

## MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

Plaintiff,

NORTHERN CHEYENNE TRIBE,  
BLACKFEET NATION, CONFEDERATED  
SALISH & KOOTENAI TRIBES, FORT  
BELKNAP INDIAN COMMUNITY, and  
WESTERN NATIVE VOICE,

Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA  
PUBLIC INTEREST RESEARCH GROUP,

Youth Plaintiff-Intervenors,

v.

STATE OF MONTANA and CHRISTI  
JACOBSEN, in her official capacity as  
Montana Secretary of State,

Defendants,

REPUBLICAN NATIONAL COMMITTEE,  
and MONTANA REPUBLICAN STATE  
CENTRAL COMMITTEE,

Defendant-Intervenors.

XDDV-25-2025-268

Hon. Adam Larsen

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION REGARDING  
IMPLEMENTATION OF SB490**

This matter comes before the Court, following completed briefing and oral argument on the following motions:

1. Plaintiff's *Motion for Partial Summary Judgment and Application for Preliminary Injunction*. (Doc. 76).
  - a. Defendant-Intervenor's *Combined Response*. (Doc. 98).
  - b. Defendant's *Combined Response to Motions for Preliminary Injunction*. (Doc. 101).
  - c. Defendant's *Combined Response to All Plaintiffs' Motions for Summary Judgment*. (Doc. 103).
  - d. Plaintiff's *Reply in Support of Plaintiff's Motion in the Alternative for a Preliminary Injunction*. (Doc. 109).
  - e. Plaintiff's *Reply in Support of... Summary Judgment*. (Doc. 116).
2. Plaintiff-Intervenor's *Motion for Summary Judgment or for a Preliminary Injunction*. (Doc. 79).
  - a. Defendant-Intervenor's *Combined Response*. (Doc. 98).
  - b. Defendant's *Combined Response to Motions for Preliminary Injunction*. (Doc. 101).
  - c. Defendant's *Combined Response to All Plaintiffs' Motions for Summary Judgment*. (Doc. 103).
  - d. Plaintiff-Intervenor's *Reply in Support of Motion for Preliminary Injunction*. (Doc. 108).
  - e. Plaintiff Intervenor's *Reply Brief in Support of Motion for Summary Judgment*. (Doc. 115).
3. Youth Plaintiff-Intervenor's *Motion for Summary Judgment or Preliminary Injunction*. (Doc. 82).
  - a. Defendant-Intervenor's *Combined Response*. (Doc. 98).
  - b. Defendant's *Combined Response to Motions for Preliminary Injunction*. (Doc. 101).
  - c. Defendant's *Combined Response to All Plaintiffs' Motions for Summary Judgment*. (Doc. 103).
  - d. Youth Plaintiff-Intervenor's *Reply Brief in Support of Motion for Preliminary Injunction*. (Doc. 110).
  - e. Youth Plaintiff-Intervenor's *Reply in Support of Motion for Summary Judgment*. (Doc. 117).
4. Defendant's *Motion for Protective Order*. (Doc. 95).
  - a. *Combined Response-All Plaintiffs* (Doc. 102).

- b. Defendant's *Reply in Support of Motion for Protective Order* (Doc. 113).
5. Defendant-Intervenor's *Cross Motion for Summary Judgment* (Doc. 97).
  - a. Plaintiff-Intervenor's *Brief in Opposition to Defendant-Intervenor's Cross Motion for Summary Judgment*. (Doc. 115).
  - b. Plaintiff's *Response in Opposition to Intervenor-Defendants' Cross-Motion*. (Doc. 116).
  - c. Defendant-Intervenor's *Reply*. (Doc 121).

This Order applies solely to the parties' requests for a preliminary injunction and does not make dispositive ruling regarding any of the other issues raised above. The Court has considered all the pleadings in the matter, as well as the exhibits, briefs, and supporting documents thereto. All Plaintiffs joined in a request for the Court to preliminarily enjoin the enactment and enforcement of the 2025 Montana Legislature's Senate Bill 490 ("SB490"). Youth Plaintiff-Intervenors likewise requested that the Court enjoin SB 276 from the same session. For the reasons discussed below, the Court grants Plaintiffs' request regarding enjoinder of SB490 and denies Youth Plaintiff-Intervenor's request as to SB 276.

#### **FINDINGS OF FACT**

1. Plaintiff Montana Federation of Public Employees ("MFPE"), Plaintiff-Intervenors, and Youth Plaintiff-Intervenors challenge the constitutionality of Senate Bill 490 ("SB 490"), which modifies the availability of election day registration ("EDR") in Montana elections.

2. The Framers of the 1972 Montana Constitution “inten[ded]...that election day registration should be available as long as it was workable in Montana.” *Mont. Democratic Party v. Jacobsen* (“MDP”), 2024 MT 68, ¶¶ 64, 67-68. For nearly two decades prior to the enactment of SB 490, Montana voters have utilized election day registration throughout the entirety of Election Day. *Id.* ¶¶ 64, 70. This practice has been in place since approximately 2006 and has become a widely utilized feature of Montana’s electoral system. *Id.* ¶ 6. *See also* Mont. Code Ann. § 13-2-304(1)(a), (2005 Mont. Laws ch. 286, § 1).

3. During that time, tens of thousands of Montana voters have relied upon EDR to register and vote on Election Day. See Plaintiffs’ *Joint Statement of Undisputed Material Facts*, Doc. 78 (“JSUMF”), ¶¶ 1-9.

4. The MDP Court recognized that EDR has become “wildly popular” and that its use has grown substantially over time. Montana voters have previously rejected attempts to eliminate it. *MDP*, ¶¶ 6, 64.

5. The Supreme Court also found that the number of voters late registering on Election Day is nearly equal to the number of voters who late register during the preceding 29 days combined. *MDP*, ¶ 71.

6. EDR serves as a critical safeguard for Montana voters who encounter issues with their voter registration, including errors, omissions, or changes in residence, at or near the time of voting. JSUMF ¶¶ 62-66.

7. Many Montana voters do not become aware of issues with their voter registration until they appear at a polling location on Election Day. JSUMF ¶¶ 62-66.

8. EDR allows such voters to correct registration issues and cast a ballot that would otherwise be unavailable to them. JSUMF ¶¶ 62–66.

9. SB 490 alters Montana’s EDR framework by prohibiting voter registration after 12:00 p.m. on Election Day for purposes of voting in federal elections, while continuing to allow voter registration for state elections throughout the remainder of Election Day. JSUMF ¶¶ 23–25

10. As a result, SB 490 creates a bifurcated system under which voters who register after 12:00 p.m. on Election Day are permitted to vote in state elections but are not permitted to vote in federal elections. *Id.*

11. SB 490 requires election administrators to implement separate processes for state and federal ballots based on the time a voter registers on Election Day. JSUMF ¶¶ 78–97.

12. This bifurcated system necessitates that election officials determine the precise time of a voter’s registration and distribute different ballots accordingly. JSUMF ¶¶ 78–97.

13. The implementation of SB 490 requires election administrators to develop and administer multiple ballot types, including ballots that exclude federal contests for voters registering after noon. JSUMF ¶¶ 78–97.

14. The undisputed record demonstrates that SB 490 will impose additional administrative burdens on election officials, including increased complexity in ballot distribution, voter processing, and vote tabulation. JSUMF ¶¶ 78–97.

15. The record further reflects that SB 490 may increase voter confusion due to differing rules depending on the time of registration and the type of ballot issued.

JSUMF ¶¶ 84-94.

16. The Montana Supreme Court has previously found that administrative burdens associated with EDR do not justify eliminating or restricting the practice, as such burdens can be addressed through less restrictive means. *MDP*, ¶ 79.

17. The Court finds that SB 490 does not eliminate the administrative burdens associated with EDR, as voter registration continues throughout Election Day for state elections. JSUMF ¶¶ 84-97.

18. The Court further finds that SB 490 may increase administrative burdens by requiring election officials to manage two parallel systems for ballot issuance and tabulation. JSUMF ¶¶ 84-97.

19. The undisputed record demonstrates that many Montana voters rely on EDR specifically on Election Day, and particularly during afternoon hours. JSUMF ¶¶ 47-49.

20. A substantial number of voters are unable to access polling places prior to 12:00 p.m. on Election Day due to work schedules, transportation barriers, or other constraints. JSUMF ¶¶ 43-47, 55-59.

21. In some Montana precincts, polling places do not open until 12:00 p.m., making it impossible for voters in those locations to register before the SB 490 cutoff. JSUMF ¶¶ 43-47.

22. The Court finds that voters who arrive at polling locations after 12:00 p.m. and who are not already registered will be unable to vote in federal elections under SB 490. JSUMF ¶¶ 52-60.

23. The record demonstrates that SB 490 will prevent some otherwise eligible voters from casting ballots in federal elections. JSUMF ¶¶ 52-60.

24. The Court further finds that SB 490 will disproportionately impact certain groups of voters, including Native American voters and young voters. *MDP*, ¶¶ 73-74.

25. The undisputed evidence establishes that Native American voters in Montana face unique barriers to voting, including long travel distances, limited access to transportation, and lack of reliable mail service. JSUMF ¶¶ 125-165.

26. The Montana Supreme Court has previously recognized that Native American voters disproportionately rely on EDR due to these barriers. *MDP*, ¶ 73.

27. The record in this case demonstrates that Native American voters often arrive at polling locations later in the day, including after 12:00 p.m., due to these barriers. JSUMF ¶¶ 72-77.

28. The Court finds that SB 490's noon cutoff disproportionately affects Native American voters by eliminating access to federal ballots during the time period when those voters most commonly rely on EDR. JSUMF ¶¶ 72-77.

29. The record also demonstrates that young voters and students disproportionately rely on EDR due to higher rates of mobility, scheduling constraints, and registration challenges. JSUMF ¶¶ 194-204.

30. The Court finds that SB 490 will impose disproportionate burdens on young voters by limiting their ability to register and vote in federal elections on Election Day. JSUMF ¶¶ 194–204.

31. The undisputed evidence further establishes that EDR increases voter participation and turnout in Montana. JSUMF ¶¶ 69–72.

32. The Montana Supreme Court has found that EDR typically increases voter turnout by between two and seven percent. *MDP*, ¶ 71.

33. The Court finds that restricting EDR through SB 490 will reduce participation in federal elections. JSUMF ¶¶ 100, 113, 142–48, 196, 199.

34. The record does not demonstrate that SB 490 will meaningfully advance the State’s asserted interests in election administration efficiency or integrity. JSUMF ¶¶ 97–102.

35. The Court finds that the State has not presented competent evidence demonstrating that SB 490 reduces administrative burdens or improves election efficiency.

36. The Court further finds that the State has not presented evidence of voter fraud associated with EDR.

37. The Montana Supreme Court has previously found that voter fraud in Montana is “vanishingly rare” and not associated with EDR. *MDP*, ¶ 105; see also *Montana Democratic Party v. Jacobsen*, (Jacobsen PI Decision), 2022 MT 184 ¶ 29.

38. The Court finds that SB 490 does not address any demonstrated problem of voter fraud.

39. The Court finds that less restrictive alternatives exist to address any administrative challenges associated with EDR, including additional training, staffing, and resources for election officials. *MDP*, ¶ 79.

40. Based on the undisputed record, the Court finds that SB 490 imposes burdens on the right to vote without advancing sufficiently supported or compelling state interests.

### CONCLUSIONS OF LAW

41. A preliminary injunction is an extraordinary remedy governed by § 27-19-201, MCA. A party seeking such relief must demonstrate: (1) a likelihood of success on the merits; (2) the likelihood of irreparable injury absent injunctive relief; (3) that the balance of equities favors the movant; and (4) that the injunction is in the public interest.

42. These factors are considered independently, though in cases involving constitutional rights, they frequently overlap in practical application. See *Planned Parenthood of Mont. v. State*, 2024 MT 227, ¶¶ 21, 34 (When the government opposes a preliminary injunction, these two factors “merge into one inquiry”. (Internal citations omitted).

#### **I. Likelihood of Success on the Merits**

43. The Montana Constitution guarantees that “[a]ll elections shall be free and open,” and protects the fundamental right of suffrage. Mont. Const. art. II, § 13.

44. The Montana Supreme Court has made clear that any law that burdens the right to vote must be analyzed under a tiered scrutiny framework, with the level of scrutiny determined by the degree of burden imposed. *MDP*, ¶ 34.

*A. SB 490 Burdens the Right to Vote*

45. As set forth in the Findings of Fact, SB 490 prohibits voters who register after 12:00 p.m. on Election Day from voting in federal elections.

46. The undisputed record demonstrates that a substantial number of Montana voters rely on Election Day registration, including during afternoon hours.

47. The record further establishes that some voters will be unable to register prior to noon due to work schedules, travel constraints, polling place hours, or unforeseen registration issues.

48. Accordingly, SB 490 will prevent some otherwise eligible voters from casting ballots in federal elections.

49. A law that prevents eligible voters from voting constitutes a direct burden on the fundamental right of suffrage. MDP, ¶¶ 34, 51, 63.

*B. Disproportionate Burdens*

50. The undisputed record further demonstrates that SB 490 disproportionately impacts Native American voters and young voters.

51. The Montana Supreme Court has already recognized that Native American voters disproportionately rely on Election Day registration due to structural barriers including distance, transportation, and access to services. MDP, ¶ 73.

52. The record here establishes that SB 490 removes access to EDR during the precise hours when those voters most frequently rely upon it.

53. Laws that disproportionately burden particular classes of voters trigger heightened constitutional scrutiny. MDP, ¶¶ 34, 99.

C. *Level of Scrutiny*

54. Because SB 490 prevents some voters from voting and disproportionately burdens protected classes of voters, the Court concludes that SB 490 appears to impose a meaningful burden on the right to vote.

55. Accordingly, Plaintiffs have made a prima facie case that strict scrutiny will likely apply to this issue. The Court is not ignorant to guidance from *Driscoll*, and *Mont. Democratic Party v. Jacobsen*, 2022 MT 184, ¶ 24. (“It is inappropriate to decide such an important matter as what level of scrutiny to apply to a fundamental right in a preliminary judgment context where the record is undeveloped, the arguments on the merits have not been made...”)

D. *SB 490 Fails Strict Scrutiny (Thus, Plaintiffs are likely to succeed on the merits)*

56. Under strict scrutiny, the State must demonstrate that the law is narrowly tailored to serve a compelling governmental interest. MDP, ¶ 75.

57. The State asserts interests in election administration efficiency and reducing burdens on election officials.

58. The Montana Supreme Court has held that such interests, while important, are not compelling. MDP, ¶ 76.

59. Even assuming those interests could be compelling, the State has not demonstrated that SB 490 is narrowly tailored to achieve them.

60. The undisputed record establishes that SB 490 does not reduce the need for Election Day registration, as such registration continues throughout the day for state elections.

61. Instead, SB 490 creates a bifurcated system requiring election officials to administer two separate processes for state and federal ballots, and must determine which voters arrive before 12:00 p.m., and which arrived after.

62. The record reflects that this system increases administrative complexity, rather than alleviating it.

63. The Montana Supreme Court has already rejected the argument that limiting EDR meaningfully reduces administrative burdens, noting that such limitations merely shift the timing of work. MDP, ¶¶ 77-78.

64. Less restrictive alternatives exist, including increased staffing, improved training, and enhanced resources for election officials. MDP, ¶ 79.

65. The State has not demonstrated that SB 490 is the least onerous means of achieving its stated objectives.

66. Accordingly, SB 490 fails strict scrutiny.

*E. SB 490 Fails Under Middle-Tier Scrutiny*

67. Even assuming, *arguendo*, that SB 490 imposes only a minimal burden on the right to vote and is subject to middle-tier scrutiny, the law nevertheless appears likely to fail.

68. Under middle-tier scrutiny, the Court must determine whether the State has shown that the classification is reasonable and that the asserted governmental interest outweighs the burden on the right. MDP, ¶¶ 40-41.

69. The State has not demonstrated that SB 490 meaningfully advances its stated interests.

70. The undisputed record establishes that SB 490 introduces additional administrative burdens, including multiple ballot systems, increased voter confusion, and added complexity for election officials.

71. A classification that does not advance its stated purpose is arbitrary and unreasonable. *MDP*, ¶ 116.

72. Further, the State has not shown that its asserted interests outweigh the burden imposed on the right to vote.

73. Accordingly, SB 490 fails constitutional review even under the more deferential standard.

*F. Conclusion on Likelihood of Success*

74. For the foregoing reasons, Plaintiffs have demonstrated a strong likelihood of success on the merits.

**II. Irreparable Harm**

75. The loss of a constitutional right, even for a minimal period of time, constitutes irreparable injury as a matter of law.

76. The Montana Supreme Court has expressly held that the loss of the right to vote constitutes irreparable harm for purposes of a preliminary injunction. See *MDP (Jacobsen PI Decision)*, 2022 MT 184, ¶ 15.

77. The undisputed record demonstrates that SB 490 will prevent some voters from voting in federal elections.

78. Once an election occurs, the loss of the opportunity to vote cannot be remedied.

79. Accordingly, Plaintiffs have established that irreparable harm will occur absent injunctive relief.

### **III. Balance of Equities**

80. The balance of equities requires the Court to weigh the harm to Plaintiffs against the harm to the State if an injunction is granted.

81. Plaintiffs face the loss of a fundamental constitutional right.

82. By contrast, the State asserts harms related to election administration and enforcement of duly enacted legislation.

83. The Montana Supreme Court has made clear that the State suffers no cognizable harm from being enjoined from enforcing an unconstitutional law. *Planned Parenthood*, ¶ 36.

84. Any administrative inconvenience to the State does not outweigh the deprivation of constitutional rights, and by all accounts, the administrative burden will actually be greater on the State, if the Court did not grant the preliminary injunction. (*i.e.* a dual ballot system, the voter education which the Secretary espoused at oral argument, and which had clearly not occurred as of a month prior to the election, etc.)

85. Accordingly, the balance of equities favors Plaintiffs.

### **IV. Public Interest**

86. When the government is a party, the balance of equities and the public interest merge into a single inquiry. *Planned Parenthood*, ¶ 34.

87. It is always in the public interest to prevent the violation of constitutional rights. *Planned Parenthood*, ¶ 37.

88. The public has a strong interest in ensuring that elections are conducted in a manner that protects the fundamental right to vote.

89. Maintaining the status quo (full election day registration for federal elections) pending final resolution of this case serves that interest.

90. For nearly two decades, Montana voters have been permitted to utilize Election Day registration throughout the entirety of Election Day regarding federal elections.

91. Enjoining SB 490 preserves that longstanding practice and avoids voter confusion, especially at noon on election day.

92. Accordingly, the requested injunction is in the public interest.

## **V. Conclusion**

93. Plaintiffs have satisfied all four requirements for a preliminary injunction.

94. SB 490 is likely unconstitutional under the Montana Constitution.

95. Plaintiffs will suffer irreparable harm absent relief.

96. The balance of equities favors Plaintiffs.

97. The injunction serves the public interest.

98. A preliminary injunction is therefore **GRANTED**.

## **VI. SB 276 - Preliminary Injunction Analysis**

### **ADDITIONAL FINDINGS OF FACT**

99. Montana has long required some form of voter identification for in-person voting. Mont. Code Ann. § 13-13-114(1)(a) (2003); JSUMF, ¶ 166.

100. The stated purpose of Montana’s voter-identification requirements is to provide election judges with information sufficient to verify a voter’s identity and registration status at the polling place. *MDP*, ¶ 8. *JSUMF*, ¶¶ 169-171.

101. During legislative consideration of Senate Bill 276 (“SB 276”), Senator Cuffe described the bill as a “much shorter, concise version” of prior legislation and explained that the purpose of SB 276 was to address concerns arising from the requirement that certain student-ID holders provide additional proof of residence when voting. *JSUMF*, ¶ 177.

102. Senator Cuffe further explained that SB 276 was intended to remove the requirement that student-ID holders provide proof of residence at the polling place because proof of residence is established during the voter-registration process. *JSUMF*, ¶¶ 177-178.

103. Senator Cuffe confirmed during committee testimony that SB 276 was directed toward voter identification at the polls and did not address voter eligibility requirements. *JSUMF*, ¶ 177.

104. Austin James, Elections Director for the Montana Secretary of State, testified during committee proceedings that voter-identification requirements serve a different governmental interest than voter-registration requirements. *JSUMF*, ¶ 178.

105. SB 276 authorizes voters to present a student photo identification card issued by the Montana University System or by a school that is a member of the National Association of Intercollegiate Athletics (“NAIA”) as a primary form of identification for voting. *Mont. Code Ann.* § 13-13-114; *JSUMF*, ¶ 180

106. The Montana University System consists of sixteen state-run colleges and universities. JSUMF, ¶ 183.

107. Unlike prior legislation considered in *Montana Democratic Party v. Jacobsen*, SB 276 permits certain categories of student identification cards to qualify as stand-alone primary identification at the polls without requiring accompanying proof of residence. JSUMF, ¶¶ 171, 177, 180.

108. SB 276 requires that acceptable voter identification be “current, valid, and readable.” JSUMF, ¶ 182.

109. Legislative testimony reflects that one purpose of limiting acceptable student IDs was to avoid reliance on outdated school identification cards for voter identification purposes. JSUMF, ¶¶ 181-182.

110. The Secretary of State has asserted that the State possesses legitimate and compelling interests in promoting voter confidence, protecting election integrity, preventing voter fraud, strengthening Montana’s voting process, and streamlining election administration. Graybill Decl., Ex. B, Secretary’s Discovery Responses at 8.

111. The Secretary of State further asserted that SB 276 advances those interests by elevating several forms of identification, providing Montana voters with multiple photo-identification options, and streamlining procedures for election officials. Graybill Decl., Ex. B, Secretary’s Discovery Responses at 8.

### **CONCLUSIONS OF LAW**

112. The Court finds that the State has articulated legitimate governmental interests related to election administration, voter confidence, and verification of voter identity at the polling place. *Id.*

113. The Court further concludes that SB 276 differs in material respects from Senate Bill 169, which was previously invalidated in *Montana Democratic Party v. Jacobsen*, because SB 276 no longer requires student-ID holders to present separate proof-of-residence documentation at the time of voting. JSUMF, ¶¶ 171, 177, 180.

114. The evidence presently before the Court demonstrates that SB 276 expands the category of student identifications that may serve as stand-alone primary voter identification when compared to the framework established under SB 169. *Id.*

115. The Court finds that Plaintiffs' evidence regarding anticipated burdens on voters and youth-organizing organizations is largely predictive in nature and primarily concerns future voter education efforts, anticipated confusion, and potential administrative burdens. JSUMF, ¶¶ 199, 201, 203-204.

116. The evidence currently before the Court does not establish that any eligible voter has yet been denied the right to vote pursuant to SB 276.

117. The Court further finds that many of the organizational harms asserted by Youth Plaintiffs consist of expenditures for voter outreach, voter education, volunteer training, and modifications to get-out-the-vote efforts. JSUMF, ¶¶ 199, 201, 204.

118. The Court finds that such organizational expenditures arise, at least in part, from the organizations' own discretionary decisions regarding how to allocate resources in response to changes in election law. *Id.*

119. The Court additionally finds that Montana voters retain multiple forms of acceptable identification for purposes of in-person voting under Montana law, including non-student forms of photo identification. JSUMF, ¶¶ 167, 171, 180.

120. The Court finds that Plaintiffs have not demonstrated, at this preliminary stage of the proceedings, that SB 276 wholly prevents students or young voters from voting in Montana elections. JSUMF, ¶¶ 180, 189.

121. The Court further finds that the current record does not establish that the classifications adopted by SB 276 are wholly arbitrary or unrelated to the Legislature's stated interests in maintaining current, reliable, and administratively workable voter-identification standards. JSUMF, ¶¶ 177, 180-82.

122. Because statutes enacted by the Legislature are presumed constitutional, and because the present record demonstrates that SB 276 materially differs from prior legislation invalidated in *Montana Democratic Party v. Jacobsen*, the Court finds that Plaintiffs have not established a clear likelihood of success on the merits sufficient to warrant the extraordinary remedy of a preliminary injunction at this stage of the proceedings. JSUMF, ¶¶ 171, 174-75, 177, 180-82.

123. Unlike SB 490, SB 276 does not eliminate a voting mechanism or categorically prevent otherwise eligible voters from casting a ballot.

124. Rather, SB 276 alters the types of acceptable identification and, in some instances, requires voters to present additional documentation to verify their identity.

## **I. Likelihood of Success on the Merits**

### *A. Applicable Legal Framework*

125. As with SB 490, the Court analyzes SB 276 under the Montana Constitution's protection of the fundamental right to vote.

126. The level of scrutiny applied depends upon the degree to which the law burdens that right. MDP, ¶ 34. See also, analysis above in ¶ 55.

*B. Nature of the Burden*

127. The undisputed record reflects that SB 276 imposes, at most, a limited burden on certain voters by requiring additional forms of identification in specified circumstances.

128. The Montana Supreme Court has previously addressed similar voter identification requirements and concluded that such regulations impose only a minimal burden on the right to vote where alternative means of identification remain available. *MDP*, ¶¶ 110–111.

129. The record in this case reflects that voters subject to SB 276 retain multiple avenues by which they may verify their identity and cast a ballot.

130. Plaintiffs have not demonstrated that SB 276 will prevent voters from voting in the same manner as the restrictions imposed by SB 490.

*Conclusion on Likelihood of Success*

131. Accordingly, Plaintiffs have not demonstrated a likelihood of success on the merits with respect to SB 276, such that the extreme remedy of a preliminary injunction is necessary. Given this, the Court need not reach the other three prongs of the analysis.

132. Accordingly, the request for a preliminary injunction as to SB 276 is **DENIED**.

**ORDER**

The Court, being fully informed, having considered the parties' briefing, the evidentiary record, the arguments of counsel, and the applicable law:

**IT IS HEREBY ORDERED:**

## I. SB 490

For the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Court concludes that Plaintiffs have satisfied all four requirements for the issuance of a preliminary injunction under § 27-19-201, MCA, as to Senate Bill 490.

Specifically, the Court finds that Plaintiffs have demonstrated:

- a. A likelihood of success on the merits, in that SB 490 is likely unconstitutional under the Montana Constitution's protection of the fundamental right to vote;
- b. A likelihood of irreparable harm, in that SB 490 will prevent some otherwise eligible voters from casting ballots in federal elections;
- c. That the balance of equities favors Plaintiffs, as the deprivation of constitutional rights outweighs any asserted administrative burden on the State; and
- d. That the issuance of an injunction is in the public interest, as it preserves the fundamental right of suffrage and maintains the status quo pending final resolution of this matter.

Accordingly, **IT IS HEREBY ORDERED** that enforcement of Senate Bill 490 is **PRELIMINARILY ENJOINED**.

The Secretary and her agents, officers, employees, successors, and all persons acting in concert with each other or any of them are **IMMEDIATELY** restrained and prohibited from enforcing any aspect of HB 176, HB 530, SB 169, and HB 506 pending resolution of the Plaintiffs' request that the Secretary be permanently enjoined from enforcing SB 490;

Election Day registration shall remain available to all eligible voters for the full duration of Election Day, consistent with the practices in place prior to the enactment of SB 490.

## II. SB 276

For the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Court concludes that Plaintiffs have not satisfied the requirements for the issuance of a preliminary injunction as to Senate Bill 276.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' request for a preliminary injunction as to Senate Bill 276 is **DENIED**.

### **III. Scope and Effect of Order**

This Order preserves the status quo as it existed prior to the enactment of SB 490 and ensures that Montana voters may continue to access Election Day registration for the full duration of Election Day pending final adjudication of this matter.

Nothing in this Order shall be construed as a final determination on the merits of Plaintiffs' claims, which remain to be resolved.

### **IV. Effective Date**

This Order shall take effect immediately upon entry.

**ELECTRONICALLY SIGNED AND DATED BELOW**