Hon. Jason Marks, District Court Judge
Fourth Judicial District, Dept. No. 4
Missoula County Courthouse
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Missoula, Montana 59802
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MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

MONTANA PUBLIC INTEREST RESEARCH GROUP, Plaintiff, v. STATE OF MONTANA and CHRISTI JACOBSEN, in her official capacity as Montana Secretary of State, Defendants.	Dept. No. 4 Cause No. DV-25-419 **ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

This matter comes before the Court on Plaintiff Montana Public Interest Research Group's ("MontPIRG") *Motion for Preliminary Injunction* ("*PI Motion*") (Doc. 19). The Court has considered the *PI Motion* and the corresponding Brief in Support (Doc. 20) and Declaration (Doc. 21), the State of Montana's and Christi Jacobsen's, in her official capacity as Montana Secretary of State, (collectively "Defendants") Brief in Opposition (Doc. 28), and MontPIRG's Reply Brief (Doc.

36) and Supplemental Declaration (Doc. 37). The Court is fully informed and prepared to rule.

ORDER

The Court hereby GRANTS MontPIRG's *PI Motion*.

MEMORANDUM

I. FACTUAL BACKGROUND

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

Voting Eligibility Generally

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

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

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

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

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

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

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

HB 413's Legislative History

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

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

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

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

> [A] student that comes from Helena and they go and temporarily live 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 . . . .

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

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

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

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

Representative Peter Strand tried to address concerns about HB 413's effect on students and fears about inconsistencies in its application by proposing an amendment that would define the word "temporary" to require a two-week timeframe. *Id.*, ¶ 35; *see also* Decl. Graybill Ex. 11; Supp. Decl. Graybill Ex. 2 (Doc. 37) (proposed amendment to read: "An individual may not gain a residency in a 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.").

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

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

II. PROCEDURAL BACKGROUND

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

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

On July 16, 2025, the case was remanded to District Court. On October 7, 2025, MontPIRG filed the *PI Motion*, which moves the Court to preliminarily enjoin HB 413's student residency restriction. Defendants oppose the *PI Motion*. Briefing concluded on December 2, 2025.

A preliminary injunction hearing occurred on February 6, 2026.

III. LEGAL STANDARD

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Cross et al. v. State et al.*, 2024 MT 303, ¶ 19, 419 Mont. 290, 560 P.3d 637. In 2023, the Montana Legislature adopted the federal four-factor standard as enunciated in *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008). Now, an applicant must establish the following to obtain a preliminary injunction:

> (a) the applicant is likely to succeed on the merits;
>
> (b) the applicant is likely to suffer irreparable harm in the absence of preliminary relief;
>
> (c) the balance of the equities tips in the applicant's favor; and
>
> (d) the order is in the public interest.

Mont. Code Ann. § 27-19-201(1) (2025). The amended statute expresses the Montana Legislature's intent that the language mirror the federal preliminary injunction standard, and that interpretation and application closely follow United States Supreme Court case law. *Cross et al.*, ¶ 19. Accordingly, the test is conjunctive, and the applicant "bears the burden of establishing the likelihood of each element . . . ." *Id.*

IV. ANALYSIS

Likelihood of Success on the Merits

"To succeed on its request for preliminary relief in a constitutional challenge, an applicant must establish a prima facie case of a violation of its rights under the constitution." *Id.*, ¶ 33 (internal citations omitted). However, "[a]ll courts agree that [the applicant] . . . need not show a certainty of winning." *Id.*

Preliminarily, based on Defendants' *Motion* and position during the hearing on February 6, they all but concede that HB 413 is facially unconstitutional if it applies to postsecondary educational programs and students. The Court has found that it does. *Cf.* Order Denying Defendants' Motion for Judgment on the Pleadings. Nevertheless, the Court will proceed with a preliminary injunction analysis.

1. Right to Suffrage

The Montana Constitution guarantees that "[a]ll elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." Mont. Const. art. II, § 13. The Montana Supreme Court has held that "both the plain meaning of the right, unchanged since 1884, and history show that this right is broad and strong[,]" and this provision affords greater protection of the right of suffrage than that afforded by the United States Constitution. *See, e.g.*, *Montana Democratic Party v. Jacobsen*, 2024 MT 66, ¶¶ 17, 35, 416 Mont. 44, 545 P.3d 1074 [hereinafter *MDP II*] (*cert. denied sub nom.*, *Jacobsen v. Mont. Democratic Party*, 2025 U.S. LEXIS 415 (U.S. Jan. 21, 2025)). Yet the Montana Constitution "also entrusts the Legislature with the responsibility

of providing procedures for conducting elections." *Id.*, ¶ 35 (citing Mont. Const. art. IV, § 3) ("The legislature shall provide by law the requirements for residence, registration, absentee voting, and administration of elections . . . . and shall insure the purity of elections and guard against abuses of the electoral process."). The Montana Supreme Court has stated that "the Legislature's responsibility must be carefully scrutinized against our most basic right to vote, which is 'the pillar of our participatory democracy . . . [and] without which all other[] [rights] are meaningless.'" *Id.*, ¶ 14 (quoting *Mont. Democratic Party v. Jacobsen*, 2022 MT 184, ¶ 19, 410 Mont. 114, 518 P.3d 58).

In order to determine the applicable level of scrutiny, the Court must first determine whether HB 413 "impermissibly interfere[s]" with a fundamental right[1] or "minimally burdens" it. *Id.*, ¶¶ 35, 38. A law minimally burdens the right to vote when "[n]o person is prevented from voting" by it; in those cases, a middle-tier analysis is appropriate. *Id.*, ¶¶ 38, 51. A law impermissibly interferes with the right to vote when it "grants the right to vote to some citizens and denies the franchise to others[,]" or where it "interferes with all electors' right to vote generally, or [it] interferes with certain subgroups' right to vote specifically." *Id.*, ¶ 34 (citing *Finke v. State ex rel. McGrath*, 2003 MT 48, ¶¶ 17–19, 314 Mont. 314, 65 P.3d 576); *Kramer v. Union Free Sch. Dist.*, 395 U.S. 621, 627 (1969)). In those cases, a strict

[1] 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.

scrutiny analysis is appropriate. *Id.*, ¶ 34 (citing *Wadsworth v. State*, 275 Mont. 287, 302, 911 P.2d 1165, 1173–74) (1996)) ("Montana caselaw holds that when a law impermissibly interferes with a fundamental right, we apply a strict scrutiny analysis.").

In *MDP II*, the Montana Supreme Court considered a bill that made student IDs a secondary form of voter identification instead of a primary form. It did not find that the bill impermissibly interfered with the right to vote in part because the "District Court found that plaintiffs had not identified a single individual who was unable to vote due to the new ID requirements." *Id.*, ¶ 111. Instead, it found the bill "impose[d] a minimal burden on their right to vote" based on evidence that "students are generally less likely to have a form of primary identification" and "secondary documents required if they wish to vote using their student IDs." *Id.* Accordingly, it applied the more lenient middle-tier analysis. *Id.*, ¶ 112. Nevertheless, it concluded that the bill was unconstitutional because "[e]xcluding student IDs from the list of acceptable photo IDs imposes a burden on student voting and the Secretary has not established that it is necessary for any legitimate government purpose, much less that it is more important than the right to vote. Nor is it a reasonable restriction of voter's rights." *Id.*, ¶ 119.

Here, HB 413 bars individuals from gaining residency if they relocate to or within Montana and are engaged in any "temporary purpose," including educational

programs, and who either do not intend to make Montana or the county they live in their "permanent home" at the conclusion of the program or are uncertain of their future plans. The result is that HB 413 bars otherwise qualified students from gaining residency and therefore from voting.

For example, Courtney Rosenberg is a graduate student at the University of Montana. Decl. Graybill Ex. 6, ¶ 2 (Decl. Courtney Rosenberg). She considers Montana home, she resides here year-round, she has all her personal belongings here, she has a local driver's license, her car is titled here, and she has completed internships and volunteer work here. *Id.* Ex. 6, ¶¶ 4–6. Prior to moving to Missoula for school she lived in Colorado and Florida. *Id.* Ex. 6, ¶ 3. She registered to vote in Missoula in August of 2024, before HB 413 went into effect. *Id.* Ex. 6, ¶ 2. However, because she does not yet have post-graduate employment, she cannot say she intends to make Montana her permanent home after she graduates. *Id.* Ex. 6, ¶ 7. Ms. Rosenberg has declared that it is unclear to her whether she is still eligible to vote in Montana now that HB 413 is in effect, and she did not vote in the municipal election in September as a direct result. *Id.* Ex. 6, ¶ 9. Thus, unlike *MDP II*, MontPIRG has identified an individual who did not vote due to the new registration requirements. *See also id.* Ex. 7, ¶¶ 12–20 (Decl. Dean McGovern) (stating "I am already seeing many students err on the side of caution and make the decision not to register or vote

when they are unsure about how the law applies to them."). Accordingly, HB 413 impermissibly interferes with the right to vote.

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

Moreover, MontPIRG has demonstrated that, in some cases, HB 413 bars certain subgroups from voting anywhere. For example, Josephine Kleman moved to Missoula in 2022 to attend the University of Montana. *Id.* Ex. 4, ¶ 2 (Decl. Josephine Kleman). Prior to moving to Missoula, she lived in Kentucky. *Id.* Ex. 4, ¶ 4. She is on schedule to earn her bachelor's degree at the end of the academic year. *Id.* Ex. 4, ¶ 3. She lived in the dorms during her freshman year and has rented private housing in Missoula since then. *Id.* Ex. 4, ¶ 5. Prior to HB 413 going into effect, she registered to vote at her Missoula residence and voted here in the 2024 general election. *Id.* Ex. 4, ¶ 6. She considers Missoula her home; it is where she lives, works, pays rent, pays

taxes, has almost all her belongings, and where she intends to return when she is away. *Id.* Ex. 4, ¶¶ 7–8. She plans to continue living, working, and volunteering in Missoula at least until she graduates. *Id.* Ex. 4, ¶ 12. However, she cannot say she intends to make Montana her permanent home after graduation, in part because she may apply to AmeriCorps-style programs. *Id.* Ex. 4, ¶ 11. Accordingly, under HB 413, she is no longer eligible to gain residency in Montana. Importantly, she is now also unable to vote in Kentucky because she previously voted in Missoula and because she resides here. *See* Ky. Rev. Stat. Ann. § 116.035(3) (a person loses residency under Kentucky law if they move to another state "to reside there an indefinite time, or by voting there."). This exemplifies a key issue created by HB 413 for students in similar situations: even if they reside here, have fixed habitation here, and have an intent to return whenever absent, they cannot gain residency or vote here, but their residency here also prevents them from registering to vote elsewhere. In other words, because they reside here, they cannot satisfy the basic residency requirement necessary to vote in a different state. Thus, MontPIRG has demonstrated that HB 413 impermissibly interferes with students' right to vote.

The declarations submitted by MontPIRG demonstrate that HB 413 results in a total denial of the franchise for some students. Yet, Defendants' stance is that HB 413 does not impermissibly interfere with—or even burden—the right to vote. They argue that MontPIRG's evidence is insufficient because the declarations from

students are merely "self-serving confusion rather than documented disenfranchisement[,]" and because MontPIRG fails to show actual disenfranchisement of qualified voters. Def.'s Br. in Opp., at 6. Defendants confuse the applicable standard. The level of scrutiny turns on whether HB 413 impermissibly interferes with the right to vote, not whether it has already resulted in a specific denial of the franchise. In determining whether a law impermissibly interferes with the right to vote Montana courts look at the law's effect; the test is not whether officials have already denied entry to a polling place during an election. *Id.*, ¶¶ 70–71 (finding impermissible interference where eliminating election-day registration would, as a practical matter, prevent people from voting at a future date). The declarations before the Court demonstrate that HB 413 impermissibly interferes with students' right to vote due to its effect on numerous otherwise qualified voters residing in Montana.

Moreover, Defendants' position would put any person that HB 413 effects in an untenable position. To establish "documented disenfranchisement" in Defendants eyes, students who do not intend to make Montana their permanent home after graduation would be required to attempt to register and vote, thereby opening themselves up to the threat of criminal prosecution for deceptive election practices and/or fraudulent registration. *See* Mont. Code Ann. §§ 13-35-207(1), -209; *see also MedImmune, Inc. v. Genetech, Inc.*, 549 U.S. 118, 129 (2007) ("[W]here threatened

action by government is concerned, we do not require a plaintiff to expose himself to liability before bringing suit to challenge the basis for the threat . . . ."). For all of the foregoing reasons, Defendants' arguments are unpersuasive. HB 413 impermissibly interferes with students' right to vote in Montana. Accordingly, strict scrutiny is the appropriate level of review.

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

The stated purpose or justification for HB 413 is to "basically just clarif[y] the definition of temporary residency in relationship to determining who is qualified to vote in our elections." Decl. Graybill Ex. 2, at 2:12–15; *see also* Defs.' Br. in Opp., at 2 (stating HB 413 was enacted "to clarify the meaning of the existing phrase 'temporary purposes' and extend the residency requirement statewide."). Clarification is not a compelling state interest. And, assuming arguendo it is, HB 413 fails to achieve that purpose. HB 413 offers no definition of "temporary residency," nor does it clarify the word "temporary" beyond generally stating

"temporary purposes" include work, training, and educational programs. Indeed, the Legislature actually rejected a proposed amendment that would have provided clarification. That amendment proposed clarifying that "temporary" here meant "lasting fewer than 14 days." *Id.* Ex. 11; *see also* Supp. Decl. Graybill Ex. 2. But the bill's sponsor called it "not a friendly amendment[,]" and it was rejected. *Id.* The State's interest in clarifying the definition of "temporary residency" cannot justify a law that does not actually clarify that definition. *See, e.g.*, *MDP II*, ¶ 34 (finding the state's interest in reducing election workers' administrative burdens could not justify a law that did not actually reduce those burdens); *Planned Parenthood of Mont. v. State*, 2024 MT 227, ¶ 30, 418 Mont. 226, 557 P.3d 471 (finding the state's interest in preventing a health risk could not justify an abortion ban that did not address any health risk.).

Instead of clarifying Montana's existing law governing the rules for determining residency when an individual enters for temporary purposes, HB 413 changed and heightened those rules. Until HB 413, the law stated "[a]n individual may not gain a residence in a county if the individual comes in for temporary purposes without the intention of making that county the individual's home." Mont. Code Ann. § 13-1-112 (2003). Now, the law states:

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

Mont. Code Ann. § 13-1-112(5) (2025) (changes in bold). HB 413 goes well beyond its stated purpose because it subjects otherwise qualified students to new, heightened residency requirements by requiring them to have a future intent of remaining in Montana after they graduate. HB 413 even seems to actively work against its stated justification of clarification by introducing a new, undefined term: "permanent home."[2] The record makes clear that this phrase has already caused confusion for otherwise qualified voters. *See infra*, pp. 22–25. Therefore, for the foregoing reasons, HB 413's stated purpose of clarification does not amount to a compelling state interest, and even if it did, the record does not reflect that it achieves that purpose, nor is it narrowly tailored to effectuate only that interest.

[2] The Court is unpersuaded by Defendants' argument that "permanent" only requires a "current, genuine commitment rather than an unchangeable lifelong vow" because the term aligns with longstanding residency concepts and definitions. Defs.' Br. in Opp., at 9. Under a plain language interpretation of HB 413, which Defendants advocate for in their *Motion*, the Court's role is "simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or omit what has been inserted." Mont. Code Ann. § 1-2-101 (2025). "Permanent home" is different from "residence." The latter is defined to mean where a person's "habitation is fixed," which is where "whenever the individual is absent, the individual has the intention of returning." Mont. Code Ann. § 13-1-112(1). The former is defined to mean "continuing or enduring without fundamental or marked change." *Permanent*, MIRRIAM-WEBSTER'S DICTIONARY, https://www.merriam-webster.com/dictionary/permanent (last visited January 25, 2026). HB 413 does not modify or qualify "permanent home" to suggest it means anything other than its plain and ordinary meaning. Moreover, "domicile" is defined to mean "[t]he place where a person has his true fixed *permanent home* and principal establishment, and to which place he has, whenever he is absent, the intention of returning, and from which he has no *present intention* of moving." *Permanent Home*, BALLENTINE'S LAW DICTIONARY (3rd Ed. 2010) (emphasis added). HB 413's use of "permanent home" differs from the use of "permanent home" in "domicile's" definition because it is modified by a future intention. In other words, HB 413 requires persons to intend to make Montana their "permanent home" in the future, whenever their temporary purpose concludes to gain residency; a present intention of not moving is not enough.

Now, in opposition to MontPIRG's *PI Motion*, Defendants offer several additional purported interests including election purity, integrity, prevention of abuse, and "ensuring votes reflect committed, bona fide residents and guarding against transient influence." Defs.' Br. in Opp., at 8–9. The Court need not give credence to Defendants' post hoc rationalizations. *See, e.g.*, *Roe v. Critchfield*, 137 F.4th 912, 922 (9th Cir. 2025) (explaining that even under intermediate scrutiny, "the justification must be genuine, not hypothesized or invented post hoc in response to litigation.").

Even if the Court were to entertain Defendants' post hoc rationalizations, "[i]t is [still] incumbent upon the state to demonstrate a compelling interest," which "entails something more than simply saying it is so." *Wadsworth*, 275 Mont. at 303, 911 P.2d at 1174. Ensuring the purity of elections and guarding against abuses of the electoral process certainly qualify as compelling state interests. *See* Mont. Const. art. IV, § 3; *see also MDP II*, ¶ 102 (citing *Larson v. State*, 2019 MT 28, ¶ 40, 394 Mont. 167, 434 P.3d 241) ("Montana has a compelling interest in imposing reasonable procedural requirements tailored to ensure the integrity, reliability, and fairness of its election processes."). However, Defendants have not proffered evidence that HB 413 was enacted to address those interests. To the contrary, HB 413's sponsor testified that the bill was not related to any "criminal action going on[,]" like voter fraud or other issues with election integrity. Decl. Graybill Ex. 2, at 21 (stating "I

just don't know that this -- this bill was intended to address people who were deliberately committing a crime. It was just to add more clarity to help people understand the qualifications."). And even if the Court were to disregard that testimony, Defendants nevertheless fail to demonstrate any facts supporting its contention that HB 413 serves these post hoc interests. In response to MontPIRG's discovery requests, Defendants stated, "no facts have been developed to support each State interest" because discovery had not occurred. Decl. Graybill Ex. 14, at 3. Defendants further admitted "[t]here exist no documents" responsive to MontPIRG's request to produce all evidence regarding Defendants' post hoc asserted state interests. *Id.* Ex. 15, at 3. During the hearing, the Court gave Defendants another opportunity to proffer evidence indicating voter fraud or any other election security issues in Montana. They were unable to do so.

Defendants also claim that HB 413 provides the least onerous path because it "refines existing residency rules without blanket bans." Defs. Br. in Opp., at 9. Not so. Again, HB 413 goes well beyond refining the existing rules; it creates new, heightened residency requirements for students, thereby impermissibly interfering with their right to vote. Defendants cannot survive strict scrutiny merely by reciting potential justifications, especially when those justifications diverge from a law's stated purpose. *See Cross et al.*, ¶¶ 35–38 (affirming this Court's conclusion that a law failed strict scrutiny review because "the State did not demonstrate on the

preliminary injunction record" that the law served a compelling state interest.). Therefore, like *MDP II*, the State has not established that the changes made by HB 413 are necessary for any legitimate government purpose. *See MDP II*, ¶ 119. For all of the foregoing reasons, HB 413 does not pass strict scrutiny review.

Finally, the Court notes that HB 413's future intent requirement results in a denial of the franchise for a student, for example, who moves from Kalispell to Missoula for school when they cannot affirmatively say they intend to live in Missoula or Montana after they graduate—even when they meet all other requirements, they grew up in Montana, they live in Missoula for four years, they work here, they seek higher education here, and they pay taxes here. Meanwhile, under HB 413, an 18-year-old who moves to Montana from out-of-state on a whim, has no job, and is not pursing an education is able to vote if they reside here for 30 days, have fixed habitation and a present intent to return, and meet all other general requirements—even when they intend to move to a different state within a year. If the State truly enacted HB 413 to "ensur[e] votes reflect committed, bona fide residents" and to "guard[] against transient influence[,]" this example highlights how poorly the law is tailored. Defs.' Br. in Opp., at 8–9.

In summary, although "the Legislature may take preventative steps to 'insure the purity of elections,' Mont. Const. art. IV, § 3, it must do so in a way that does not interfere with the right to vote or by narrowly tailoring the law to its compelling

interest." *MDP* II, ¶ 102. HB 413 both impermissibly interferes with the right to vote for certain subgroups and is not narrowly tailored to achieve a compelling state interest. Therefore, MontPIRG is likely to succeed on the merits of this claim because it has established a prima facie case of a violation of the constitutional right to vote under the Montana Constitution. *See Cross et. al.*, ¶ 33.

2. Equal Protection

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

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

Defendants argue that individuals "relocating for temporary purposes without intent to remain permanently" are not similarly situated to "permanent residents" because "[p]ermanent residents with intent to stay are eligible to vote, while temporary residents without such intent are not." Defs.' Br. in Opp., at 11. But MontPIRG does not challenge the general requirement that a person must have an intent to stay—or, as the relevant statute states, an intent to return whenever absent—to gain residency in Montana. *See* Mont. Code Ann. § 13-1-112(1). MontPIRG's challenge is that having an intent to stay is no longer enough for individuals under HB 413's sweep; now, those individuals must also satisfy the additional requirement

of having a future intent to make Montana their "permanent home" at the conclusion of their temporary purpose. Accordingly, Defendants' argument is unpersuasive.

Second, the Court must determine the appropriate level of scrutiny to apply. "Strict scrutiny applies if a fundamental right is affected." *Stand Up Mont.*, ¶ 10. Again, the right to vote is a clear and unequivocal fundamental right under the Montana Constitution. *MDP II*, ¶ 13; *see also Willems*, ¶ 32. HB 413 affects Montana's residency requirements, and consequently, the right to vote. Therefore, strict scrutiny applies.

Third and finally, the Court must apply strict scrutiny to HB 413. The Court incorporates its previous analysis of HB 413 under strict scrutiny here. For the same reasons, HB 413 fails to pass strict scrutiny review. Therefore, MontPIRG is likely to succeed on the merits of this claim because it has established a prima facie case of a violation of the constitutional right to equal protection of the laws. *See Cross et al.*, ¶ 33.

3. Vagueness

"A non-criminal statute is unconstitutionally vague if a person of common intelligence must guess at its meaning." *Wing v. State*, 2007 MT 72, ¶ 11, 336 Mont. 423, 155 P.3d 1224 (citing *Mont. Media, Inc. v. Flathead County*, 2003 MT 23, ¶ 58, 314 Mont. 121, 63 P.3d 1129); *see also State v. Stanko*, 1998 MT 321, ¶ 22, 292 Mont. 192, 974 P.2d 1132 ("A statute is void on its face if it fails to give a person of

ordinary intelligence fair notice that his contemplated conduct is forbidden."). Courts "presume that a person of average intelligence can comprehend a term of common usage contained in a statute." *Id.* (citing *State v. Trull*, 2006 MT 119, ¶ 33, 332 Mont. 233, 136 P.3d 551).

MontPIRG argues that the words "temporary" and "permanent" as used in HB 413 lead to vagueness and chill otherwise qualified voters from registering. In response, Defendants argue "temporary" is not vague because it is accompanied by specific time-limited activities, like an educational program, and that "permanent" is not vague because it is "commonly used in defining residency for voting purposes and reflects the legal requirement of a stable and enduring connection to a specific location, consistent with the individual's intent." Defs. Br. in Opp., at 13. Defendants further argue that "permanent doesn't mean forever in this context." *Id.*

Here, as previously noted, the plain meaning of "permanent" is "continuing or enduring without fundamental or marked change." *See supra*, note 2. And where "fixed habitation" is modified by a present "intention of returning" under Mont. Code Ann. § 13-1-112(1), "permanent home" in HB 413 is modified by a future intent to make Montana home at the conclusion of the temporary purpose. *Id.* Additionally, HB 413 does not modify "permanent" to suggest it means anything other than its plain and ordinary meaning. Courts presume average people "can comprehend a term of common usage contained in a statute[,]" we do not presume

people can infer context clues from "longstanding residency concepts and definitions[,]" or assign meaning to a term other than its common usage when not queued to do so. *Wing*, ¶ 11 (citing *Trull*, ¶ 33); Defs.' Br. in Opp., at 9.

Defendants next argue that the relevant question is whether a reasonable person understands what is prohibited by the law. *State v. Thirteenth Jud. Dist. Ct.*, 2009 MT 163, ¶ 32, 350 Mont. 465, 208 P.3d 408. At this stage of the proceedings, to the degree it means something other than the dictionary definition, MontPIRG has successfully demonstrated that the answer to that question is no.[3] This is evidenced by the student declarations before the Court. *See* Decl. Graybill Ex. 4, ¶ 13 (Decl. Kleman) (stating "[t]he residency requirements after HB 413 are confusing, and I am nervous about advising and encouraging new registrants . . . and potentially getting myself or MontPIRG penalized[] in case I misunderstand who is eligible or how to assess their intent to make Missoula their permanent home."); *id.* Ex. 5, ¶ 8 (Decl. Murphy) (stating "it is unclear to me whether I am eligible to register in Missoula because I cannot presently say that I intend to remain in Missoula or Montana following my graduation"); *id.* Ex. 6, ¶ 9 (Decl. Rosenberg) (stating "it is unclear to me whether I am still eligible to vote in Montana because I cannot presently say that I intend to remain in Missoula or Montana following my

[3] *Cf.* Order Denying Defendants' Motion for Judgment on the Pleadings, at 29–30 (discussing how Defendants' position inherently demonstrates that a reasonable person does not understand what is prohibited by HB 413).

graduation."). This is further evidenced by the declaration from MontPIRG's Executive Director, who avers that HB 413 makes it more difficult to advise college students about their eligibility to register and vote. *See id.* Ex. 7, ¶¶ 12–20 (Decl. McGovern) (stating "HB 413 is already making it more difficult for MontPIRG to advise and register college students" and "MontPIRG is currently at a loss as to how to appropriately advise" students "about whether they qualify to register and vote[.]").

"A statute is required to be specific enough . . . to prevent the chilling of constitutionally protected activity." *State v. Bush*, 195 Mont. 475, 478, 636 P.2d 849 (1981). The declarations in the record make clear that a reasonable person does not understand what is prohibited by HB 413. This goes beyond so-called "self-serving confusion." Defs. Br. in Opp., at 6. The evidence before the Court demonstrates that HB 413 has had a chilling effect on students registering and voting—constitutionally protected activities. Therefore, MontPIRG has established a prima facie case of a violation of its constitutional right to due process for vagueness, and it is likely to succeed on the merits of this claim. *See Cross et al.*, ¶ 33.

B. MontPIRG is Likely to Suffer Irreparable Harm Absent Preliminary Relief

"An applicant for a preliminary injunction must demonstrate that the applicant is likely to suffer irreparable harm in the absence of preliminary relief." *Cross et al.*, ¶ 47. Irreparable harm is "harm for which there is no adequate legal remedy[.]" *Ariz.*

Dream Act Coal. v. Brewer, 757 F.3d 1053, 1068 (9th Cir. 2014) (citing *Rent-A-Ctr., Inc. v. Canyon Television & Appliance Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991)). "A showing of irreparable injury must be likely; speculative injury is insufficient." *Cross et al.*, ¶ 47 (citing *Winter*, 555 U.S. at 22).

"When an alleged deprivation of a constitutional right is involved . . . most courts hold that no further showing of irreparable injury is necessary." *Cross et al.*, ¶ 48; *see also Melendres v. Arpaio*, 695 F.3d 990, 1000 (9th Cir. 2012) ("It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury."); *Mont. Cannabis Indus. Ass'n v. State*, 2012 MT 201, ¶ 15, 366 Mont. 224, 286 P.3d 1161 (citing *Elrod v. Burns*, 427 U.S. 347, 364 (1976)) ("[T]he loss of a constitutional right constitutes irreparable harm for the purpose of determining whether a preliminary injunction should be issued.").

MontPIRG argues HB 413 will exclude—and has already impacted—many of its constituents from voting unless enjoined. It also argues that HB 413 directly burdens its constitutionally protected voter registration activities, that it will chill MontPIRG and its staff and volunteers from the same, and that it has already hampered its ability to advise students on residency requirements. At this stage, MontPIRG has demonstrated that HB 413 impermissibly interferes with, and in some cases results in a total denial of, the right to vote for students. *See, e.g.*, Decl.

Graybill Ex. 4, ¶ 11 (Decl. Kleman); *id.* Ex. 5, ¶ 8 (Decl. Murphy); *id.* Ex. 6, ¶ 9 (Decl. Rosenberg); *id.* Ex. 7, ¶ 14 (Decl. McGovern).

MontPIRG has also demonstrated that its efforts to assist otherwise qualified student voters to register has been chilled. *Id.*, Ex. 6, ¶¶ 16, 20 (Decl. McGovern) ("HB 413 is already making it more difficult for MontPIRG to advise and register college students. Unless it is enjoined, HB 413 will continue to directly impact MontPIRG's ability to carry out our mission-critical voter registration and turnout efforts."). MontPIRG's alleged injury—the burdening or loss of the constitutional right to vote and the chilling of constitutionally protected activities—is irreparable with a monetary remedy. This, along with the allegations of deprivation of constitutional rights, makes MontPIRG's claims appropriate for a preliminary injunction. *Cross et al.*, ¶ 51.

The Court is not persuaded by Defendants' argument that the declarations before it represent unsubstantiated fear rather than irreparable harm. The preliminary injunction record shows students have already missed the chance to register and vote in municipal elections. *See, e.g.*, Decl. Graybill Ex. 5, ¶ 8 (Decl. Murphy) (stating she has not registered to vote because she is not sure she will live after she graduates); *id.* Ex. 6, ¶ 9 (Decl. Rosenberg) (stating she did not vote in September's municipal election because she cannot say she intends to remain in Montana after graduation); *id.* Ex. 7, ¶ 14 (Decl. McGovern) (stating "I am already seeing many

students err on the side of caution and make the decision not to register or vote when they are unsure about how the law applies to them."). That opportunity, once lost, is irretrievable. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) ("[O]nce the election occurs, there can be no do-over and no redress."). This harm is not speculative, nor unsubstantiated, nor self-serving.

Similarly, the Court is unpersuaded by Defendants' argument that students, including those whose declarations are in the record, will not be harmed because HB 413 "does not bar residency for those with genuine intent to make Montana their home post-temporary purpose." Defs.' Br. in Supp., at 14. That is not what HB 413 says. HB 413 bars individuals from gaining residency when they are without the intention of making Montana their "permanent home" at the conclusion of their temporary purpose. In other words, genuine intent to live in Montana for some duration after graduation is not enough; even students who genuinely intend to live in Montana after they graduate are harmed under HB 413 because they are barred from gaining residency unless they can say they will make Montana or the county they currently reside in their permanent home.

Finally, Defendants' argument that HB 413 represents the status quo is unpersuasive and, again, based on a fanciful construction of the new law. Prior to HB 413, persons who came into Montana for temporary purposes "without the intention of making that county" their home were barred from gaining residency.

Mont. Code Ann. § 13-1-112 (2003). Now, under HB 413, anyone who relocates to or within Montana for temporary purposes "without the intention of making that county or the state [their] permanent home at the conclusion of the temporary [purpose]" is barred from gaining residency. Mont. Code Ann. § 13-1-112(5) (2025). HB 413 clearly changed the residency requirements, thereby changing the status quo when it went into effect. Granting a preliminary injunction in this matter would restore the status quo, which bolsters MontPIRG's position. *See Cross et al.*, ¶ 52 ("The District Court did not err when it relied on preservation of the status quo in its preliminary injunction order."). The Court also points out that Defendants repeatedly argue that HB 413 is functionally the same as the pre-existing law; if true, they should agree there is no harm in reverting back to the previous iteration of subsection (5) to maintain the status quo while litigation plays out. Therefore, for all of the forgoing reasons, MontPIRG has demonstrated a likelihood of irreparable harm to it and all students burdened by HB 413.

C. Balance of the Equities & Public Interest

The third preliminary injunction factor asks whether "the balance of the equities tips in the applicant's favor[,]" and the final factor requires the applicant to establish that "the order is in the public interest." Mont. Code Ann. § 27-19-201(1)(c), (d). "When the government opposes a preliminary injunction, these two

factors merge into one inquiry." *Planned Parenthood of Mont. v. State*, 2024 MT 227, ¶ 34, 418 Mont. 226, 557 P.3d 471 (internal quotations omitted).

"The 'balance of equities' concerns the burdens or hardships to [Plaintiffs] compared with the burden on Defendants if an injunction is ordered." *Porretti v. Dzurenda*, 11 F.4th 1037, 1049 (9th Cir. 2021) (citing *Winter*, 555 U.S. at 24–31). MontPIRG alleges it and its members face irreparable harm and deprivation of constitutional rights, while an injunction would merely prevent Defendants from enforcing an unconstitutional statute. Defendants argue that the equities favor the State because MontPIRG failed to demonstrate irreparable harm or actual denial of voter registration or voting.

The Court has found that MontPIRG's evidence shows a likelihood that HB 413 has chilled constitutionally protected activity and violates constitutional rights. "It is always in the public interest to prevent the violation of a party's constitutional rights." *Planned Parenthood of Mont.*, ¶ 36. The Court has already addressed Defendants' argument that no irreparable harm is shown and that no "actual denials" of the right to vote have occurred and found it unpersuasive. Therefore, the balance of the equities tips in MontPIRG's favor.

Relatedly, "[t]he 'public interest' mostly concerns the injunction's 'impact on non-parties rather than parties.'" *Id.* (citing *Bernhardt v. L.A. Cnty.*, 339 F.3d 920, 931 (9th Cir. 2003)). "The public interest . . . favors permitting as many qualified

voters to vote as possible." *Obama for Am. v. Husted*, 697 F.3d 423, 437 (6th Cir. 2012). MontPIRG has demonstrated that HB 413 impermissibly interferes with students' right to vote and in some cases completely prevents otherwise qualified students from voting. This certainly impacts non-parties and prevents thousands of otherwise qualified citizens from voting, which is not in the public interest.

Defendants argue that the public interest in election integrity heavily outweighs "speculative harms" and warrants denial of the preliminary injunction. Again, this argument is unpersuasive because nothing in the record shows HB 413 promotes election integrity, and because MontPIRG's evidence demonstrates something more than speculative harm. It demonstrates that HB 413 has had a chilling effect on constitutionally protected activities and that it impermissibly interferes with students' right to vote. Therefore, MontPIRG has demonstrated that the balance of the equities tips in its favor and that a preliminary injunction is in the public interest.

V. CONCLUSION

MontPIRG has demonstrated a likelihood of success on the merits, that it is likely to suffer irreparable harm absent preliminary relief, that the balance of the equities tips in its favor, and that a preliminary injunction is in the public interest. Therefore, the Court hereby GRANTS MontPIRG's *PI Motion*.

DATED this 13th day of February, 2026.

Hon. Jason Marks
District Court Judge

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