual’s
6 *permanent home at the conclusion of* their temporary work, training, or educational
7 program.” Mont. Code Ann. § 13-1-112(5) (2025) (emphasis added).

8 Despite HB 413’s plain language, Defendants urge the Court to consider two
9 canons of interpretation in support of their argument that subsection (5) is
10 functionally unchanged: the last antecedent rule¹ and the doctrine of *expressio unius*
11 *est exclusion alterius*.² Defendants rely on these rules to argue that the term
12 “educational program” merely modifies “temporary purposes,” and the exclusion of
13 the phrase “secondary education” or “college degree program” implies “educational
14 program” does not encapsulate the same, showing “it [was] not the Legislature’s
15 intent to exclude from becoming Montana residents those students who are enrolled

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17 ¹ “Under the doctrine of the ‘last antecedent’ relative clauses in a statute must be construed to
18 relate to the nearest antecedent that will make sense; qualifying words and phrases should be
19 applied to words or phrases immediately preceding, unless an extension or inclusion of others more
20 remote is clearly required by a consideration of the entire Act.” *State ex rel. Peck v. Anderson*, 92
Mont. 298, 13 P.2d 231 (1932); *see also Orr v. State*, 2004 MT 354, ¶ 25, 324 Mont. 391, 106
P.3d 100.

² The doctrine of *expressio unius est exclusion alterius* “as applied to statutory interpretation
creates a presumption that when a statute designates certain persons, things, or manners of
operation, all omissions should be understood as exclusions.” *Silvers v. Sony Pictures Ent., Inc.*,
402 F.3d 881, 885 (9th Cir. 2005).

1 in a bachelor’s program . . . or a doctorate program” Defs.’ Br. in Supp., at 9–
2 10. Defendants doubled down on this during the February 6 hearing. In response to
3 the Court’s question seeking clarification that it was indeed Defendants’ position
4 that HB 413 in no way prohibits college students from voting in the community
5 where they live and attend school, Defendants answered “yes.”

6 Even considering these doctrines, the plain language of HB 413 does not
7 support Defendants’ proffered construction. Indeed, as Defendants point out, “the
8 Legislature knows how to differentiate between an educational program and
9 postsecondary educational institutions.” *Id.*, at 10.³ Accordingly, if it wanted to carve
10 out college and graduate students from subsection (5), it had the opportunity to do
11 so by, for example, constructing the statute to say: “such as temporary work,
12 training, or an educational program other than postsecondary educational programs.”
13 It chose not to. Similarly, if, as Defendants suggest, the Legislature only wanted to
14 limit HB 413 to short-term programs like “a union electrician apprentice” attending
15 “a two-week long course” at a community college, it had the opportunity to do so.
16 *Id.* It chose not to. Representative Strand even proposed an amendment that would
17 have clarified “temporary purpose” meant work, training, or an educational program

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19 ³ See, e.g., Mont. Code Ann. § 20-1-225(3)(a) (Legislature defining “postsecondary educational
20 institution” related to compliance with Military Selective Service Act as the Montana University
system or any other postsecondary school); Mont. Code Ann. § 87-2-525(3)(a) (Legislature using
“postsecondary education” related to possession and application for hunting, fishing, and trapping
licenses).

1 that lasted fewer than 14 days. Am. Compl., ¶ 35; *see also* Decl. Graybill Ex. 11;
2 Supp. Decl. Graybill Ex. 2. But the bill’s sponsor called that proposed amendment
3 unfriendly, it failed, and HB 413 does not define “temporary purposes” beyond
4 broad reference temporary work, training, or an educational program. *See Nuclear*
5 *Info. & Res. Serv. v. U.S. Dep’t of Transp. Rsch. & Special Programs Admin.*, 457
6 F.3d 956, 962 (9th Cir. 2006) (explaining that when a legislature “does not adopt
7 limiting language contained in a draft bill, such an action is ordinarily deemed
8 evidence of . . . intent to reject the limitation.”). Importantly, “[i]n the construction
9 of a statute, the office of the judge is simply to ascertain and declare what is in terms
10 or in substance contained therein, not to insert what has been omitted or to omit what
11 has been inserted.” Mont. Code Ann. § 1-2-101 (2025). The Legislature chose not
12 to differentiate between educational programs, nor to clarify “temporary purposes”
13 beyond adding broad examples of what qualifies, and the Court will not insert
14 clarifying terms itself under the guise of the last antecedent rule or the doctrine of
15 expression unius est exclusion alterius.

16 Finally, Defendants urge the Court to read HB 413 in conjunction with Mont.
17 Code Ann. § 13-1-112(1) (which defines “residence” as the place “where the
18 individual’s habitation is fixed and to which, whenever the individual is absent, the
19 individual has the intention of returning), Mont. Code Ann. § 13-1-111 (which
20 imposes the general 30 day residency requirement), and Mont. Code Ann. § 13-1-

1 113 (the single residence rule), “so to complete Montana’s voter residency
2 requirement regime.” Defs.’ Br. in Supp., at 11. Defendants propose that:

3 Reading these statutes together establishes that a person need only
4 reside in a county for at least thirty days—intending to make just that
5 county a residence—and then that person can vote in the new county.
6 HB 413 clarifies that temporary work, training, or an educational
7 program does not alone establish new residence. It requires both an
8 intent and a materialization of that intent—physical presence for at least
9 30 days—to establish a new voter residence.

10 *Id.*, at 11–12.

11 Even when reading HB 413 in the context of all Montana’s voter residency
12 requirement statutes, its plain language precludes Defendants’ proposed
13 construction because “intent and materialization of that intent” is no longer sufficient
14 for individuals with a temporary purpose to gain residency in Montana. HB 413
15 imposes the heightened requirement of future intent—as opposed to a present intent
16 to return whenever absent—to permanently reside in Montana at the conclusion of
17 an individual’s temporary purpose. Consider the following scenario: an
18 undergraduate student enrolled at MSU who lives in Bozeman just finished her
19 junior year and intends to return for her senior year; she also exhibits a
20 materialization of that intent because she has been physically present in Gallatin
21 County for at least 30 days. That student satisfies Montana’s residency requirements
22 as restated by Defendants in their briefing. However, under HB 413, that student
23 does not satisfy Montana’s residency requirements because there is no showing that

1 she intends to make Gallatin County or Montana her permanent home when she
2 graduates from MSU.

3 To further exemplify this change, the Court turns to Defendants’ own
4 example. Defendants say HB 413 “does not affect university students’ ability to
5 register to vote or to vote . . . University students typically intend to return to school
6 after Thanksgiving break, winter break, spring break, and summer break. This intent
7 to return could make their Montana home eligible as their residence.” *Id.*, at 6. Again,
8 because there is no showing that the student has the future intent to make Montana
9 their permanent home at the conclusion of their educational program, that student
10 does not satisfy Montana’s residency requirements under HB 413. Consistent with
11 the plain language interpretation, these examples demonstrate that HB 413 changed
12 and heightened Montana’s residency requirement for students who relocate to or
13 within Montana for temporary purposes. Just because Defendants argue subsection
14 (5) is functionally unchanged does not make it so.

15 Moreover, assuming *arguendo* that the language of HB 413 is unclear and
16 ambiguous, the Court “look[s] to legislative intent . . . and give[s] effect to the
17 legislative will.” *Mont. Sports Shooting Ass’n*, ¶ 11. Although Defendants argue “it
18 [was] not the Legislature’s intent to exclude from becoming Montana residents those
19 students who are enrolled in a bachelor’s program . . . or a doctorate program[.]”
20 Defs.’ Br. in Supp., at 9–10, the bill’s legislative history is replete with testimony

1 indicating the opposite. Am. Compl., ¶¶ 33–34, 36–37. Indeed, when discussing the
2 phrase “educational program,” the bill’s sponsor, Representative Gillette, even
3 testified that she “tried to keep it as broad as possible” even though she “typically
4 think[s] of it as a two year or a four-year degree” Decl. Graybill Ex. 3, at 47:3–
5 7.

6 Additionally, the legislative history contains student testimony that HB 413
7 would disenfranchise them in the communities where they live, work, and pay taxes.
8 Am. Compl., ¶ 36. A representative from the Associated Students of Montana State
9 University testified that “thousands of out-of-state students at MSU could lose their
10 right to vote in local elections that shape housing policies, transit systems and
11 minimum wage laws, all of which are decisions directly impacting their daily lives.
12 *Id.*; *see also* Decl. Graybill Ex. 2, at 7:4–9. That representative went on to emphasize
13 that “a student from Wyoming who pays Montana taxes, works here year-round, and
14 volunteers at the Gallatin Valley Food Bank is no less a resident simply because they
15 haven’t decided where to live after graduation.” *Id.*; *see also* Decl. Graybill Ex. 2, at
16 6:20–7:2. A representative from the Associated Students of the University of
17 Montana testified that HB 413 clearly targets students and “mak[es] it harder for
18 both in-state and out-of-state students to vote[,]” and that it “creates unnecessary
19 barriers” that “effectively disenfranchises students.” *Id.*; *see also* Decl. Graybill Ex.
20 3, at 34:20–35:18.

1 One proponent of the bill testified that he urged Representative Gillette to
2 address student voting because students were “affecting elections[,]” blaming a
3 legislator from Park County’s election loss on the college campus and students in
4 the district, claiming he “lost by 20 votes.” *Id.*, ¶ 37; *see also* Decl. Graybill Ex. 3,
5 at 16:1–10. He went on to say, “[t]hese kids that show up last minute at the
6 courthouse . . . they’ve been in the State for six weeks. They’re not part of this
7 community, but they’ve been told they’ve been a resident for 30 days.” *Id.*; *see also*
8 Decl. Graybill Ex. 3, at 21:7–11. Thus, HB 413’s legislative history confirms what
9 the text makes clear: HB 413 imposes new, heightened requirements, thereby
10 making it more difficult for both in-state and out-of-state students to gain residency
11 and vote in Montana. Contrary to Defendants’ position in this *Motion*, this
12 indisputably results in a change in the requirements set forth in subsection (5) prior
13 to HB 413, and it indisputably affects students across Montana.

14 In summary, Defendants’ construction of HB 413 as merely clarifying what a
15 temporary purpose is so to determine an individual’s residency and as functionally
16 unchanged is erroneous. A plain language interpretation of HB 413, as advocated
17 for by Defendants, compels a different construction. HB 413 changes and heightens
18 the residency requirements for any individual who relocates to or within Montana
19 for an educational program, or for other temporary purposes, by preventing them
20 from gaining residency unless they have a future intent to make Montana their

1 permanent home at the conclusion of their educational program or other temporary
2 purpose.

3 **B. Presumption of Constitutionality**

4 Defendants argue that the presumption of constitutionality requires the Court
5 to construe HB 413 in a constitutional manner. “The constitutionality of a legislative
6 enactment is prima facie presumed, and every intendment in its favor will be
7 presumed, unless its unconstitutionality appears beyond a reasonable doubt.”
8 *Powder River County v. State*, 2002 MT 259, ¶ 73, 312 Mont. 198, 60 P.3d 357.
9 “Every possible presumption must be indulged in favor of the constitutionality of a
10 legislative act.” *Id.*, ¶ 74 (citing *Davis v. Union Pacific R. Co.*, 282 Mont. 233, 240,
11 937 P.2d 27, 31 (1997)). “The party challenging a statute bears the burden of proving
12 that it is unconstitutional beyond a reasonable doubt and, if any doubt exists, it must
13 be resolved in favor of the statute.” *Id.* (citing *Grooms v. Ponderosa Inn*, 283 Mont.
14 459, 467, 942 P.2d 699, 703 (1997)).

15 Defendants argue that “Plaintiffs simply cannot show that, by construing HB
16 413 as having nothing to do with a postsecondary education or students, it is
17 unconstitutional in every application.” Defs.’ Br. in Supp., at 13. The Court
18 acknowledges the presumption of constitutionality. However, Defendants’ own
19 argument is that, if the Court construes HB 413 as having nothing to do with
20 postsecondary education or students, it does not violate the Montana Constitution.

1 But, as previously analyzed, HB 413’s plain language does have something to do
2 with college and graduate students: it unambiguously heightens the requirements
3 necessary for them to gain residency in Montana and, in turn, to vote. As affirmed
4 during the February 6 hearing, Defendants all but concede that if HB 413 applies to
5 students—and a plain language interpretation makes clear that it does—it violates
6 the Montana Constitution. The Court ““will not rewrite a . . . law to conform it to
7 constitutional requirements.”” *United States v. Stephens*, 559 U.S. 460, 481 (2010)
8 (quoting *Reno v. Am. C.L. Union*, 521 U.S. 844, 884 (1997)). Therefore, the doctrine
9 of the presumption of constitutionality is insufficient here.

10 **C. MontPIRG’s Claims**

11 Having addressed Defendants’ preliminary arguments, the Court now turns to
12 Defendants’ argument that HB 413 does not violate the Montana Constitution as
13 alleged in MontPIRG’s four claims. The Court will address each claim.

14 *1. Right to Suffrage*

15 MontPIRG’s Amended Complaint alleges that HB 413 violates the right to
16 suffrage under Article II, § 13 of the Montana Constitution. Am. Compl., ¶¶ 38–44.
17 Specifically, it alleges that because HB 413 denies the right to vote to citizens who
18 are engaged in a “temporary” educational or work program and who either do not
19 intend to reside in that location after completion of the program or are uncertain
20

1 about their future plans, it impermissibly burdens the right to vote and must pass
2 strict scrutiny. *Id.*, ¶ 43.

3 The Montana Constitution guarantees that “[a]ll elections shall be free and
4 open, and no power, civil or military, shall at any time interfere to prevent the free
5 exercise of the right of suffrage.” Mont. Const. art. II, § 13. The Montana Supreme
6 Court has held that this provision affords greater protection of the right of suffrage
7 than that afforded by the United States Constitution. *See, e.g., Montana Democratic*
8 *Party v. Jacobsen*, 2024 MT 66, ¶¶ 17, 35, 416 Mont. 44, 545 P.3d 1074 [hereinafter
9 *MDP II*] (*cert. denied sub nom., Jacobsen v. Mont. Democratic Party*, 2025 U.S.
10 LEXIS 415 (U.S. Jan. 21, 2025)).

11 In order to determine the applicable level of scrutiny, the Court must first
12 determine whether HB 413 “impermissibly interfere[s]” with a fundamental right⁴
13 or “minimally burdens” it. *Id.*, ¶¶ 35, 38. A law minimally burdens the right to vote
14 when “[n]o person is prevented from voting” by it; in those cases, a middle-tier
15 analysis is appropriate. *Id.*, ¶¶ 38, 51. A law impermissibly interferes with the right
16 to vote when it “grants the right to vote to some citizens and denies the franchise to
17 others[,]” or where it “interferes with all electors’ right to vote generally, or [it]
18 interferes with certain subgroups’ right to vote specifically.” *Id.*, ¶ 34 (citing *Finke*
19 *v. State ex rel. McGrath*, 2003 MT 48, ¶¶ 17–19, 314 Mont. 314, 65 P.3d 576);

20 ⁴ The right to vote “is a clear and unequivocal fundamental right under the Montana Constitution.” *MDP II*, ¶ 13; *see also Willems v. State*, 2014 MT 82, ¶ 32, 374 Mont. 343, 325 P.3d 1204.

1 *Kramer v. Union Free Sch. Dist.*, 395 U.S. 621, 627 (1969)). In those cases, a strict
2 scrutiny analysis is appropriate. *Id.*, ¶ 34 (citing *Wadsworth v. State*, 275 Mont. 287,
3 302, 911 P.2d 1165, 1173–74) (1996)) (“Montana caselaw holds that when a law
4 impermissibly interferes with a fundamental right, we apply a strict scrutiny
5 analysis.”).

6 MontPIRG alleges that HB 413 impermissibly interferes with the right to vote
7 because it denies the franchise to certain subgroups, like students who relocate for
8 educational programs and cannot commit to permanently remaining in Montana at
9 the conclusion of their program. Am. Compl., ¶ 43. The Court agrees. Again, a plain
10 reading of HB 413 makes clear that there is a heightened residency requirement for
11 certain subgroups, including students. These heightened residency requirements
12 impermissibly interfere with students’ right to vote because it makes it more
13 difficult—and in some cases impossible—for them to gain residency in Montana or
14 in the county within Montana that they relocate to.

15 For example, Courtney Rosenberg is a graduate student at the University of
16 Montana. Decl. Graybill Ex. 6, ¶ 2 (Decl. Courtney Rosenberg). She considers
17 Montana home, she resides here year-round, she has all her personal belongings
18 here, she has a local driver’s license, her car is titled here, and she has completed
19 internships and volunteer work here. *Id.* Ex. 6, ¶¶ 4–6. Prior to moving to Missoula
20 for school she lived in Colorado and Florida. *Id.* Ex. 6, ¶ 3. She registered to vote in

1 Missoula in August of 2024, before HB 413 went into effect. *Id.* Ex. 6, ¶ 2. However,
2 because she does not yet have post-graduate employment, she cannot say she intends
3 to make Montana her permanent home after she graduates. *Id.* Ex. 6, ¶ 7. Ms.
4 Rosenberg has declared that it is unclear to her whether she is still eligible to vote in
5 Montana now that HB 413 is in effect, and she did not vote in the municipal election
6 in September as a direct result. *Id.* Ex. 6, ¶ 9. Thus, the record supports a finding that
7 HB 413 impermissibly interferes with Ms. Rosenberg’s right to vote in the county
8 where she resides. *See also id.* Ex. 7, ¶¶ 12–20 (Decl. Dean McGovern) (stating “I
9 am already seeing many students err on the side of caution and make the decision
10 not to register or vote when they are unsure about how the law applies to them.”).

11 Similarly, Mira Murphy is a Montanan registered to vote in Billings who
12 relocated to Missoula for college, and who intends to continue residing and working
13 in Missoula until she graduates, but she has not registered to vote in Missoula
14 because she cannot confidently say she intends to make Missoula or Montana her
15 permanent home after graduation. *Id.* Ex. 5, ¶¶ 2, 4, 5, 7, 8 (Decl. Mira Murphy).
16 Ms. Murphy has not to registered to vote in Missoula because of HB 413. *Id.* Ex. 5,
17 ¶ 8. Thus, the record supports a finding that HB 413 impermissibly interferes with
18 Ms. Murphy’s right to vote in the county where she resides and where she intends to
19 return when absent.

20

1 Moreover, the record shows that, in some cases, HB 413 bars certain
2 subgroups from voting anywhere. For example, Josephine Kleman moved to
3 Missoula in 2022 to attend the University of Montana. *Id.* Ex. 4, ¶ 2 (Decl. Josephine
4 Kleman). Prior to moving to Missoula, she lived in Kentucky. *Id.* Ex. 4, ¶ 4. She is
5 on schedule to earn her bachelor’s degree at the end of the academic year. *Id.* Ex. 4,
6 ¶ 3. She lived in the dorms during her freshman year and has rented private housing
7 in Missoula since then. *Id.* Ex. 4, ¶ 5. Prior to HB 413 going into effect, she registered
8 to vote at her Missoula residence and voted here in the 2024 general election. *Id.* Ex.
9 4, ¶ 6. She considers Missoula her home; it is where she lives, works, pays rent, pays
10 taxes, has almost all her belongings, and where she intends to return when she is
11 away. *Id.* Ex. 4, ¶¶ 7–8. She plans to continue living, working, and volunteering in
12 Missoula at least until she graduates. *Id.* Ex. 4, ¶ 12. However, she cannot say she
13 intends to make Montana her permanent home after graduation, in part because she
14 may apply to AmeriCorps-style programs. *Id.* Ex. 4, ¶ 11. Accordingly, under HB
15 413, she is no longer eligible to gain residency in Montana. Importantly, she is now
16 also unable to vote in Kentucky because she previously voted in Missoula and
17 because she resides here. *See* Ky. Rev. Stat. Ann. § 116.035(3) (a person loses
18 residency under Kentucky law if they move to another state “to reside there an
19 indefinite time, or by voting there.”). This exemplifies a key issue created by HB
20 413 for students in similar situations: even if they reside here, have fixed habitation

1 here, and have an intent to return whenever absent, they cannot gain residency or
2 vote here, but their residency here also prevents them from registering to vote
3 elsewhere. In other words, because they reside here, they cannot satisfy the basic
4 residency requirement necessary to vote elsewhere. Thus, because the record shows
5 that HB 413 impermissibly interferes with the right to vote, strict scrutiny is the
6 appropriate level of review.

7 To survive strict scrutiny review, the government is required to demonstrate
8 that the statute being challenged is “justified by a compelling state interest and [is]
9 . . . narrowly tailored to effectuate only that compelling interest.” *Stand Up Mont. v.*
10 *Missoula Cnty. Pub. Schs.*, 2022 MT 153, ¶ 28, 409 Mont. 330, 514 P.3d 1062; *see*
11 *also MDP II*, ¶ 34 (citing *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174) (“[u]nder
12 strict scrutiny analysis, the State must show that a law is the least onerous path to a
13 compelling state interest.”).

14 Here, in support of the *Motion*, rather than argue that HB 413 satisfies strict
15 scrutiny, Defendants maintain their position that HB 413 imposes no new
16 requirements and “does not burden the right to vote at all.” Defs.’ Br. in Supp., at
17 14. Accordingly, they argue that a middle-tier analysis is appropriate because “HB
18 413 is the epitome of reasonable” and because it “protects against double voting and
19 ensures election integrity[,]” and that “[t]hese State interests far outweigh the very
20 minimal burden on temporary workers and trainees to pick a single residence.”

1 Defs.’ Br. in Supp., at 15. Yet, Defendants make no argument that HB 413 actually
2 effectuates those interests. Nor do Defendants make any argument that the
3 undeniably heightened residency requirements—which apply to *all* individuals
4 relocating to or within Montana for *any* temporary purpose—are narrowly tailored
5 to effectuate those interests, nor do they show how HB 413 is the least onerous path
6 to those interests. Therefore, the Court cannot find that HB 413 survives strict
7 scrutiny, and Defendants have not met their burden to show they are entitled to
8 judgment on the pleadings on this claim.⁵

9 2. *Equal Protection*

10 MontPIRG alleges that HB 413 violates the Montana Constitution’s guarantee
11 of equal protection. Am. Compl., ¶¶ 45–55. Specifically, it alleges that HB 413 is
12 facially discriminatory by imposing a heightened residency requirement on certain
13 groups, like students, thereby creating two similarly situated classes. *Id.*
14 Accordingly, MontPIRG alleges that strict scrutiny applies, and that HB 413 cannot
15 satisfy strict scrutiny because there is no compelling state interest in requiring
16 students and others with a “temporary purpose” to declare their intention to make
17 Montana their “permanent” home. *Id.*, ¶ 52.

18 The Montana Constitution guarantees that “[n]o person shall be denied the
19 equal protection of the laws.” Mont. Const. art. II, § 4. “[T]he Montana Constitution
20

⁵ *Cf.* Order Granting Plaintiff’s Motion for Preliminary Injunction, at 14–20.

1 provides even more individual protection than does the Fourteenth Amendment to
2 the U.S. Constitution.” *A.J.B. v. Mont. Eighteenth Jud. Dist. Ct., Gallatin Cnty.*,
3 2023 MT 7, ¶ 24, 411 Mont. 201, 523 P.3d 519. “[T]he principal purpose of
4 Montana’s Equal Protection Clause is to ensure that Montana’s citizens are not
5 subject to arbitrary and discriminatory state action.” *Powell v. State Comp. Ins.*
6 *Fund*, 2000 MT 321, ¶ 16, 302 Mont. 518, 15 P.3d 877; *see also A.J.B.* (stating the
7 equal protection clause “embod[ies] a fundamental principle of fairness: that the law
8 must treat similarly-situated individuals in a similar manner.”). Courts evaluate
9 potential equal protection violations under a three-step process: “(1) we identify the
10 classes involved and determine if they are similarly situated; (2) we determine the
11 appropriate level of scrutiny to apply to the challenged statute; and (3) we apply the
12 appropriate level of scrutiny to the statute.” *A.J.B.*, ¶ 25.

13 First, to identify the classes, courts “isolate the factor allegedly subject to
14 impermissible discrimination. If the two classes are equivalent in all other respects,
15 they are similarly situated.” *A.J.B.*, ¶ 26. Here, HB 413 facially discriminates against
16 persons who have relocated to or within Montana for “temporary purposes,” and in
17 particular those who relocate for “temporary work, training, or an educational
18 program,” by subjecting them to heightened residency requirements. Thus, the two
19 classes involved are: (1) individuals who relocate to or within Montana for
20 temporary purposes but otherwise satisfy Montana’s residency requirements; and (2)

1 all other individuals who satisfy Montana’s residency requirements. These classes
2 are equivalent in all other respects.

3 Defendants argue that HB 413 does not create similarly situated classes
4 because such “classes existed before the legislation was passed, persons temporarily
5 staying in an area for purposes of work or training with no intention of making that
6 place their residence.” Defs. Br. in Supp., at 17. They go on to argue that “the
7 determination to become a resident of a new county is a personal choice. All a person
8 must do is make the conscious decision to become an intended resident of the county
9 and comply with the mandates of Section 13-1-111.” *Id.*, at 17. This argument is
10 unpersuasive for two reasons. First, whether or not classes existed prior to passage
11 of the legislation at issue is not a relevant inquiry under Montana’s well established
12 three-step process for evaluating potential equal protection violations. Second,
13 Defendants again misstate HB 413’s requirements. The alleged discrimination here
14 is that individuals who relocate to or within Montana must satisfy the new,
15 heightened requirement of having a future intent to make Montana or the county
16 where they reside their permanent home at the conclusion of their temporary
17 purpose. Making a “conscious decision to become an intended resident” does not
18 satisfy the new, heightened residency requirements. HB 413 requires something
19 more like a conscious decision to become a permanent resident of Montana in the
20 future—even where an individual meets all other voter qualifications.

1 Next, having identified the classes and determining that they are similarly
2 situated, the Court must determine the appropriate level of scrutiny to apply. “Strict
3 scrutiny applies if a fundamental right is affected.” *Stand Up Mont.*, ¶ 10. Again, the
4 right to vote is a clear and unequivocal fundamental right under the Montana
5 Constitution. *MDP II*, ¶ 13; *see also Willems*, ¶ 32. HB 413 effects Montana’s
6 residency requirements, and consequently, the right to vote. Therefore, strict scrutiny
7 applies.

8 Third and finally, the Court must apply strict scrutiny to HB 413. To survive
9 strict scrutiny review, Defendants are required to demonstrate that HB 413 is
10 “justified by a compelling state interest and [is] . . . narrowly tailored to effectuate
11 only that compelling interest.” *Stand Up Mont.*, ¶ 28. Again, Defendants make no
12 argument in the present *Motion* that HB 413 is narrowly tailored to effectuate a
13 compelling government interest. Therefore, Defendants have not met their burden to
14 show they are entitled to judgment on the pleadings on this claim.

15 3. *Vagueness*

16 MontPIRG alleges that HB 413 is vague in violation of Montana’s Due
17 Process Clause. Am. Compl., ¶¶ 57–60. It specifically alleges that HB 413 contains
18 unclear and undefined terms, which will cause otherwise qualified voters to guess
19 whether they are permitted to register to vote in Montana. For example, MontPIRG
20 alleges the phrase “permanent home” leaves unclear how long a student must remain

1 in a location after graduation to be eligible to vote. MontPIRG further alleges that
2 prospective voters who misinterpret HB 413’s requirements may face criminal
3 liability under Mont. Code Ann. § 13-25-207(1), which makes it a crime to falsely
4 represent any information required upon a person’s voter registration form, as well
5 as under Mont. Code Ann. § 13-35-209, which criminalizes causing a person to be
6 registered to vote while knowing that the person is not entitled to do so.

7 “A non-criminal statute is unconstitutionally vague if a person of common
8 intelligence must guess at its meaning.” *Wing v. State*, 2007 MT 72, ¶ 11, 336 Mont.
9 423, 155 P.3d 1224 (citing *Mont. Media, Inc. v. Flathead County*, 2003 MT 23, ¶
10 58, 314 Mont. 121, 63 P.3d 1129); *see also State v. Stanko*, 1998 MT 321, ¶ 22, 292
11 Mont. 192, 974 P.2d 1132 (“A statute is void on its face if it fails to give a person of
12 ordinary intelligence fair notice that his contemplated conduct is forbidden.”).
13 Courts “presume that a person of average intelligence can comprehend a term of
14 common usage contained in a statute.” *Id.* (citing *State v. Trull*, 2006 MT 119, ¶ 33,
15 332 Mont. 233, 136 P.3d 551).

16 Here, MontPIRG submitted declarations from students who are unsure
17 whether they are eligible to gain residency and vote in Montana now that HB 413 is
18 in effect. *See Decl. Graybill Ex. 4*, ¶ 13 (Decl. Kleman) (stating “[t]he residency
19 requirements after HB 413 are confusing, and I am nervous about advising and
20 encouraging new registrants . . . and potentially getting myself or MontPIRG

1 penalized[] in case I misunderstand who is eligible or how to assess their intent to
2 make Missoula their permanent home.”); *id.* Ex. 5, ¶ 8 (Decl. Murphy) (stating “it is
3 unclear to me whether I am eligible to register in Missoula because I cannot presently
4 say that I intend to remain in Missoula or Montana following my graduation”); *id.*
5 Ex. 6, ¶ 9 (Decl. Rosenberg) (stating “it is unclear to me whether I am still eligible
6 to vote in Montana because I cannot presently say that I intend to remain in Missoula
7 or Montana following my graduation.”). This uncertainty is further evidenced by the
8 declaration from MontPIRG’s Executive Director, who avers that HB 413 makes it
9 more difficult to advise college students about their eligibility to register and vote.
10 *See id.* Ex. 7, ¶¶ 12–20 (Decl. McGovern) (stating “HB 413 is already making it
11 more difficult for MontPIRG to advise and register college students” and
12 “MontPIRG is currently at a loss as to how to appropriately advise” students “about
13 whether they qualify to register and vote[.]”).

14 For purposes of this *Motion*, the Court must assume all of MontPIRG’s well-
15 pleaded factual allegations are true, and that Defendants’ contravening assertions are
16 false. Accordingly, the Court assumes that HB 413, or at least the phrase “permanent
17 home” as used therein, is vague and has a chilling effect on otherwise eligible
18 students who wish to exercise their right to vote, and it assumes Defendants’
19 contravening assertion that a reasonable person can understand what is prohibited is
20 false. It is Defendants’ burden to show they are entitled to judgment as a matter of

1 law to succeed on this *Motion*. Defendants have not met this burden because they
2 merely stated the law was “not complicated” and defended the unchallenged one
3 residence rule pursuant to Mont. Code Ann. § 13-1-113.

4 Indeed, Defendants even argue that the “real question” is whether a reasonable
5 person understands what is prohibited by law. The declarations in the record show
6 the answer to that question is no. Moreover, it seems Defendants do not even
7 understand what is prohibited by HB 413. Despite the fact that they advocate for a
8 plain language interpretation, in order to reach their proffered construction that HB
9 413 does not apply to postsecondary education, they ultimately advance seldom
10 discussed canons of statutory construction and twist themselves up trying to
11 convince the Court to read in words that are not there. Their argument is inherently
12 unreasonable, and no reasonable person would follow Defendants’ tortured path as
13 opposed to assuming “educational program” means what it says. Therefore,
14 Defendants are not entitled to judgment as a matter of law on this claim.

15 4. *Young Montanans’ Right to Suffrage*

16 Finally, MontPIRG alleges that HB 413 contravenes the Montana
17 Constitution’s definition of “adult” by hindering student voters who are
18 disproportionately young and belong to the precise classification of voters which
19 Article II, § 14 of the Montana Constitution protects by declaring that “[a] person 18
20 years of age or older is an adult for all purposes[,]” with the only exceptions under

1 law being allowances for statutory age limits on the purchase of alcohol, tobacco,
2 and marijuana products. Am. Compl., ¶¶ 61–73. To this end, MontPIRG alleges HB
3 413 was motivated by a discriminatory purpose and in response to an unprecedented
4 wave of political activism by young Montanans. *Id.*, ¶ 71. Accordingly, because the
5 rights protected by Article II, § 14 are fundamental, MontPIRG alleges that strict
6 scrutiny applies. *Id.*, ¶ 72.

7 For purposes of this *Motion*, the Court must assume all of MontPIRG’s well-
8 pleaded factual allegations are true and that Defendants’ contravening assertions are
9 false. Accordingly, the Court assumes that HB 413 disproportionately affects young
10 voters, that this effect was intentional, and that strict scrutiny applies. It is
11 Defendants’ burden to show they are entitled to judgment as a matter of law on this
12 claim. Again, Defendants have not met this burden because they failed to address
13 MontPIRG’s allegations in the present *Motion*; instead, they argued Montana’s
14 residency requirements were functionally unchanged by HB 413, that HB 413
15 impacts people equally regardless of their age, and they made no arguments showing
16 HB 413 can survive strict scrutiny review. Therefore, Defendants are not entitled to
17 judgment as a matter of law on this claim.

18 **V. CONCLUSION**

19 A court may enter judgment on the pleadings where no material fact remains
20 to be resolved and the movant is entitled to judgment as a matter of law. Taking all

1 of MontPIRG’s well-pleaded factual allegations as true, and taking all of
2 Defendants’ contravening assertions as false, Defendants failed to meet their burden
3 to show that they are entitled to judgment as a matter of law on any of MontPIRG’s
4 claims. Moreover, Defendants’ argument itself all but concedes that HB 413 is
5 facially unconstitutional if “educational program” applies to postsecondary students
6 and educational programs. A plain language interpretation makes clear it does.
7 Therefore, for all of the foregoing reasons, the Court hereby DENIES Defendants’
8 *Motion*.

9 DATED this 13th day of February, 2026.

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11 

12
13 _____
14 Hon. Jason Marks
15 District Court Judge

16
17 cc: Austin Miles Knudsen, Esq.
18 Michael D. Russell, Esq.
19 Thane Johnson, Esq.
20 Alwyn T. Lansing, Esq.
Michael Noonan, Esq.
Raphael Jeffrey Carlisle Graybill, Esq.