In the Crosshairs

A legal tug-of-war over guns at universities leaves campuses

Holstered
Scoping out HB 102
Welcome to gun country

Cover design by MaKayla O'Neil
Note from the Editor

Last spring, the 67th Montana Legislature passed House Bill 102 — legislation that would allow students to carry firearms on campus, openly or concealed, without a permit. In May, the Board of Regents sued the state, claiming the Legislature overstepped its bounds by trying to control policy at state universities.

Article II, Section 12 of the state’s constitution gives Montanans the right to bear arms, while Article X, Section 9 gives the Board of Regents full “power, responsibilities, and authority” to regulate the Montana University System. The court must decide which weighs more.

Three days before the bill was supposed to be implemented, a Helena judge stopped the law from going into effect until the court decides on an answer.

But the MUS lawsuit brings up a larger constitutional question: Who controls Montana’s universities?

That question is a big one that legal experts say could take years to decide in the state’s courts. And it could set the precedent for more than just guns on campus. If the court decides the Legislature can control guns policy at universities, that means it has a foothold for more control.

While we wait for a decision, the Kaimin wanted to know how we got to this point. Guns have always had a strong presence in Montana, but how were our elected officials able to pass one of the most unrestricted and unregulated gun bills in the nation through the Legislature to be signed by our governor? And why now?

The Kaimin partnered with the Poynter Institute — a nonprofit journalism education and research organization — to look into the factors that led to HB 102. We worked with Poynter’s College Media Project initiative to produce a semester-long examination of the bill, and more broadly, the culture of the state that has fostered it. Ultimately, our goal was to provide a service to people across Montana who could be affected by this legislation.

We examined Montana’s relationship with guns and how it led to the tipping point of HB 102. We dove into the cultural and political influence behind the legislation through guns’ impact on individuals. We spoke with gun advocates and opponents, including the bill’s sponsor and those who testified at its original hearing.

This special edition is the culmination of the Kaimin’s reporting. A thorough deconstruction of HB 102, the reasons it’s held up in court and the cultural and historical factors that led to this constitutional question.

Addie Slanger, Editor-in-Chief
Holstered
New state law puts campus carry in limbo
Griffen Smith

Scoping out HB 102
What open-carry on campus means to one UM gun-owning student
Antonio Ibarra

Welcome to gun country
Where a ranching culture, suicide rates and an urban campus blur the meaning of safety
Clarise Larson

A look ahead
In the war for control of Montana’s universities, a lawsuit over guns is the first battle
Addie Slanger
Who controls the politics of guns in Montana?

EMILY TSCHETTER

According to the World Population Review, Montana has the highest gun ownership rate in the nation. Two-thirds of Montanans own at least one firearm, making it a state with the highest gun-owning rate in the nation. New gun control legislation has been introduced in recent years, and the question remains: Who controls the politics of guns in Montana?

The First Principle of the Right to Bear Arms

Montana's political landscape is shaped by the right to bear arms. The state has a long history of gun ownership, and the Second Amendment is a cornerstone of Montana's political culture. Montana's Constitution includes a clear statement in favor of gun rights, which is reflected in the state's laws and policies.

Governing guns in Montana

Montana’s politics are dominated by the debate over gun control. The state’s legislative makeup reflects this, with the Republican Party controlling both the House and Senate. The state’s political climate is heavily influenced by the National Rifle Association (NRA) and other gun rights organizations, which have significant financial resources and are active in both the state and federal legislative processes.

Montana House of Representatives of 2021

Montana House of Representatives of 2021

Montana Senate 2021

Party breakdown out of 50 senators

Democrats

33

Republicans

67

Montana House of Representatives of 2021

Party breakup out of 100 representatives

Democrats

33

Republicans

67
As House Bill 392, a long proposed gun control law to change the Montana Constitution, is being argued over in district court, there are two scenarios that could happen. Berglee, a Republican from Joliet, introduced the bill before the start of the legislative session last year.

The bill would change the state’s gun laws in a way that is different from the Senate version of the bill, which is being argued over in district court, too. Berglee, a Republican from Joliet, introduced the bill before the start of the legislative session last year.

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New state law puts campus carry in limbo

Story by Griffen Smith
AUGUST PUBLISHED Sept. 3, 2021

ALTON WITT is a gun owner. A philosophy and biology major from South Dakota, Witt says he desires to carry a gun for self-protection was sparked by an incident that occurred at his home when he was growing. A man pounded on the door over and over, demanding entry, until finally giving up and leaving. Witt said his mother was shocked. With grew up around firearms and hunting. He recalled a Christmas when his cousin got an iPod. “If I can boil it down, anyone can physically bring a gun into a space. If I can boil it down, anyone can physically bring a gun into a space. I should legally be able to control the Montana University System,” he said. “I should legally be able to bring a gun into a space.”

Halston Witt, a freshman at the University of Montana, left her handgun at home in South Dakota. Witt didn’t feel comfortable bringing her gun to campus this year, but left it at home in Watertown, South Dakota. She turned away from guns. She wanted to carry it anywhere on campus, out in the open or concealed.

For UM administration and the Montana University System, the issue of campus carry has become more than a theoretical debate. House Bill 102, one of the most restrictive gun laws in the country, passed in the Montana legislature this spring.

The bill would allow anyone to carry a gun on Montana University System campuses, still mandate that gun carriers follow the guidelines from the legislature, and most other gun-friendly legislation, and most other gun-friendly legislation. The bill would allow permitless concealed carry on campus. Berglee cited several examples of states that allowed guns at universities.

“Guns have no place on a college campus, or near any school?”

Daisy Khoury
Caught in court

Because of the injunction, HB 102 won’t be implemented until it is worked out in court, a process that could take years, according to UM law professor Anthony Johnstone. In the bill changes nothing for students while it is pending court rules.

“In this case, the Board of Regents wants to make a policy that would override students’ rights if they can’t decide what rules the board has and what the legislature’s law is,” said Holmes Wagner, executive director of government relations and public affairs for the Commissioner of Higher Education. “That suit to find where that line is, which is sometimes described as murky.”

The murky line has been tested before. In 1975, the Montana Supreme Court heard a case called Judge’s Board of Regents, which centered around a bill allowing the legislature to originate specific laws and overturning the Board of Regents. The court ruled with the university system, strengthening its precedent of campus college control.

The Montana Federation of Public Employees has also brought a suit against HB 102 in a Butte county court. “Either court can rule the law unconstitutional or not, and that would be that,” Johnstone said. “But it is likely either verdict will be appealed to the Montana Supreme Court. It could be in the process for a long time.”

Guns on campus today

There have always been guns in and around UM, as firearms are often a part of the state’s culture. Compared to other public universities, Montana has the sixth highest rate of gun ownership per capita, at 66.5% of households owning firearms, according to data from the Rand Corporation. The national average is 44%.

With the bill tied up in court, UM policy still remains the same: students who wish to bring a gun on campus must store it in a campus gun locker, or keep it unloaded in their locked car.

The number of students who keep their guns in UM dorms varies, but it is an often-mentioned part of the state’s culture. Compared to other states, Montana has the highest rate of gun ownership per capita in the U.S., according to data from the Rand Corporation.

Sixty percent of all Montana gun deaths are suicides, and 72% of the state’s youth suicides are done with firearms.

Montana Department of Public Health and Human Services

Witt does want to bring her pistol to campus eventually. She could leave it in her car, or UM’s gun locker. Before orientation on campus, Witt didn’t know either option was an option.

While the outcome of students who do not follow university gun laws in Montana is uncountable, some say they exist. State representative Braxton Mitchell, a 20-year-old Republican from Columbia Falls, published an opinion piece in the Montana Standard in April to keep HB 102 from taking effect. Mitchell argued that HB 102 would probably ruin it for people. "As an 18-year-old woman who isn't large, I use self protection.” Witt said. "When I stop alone in Baker, Montana, while driving home, I feel more comfortable being armed."
NICOLE BEALER doesn’t see guns as toys.
As a gun owner, Bealer sees guns beyond their recreational use. She thinks of them as tools, their primary purpose being to kill animals for food or for outdoor sports like hunting.

“Firearms are very closely tied to being a hunter for me,” she said. “I do enjoy going to the range, but I shoot because I’m preparing to hunt. I’m not quite recreational enough to just go spend money on ammo for shits and giggles.”

Before moving to Montana for college, Bealer didn’t have guns of her own. The only ones in her Texas household were her dad’s, who owned a .22 rifle, a .22 pistol and a .357 revolver. As an eight-year-old, she would often go to the gun range with her dad and brothers to shoot recreationally and learn firsthand about gun safety.

“Firearm safety was really big for my dad. He just always took it very seriously,” Bealer said. “He was a big proponent of keeping guns in a locked safe.”

For Bealer, a University of Montana wildlife biology junior from Houston, gun safety is something she continually practices, especially now that she’s a gun owner in a state where there are more guns than people.

At UM and across the Montana University System, the issue of guns on college campuses is becoming more of a reality, after House Bill 102 — one of the most unrestricted firearm policies in the country — passed in the Montana Legislature earlier in the spring.

The bill, as it stood after its passing, would allow for anyone on any Montana University System campus to carry a gun, openly or concealed. It also would allow anyone to concealed carry without a permit anywhere someone can open carry. HB 102 overrules the University’s current policy, which holds that no one except law enforcement may carry weapons on campus, and requires students, faculty and staff who wish to bring their firearms onto campus to store them with UM PD.

Now, the potential law is caught in legal limbo after the Montana Board of Regents sued the state last May, claiming the legislature overstepped its bounds by trying to control the universities. A Lewis and Clark County judge filed an injunction on May 28.
Fintz by taking them on practice shoots at gun ranges to improve their marksmanship to prepare for their first hunting trips.

The passing of HB 102 affects concerned students like Bealer. While she finds comfort with the idea of concealed gun carry, she does worry about the impact of guns in the hands of college students in a campus setting. “I don’t know if I trust the general population that much, especially college students,” Bealer said. “My work with Backcountry Hunters & Anglers focuses on the outdoor heritage of hunting and fishing in North America. She helps educate students about hunting on public lands and hosts firearm workshops specializing in gun safety for students who have never handled firearms.

While students certainly have been dealing with guns on other campuses, Bealer believes much of the concern can be traced to the passing of HB 102. “I think there’s more anxiety in the general public and the general population that much, especially college students,” Bealer said. “My work with Backcountry Hunters & Anglers focuses on the outdoor heritage of hunting and fishing in North America. She helps educate students about hunting on public lands and hosts firearm workshops specializing in gun safety for students who have never handled firearms.

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The University of Montana, UM Athletes

The Associated Students of the University of Montana (ASUM) has filed a lawsuit against the Board of Regents, challenging the constitutionality of HB 102, which allows guns on campus. The lawsuit was filed in conjunction with the American Civil Liberties Union of Montana (ACLU) and the Montana Justice Foundation, and it seeks an injunction against the implementation of HB 102.

The lawsuit claims that HB 102 violates the Montana Constitution by allowing the Board of Regents to override the autonomy of the university's independent municipalities, including the University of Montana. The lawsuit argues that HB 102 is an unconstitutional infringement on the university's ability to govern its own affairs and to make decisions regarding the safety and security of its students and employees.

The lawsuit also claims that HB 102 is a violation of the Montana Constitution's guarantee of the right to privacy, which includes the right to be free from unreasonable searches and seizures. The lawsuit argues that the implementation of HB 102 would allow law enforcement officers to search for and seize firearms without a warrant, which would violate the university's right to privacy.

The lawsuit further claims that HB 102 is a violation of the Montana Constitution's guarantee of equal protection under the law. The lawsuit argues that the implementation of HB 102 would allow certain individuals to carry firearms on campus while other individuals, such as students and employees, would be prohibited from doing so.

The lawsuit seeks an injunction against the implementation of HB 102, as well as a declaratory judgment that the statute is unconstitutional. The lawsuit also requests that the court declare that the university's autonomy to govern its own affairs is protected by the Montana Constitution, and that the university has the right to make decisions regarding the safety and security of its students and employees.

The lawsuit was filed on behalf of the university by the ACLU and the Montana Justice Foundation, and it seeks to protect the university's autonomy and to uphold the rights of its students and employees.

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Do you agree with HB 102 allowing the concealed and open carry of firearms on campus?

Comments:
- I am a gun owner, and feel that open carry will be on campus regardless of the legislation. It is naïve to think that an untrained student can protect me in case from another human with a firearm.
- I imagine there are already plenty of concealed carry guns on campus.
- Guns will be on campus whether or not we pass this law. We operate under the Board of Regents, an authority, but it stepped over a moral line in our classroom.
- No, absolutely not. I am much more worried about the political ramifications of this bill.
- I am a gun owner, and feel that open carry of firearms is necessary on campus. The Kaimin sent an informal survey to 678 members of the Montana University System’s (MUS) and the Office of Consumer Health and Education (OCHE) make decisions regarding the curriculum and operation of a university, not politicians with no experience with or ties to the education system.
- Do you think the Legislature overstepped its authority by passing HB 102?

Comments:
- I am a pistol owner, and I hunt with a rifle. I know what weapons are capable of in the wrong hands, until now how safe it is to get flustered and not handle the weapon appropriately. I have never been in a serious situation with my weapons. Having guns in a class like mine, where we discuss constantly race, gender, US politics, equality and US history, many students have told me they would be unwilling to participate if there was a known gun in the classroom.
- Do you think the Legislature passed HB 102? If so, do you agree with HB 102? If not, do you agree with HB 102? I am a pistol owner, and I hunt with a rifle. I believe in the right to bear arms. An individual should have the final say on campus laws, not politicians with no experience with or ties to the education system.

Guns have a place on campus. Do you agree?

Comments:
- This term, my family has lived through 21 years of students being on a school campus.
- Guns will be on campus regardless of the legislation. It is naïve to think that an untrained student can protect me in case from another human with a firearm.
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- We operate under the Board of Regents, an autonomous governing body, and as such, they should have the final say on campus issues, not the MT State Government.
- Guns will be on campus regardless of the legislation. It is naïve to think that an untrained student can protect me in case from another human with a firearm.
- Montana has the laws. HB 102 is currently tied up in court. Should it even come out of court and be put into action on MUS campuses, I’ll have the same argument that any gun is a good thing on campus. It’s as if we’re playing around with fire at school. No, absolutely not. I am much more worried about the political ramifications of this bill.

2.6% Somewhat strongly disagree
10.5% Neither agree nor disagree
6.5% Somewhat agree
71.9% Strongly agree
10.5% Neither agree nor disagree
6.5% Somewhat agree
71.9% Strongly agree
85.3% Strongly disagree
3.9% Somewhat disagree
1.3% Neither agree nor disagree
7.2% Somewhat agree
87.6% Strongly agree
10.5% Somewhat disagree
7.1% Neither agree nor disagree
3.9% Somewhat disagree
5.8% Somewhat disagree
1.3% Neither agree nor disagree
68.8% Strongly disagree
9.7% Somewhat disagree
5.8% Neither agree nor disagree
6.4% Somewhat disagree
31.3% Strongly agree
7.6% Somewhat disagree
3.3% Somewhat disagree
10.5% Neither agree nor disagree
6.5% Somewhat agree
71.9% Strongly agree

Would you feel safe knowing your students are allowed to carry guns into your classroom?

Comments:
- If I had guns, I would be much more concerned about my personal safety than the safety of students.
- I am 100% against this legislation. It is a naively dangerous law that will only lead to more shootings, as a person with a gun — a country that, for me, a student, the lockout generation. According to a 2013 Gallup poll, 56% of Americans believe a “good guy with a gun” (someone concealed-carrying following the passage of a background check and training course) would make them feel safer.

1.3% Somewhat disagree
1.3% Neither agree nor disagree
8.4% Somewhat disagree
31.3% Strongly agree
7.6% Somewhat disagree
3.3% Somewhat disagree
10.5% Neither agree nor disagree
6.5% Somewhat agree
71.9% Strongly agree
2.6% Somewhat approve
1.3% Neither agree nor disagree
6.4% Somewhat disagree
31.3% Strongly agree
7.6% Strongly disagree
3.3% Somewhat disagree
10.5% Neither agree nor disagree
6.5% Somewhat agree
71.9% Strongly agree

Op-Ed: A gun is a gun, no matter who’s holding it

Opinion | Lockdown generation

MARIAN THOMAS
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It isn’t until I turn 15 that I learned both of my parents had faced down the gunman firing shots at me.

Things have changed since kindergarten, the terror of practicing active shooter trainings or lockdown drills when they were on a school campus. In fact, as my mom reported in our academic year 2005-06, when I entered kindergartners, and the year I entered kindergartners, and the year I entered kindergartners, the percentage had increased to 16. According to a 2018 Gallup poll, 56% of Americans believe a “good guy with a gun” (someone concealed-carrying following the passage of a background check and training course) would make them feel safer.

The year, with House Bill 102 passing in Montana’s legislative session, allowing concealed carry of firearms on UM campus, the “good guy with a gun” argument has followed us to college campuses. HB 102 is currently tied up in court. Should it even come out of court and be put into action on MUS campuses, I’ll have the same argument that any gun is a good thing on campus. It’s as if we’re playing around with fire at school. No, absolutely not. I am much more worried about the political ramifications of this bill.

My parents adapted to the “lockdown generation.” For a generation of students in particular has never made sense to me. For a generation of students in particular has never made sense to me. My entire family has lived through 21 years of students being on a school campus. My parents adapted to the “lockdown generation.” For a generation of students in particular has never made sense to me.

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As for my family, my dad is a retired cop, but my mom is still a teacher in Montana. And for my family, my dad is a retired cop, but my mom is still a teacher in Montana. My mom faced down an armed swat team in her career before becoming a gun Violence specialist.

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But according to a new study published by Justice Quarterly in May 2020, states with more permissive concealed carry laws have experienced active shooter trainings or lockdown drills when they were on a school campus. In fact, as my mom reported in our academic year 2005-06, when I entered kindergartners, and the year I entered kindergartners, the percentage had increased to 16.

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ALT RANCH, an hour outside of Helena near a tiny town called Martinsdale, would take a cop coming from the nearest police station about 40 minutes to reach if something went awry. That’s why having guns on his land is essential for the safety of himself, his employees and the livestock, said Wylie Galt, Montana’s speaker of the house, a Republican and a fourth-generation rancher in Montana.

Galt spends most of his working days out in the field with his 600 head of cattle. Collectively, the Galt family owns more than 100,000 acres of ranching land in Montana. Born and raised on this property, Galt’s boots and trucks have always been caked with dirt, but his belt buckle still shines.

Pulled over in his black Ford pickup, Galt walked to the edge of the road and looked over a group of dark brown, pregnant cows huddled together eating the grass at their feet. Past the group, miles of tan, rugged land stretched until running into the base of the Crazy Mountains.

Galt stood and admired the view. During the longest part of the ranching season, when Galt spends a minimum of 12 hours working with his cows, he’s got a pistol on his hip.

Hopping back into his pickup, he drove the handful of miles into Martinsdale, where he owns a bar with his family. He often comes into town to check up on his business.

“If I’m out working and something breaks down and I have to go to town, it’s like ‘Oh crap, I forgot my pistol on my belt,’” Galt said.

But the bar and ranch aren’t the only metaphorical hats Galt wears. His part-time job is in Helena, about 90 days every other year, where he helps push bills through the legislative session. In January, Galt, along with 67 other Republican representatives, voted “yea” to House Bill 102, which would allow both open and concealed carry of firearms on the Montana University System’s campuses. If the law is allowed to go into effect, it would be the least restrictive gun legislation in the country: It allows concealed carry without a permit. A handful of other states allow campus concealed carry without a permit. A handful of other states allow campus concealed carry with a permit. But only Utah matches HB 102 in explicitly requiring guns be allowed on every college campus. Utah legislation, and most other gun-friendly campuses, still mandate that gun carriers have a concealed carry permit.

Galt hopes the bill will be a boost for the state’s economy, and that it will attract more people to the area. “I’ve got a real libertarian streak,” he said, pointing out that he doesn’t vote along party lines. “I voted for HB 102 and I voted to make weed legal.”
culture. And today, ranchers and farm families are still a key part of Montana’s land, according to a report by the National Agricultural Statistics Service. Understanding how those three groups of people—the ranchers, farmers and the Native American tribes—view firearms is important to unlocking the reasons bills on campus are the way they are, but it’s also fascinating to observe. Some ranchers, like电子商务, go to great lengths to ensure the safety of their families, workers and their livelihoods. Others, like Rath Thisted and his granddaughter Ada Smith, want to study them.

Thisted is currently pursuing a Ph.D. at the University of Montana wanted to study them. “The ‘guns-a-blazin’ cowboy culture’ in popular media has changed besides being able to ‘throw that ship out the door entrance, wearing white socks, a flannel, a shiny buckle and his notorious black bear on the loose. Though campus is closed, students can store guns in a gun locker on campus. Some ranchers, like Galt, see rainbow because of his love for the beautiful land he grew up in and worked on. Smith’s granddaughter, Ada, is current and has one son who is currently studying vet med. In addition, Smith’s granddaughter, Ada, has one son who is currently studying vet med. As a politician, Galt said it is his duty to uphold the rights of Montana citizens, and he sees HB 102 as a way to do this. "I think we did put a sideboard that they can’t bring into a social setting. Rifles are tools for getting food and one of his vehicles is a pickup. "If you leave us alone, we know what to do,” Galt said. "And there are still others who believe that HB 102 could bring a type of ranch culture to a report by the National Agricultural Statistics Service. Understanding how those three groups of people—the ranchers, farmers and the Native American tribes—view firearms is important to unlocking the reasons bills on campus are the way they are, but it’s also fascinating to observe. Some ranchers, like Rath Thisted and his granddaughter Ada Smith, want to study them.

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Busse said that “A gun is a damnable tool out there if used correctly, but you’ve got to know what it does. I just don’t know the thought process [behind HB 102] other than they could [pass the bill].” Sen. Jon Tester said, “We had a Democratic governor for the past 16 years, and part of that time we had Democratic majorities in the Legislature. I don’t think [former Gov. Steve] Bullock would have signed that bill, for safety reasons.”

Busse said he hopes people continue to fight and send their children to college in Montana, and that he didn’t think HB 102 detracted from that. But, he said, he thinks there might be a possibility it could. “Busse said he encourages students to take a look at the bill. If they think it’s right, do it. If they don’t, say something.”

“If you pull that trigger and that animal hits the ground, it’s dead,” Tester said. “There is no bringing it back. Life is really special, so I hope whoever has a gun in their closet understands that is an irrational — it’s a hell of a responsibility.”

“Once you pull that trigger and that animal hits the ground, it’s dead,” Tester said. “There is no bringing it back. Life is really special, so I hope whoever has a gun in their closet understands that is an irrational — it’s a hell of a responsibility.”
Anthony Johnstone, a constitutional law professor at the University of Montana, said the case is interesting in that it’s one of a small handful of its kind in the state’s legal history.

The primary piece of precedent both sides have to work with is a 1975 case (decided just three years after Montana ratified its new constitution) entitled “Board of Regents v. Judge,” Johnstone said. The case examines the power the regents have in controlling university budgets, ultimately “striking down, as unconstitutional violation of regents’ authority, legislative attempts to intrude into budgetary decisions of university.”

The 1975 opinion, delivered by Justice Wesley Castles, found House Bill 271, which would have appropriated funds to the university system, and Senate Bill 401, which would have mandated that a legislative finance committee approve university budget amendments, to be unconstitutional. The court ruled both bills infringed upon the constitutional authority granted to the regents.

“Inherent in the constitutional provision granting the Regents their power is the realization that the Board of Regents is the competent body for determining priorities in higher education,” Castles wrote.

The case slightly strengthened the Board of Regents’ authority, Johnstone said, though not everyone agrees.

The state has argued that “Judge” is a narrow decision relating only to universities’ finance management, stating “Judge explained that there is ‘not always a clear distinction between the Legislature’s and Board’s respective constitutional authorities ... In other words, the Board’s power is not absolute.”

The case now facing Judge McMahon and, potentially, the Montana Supreme Court, could set a new precedent for the Board of Regents’ power.

In terms of possible decisions, Johnstone said he sees three outcomes.

“Two big ways on either end, and one smaller way in the middle,” he said.

First, the district court rules in the regents’ favor, and the state appeals to the Supreme Court. Second, the district court rules in the state’s favor, and the Regents appeal. In either of these outcomes, the Montana Supreme Court would make a final ruling, either for the regents or the state — and that would be that.

A third, potentially less satisfying and certainly less definitive option, Johnstone said, is the court rules that some sections of HB 102 specifically discriminate against the Montana University System — that it’s actually not about generally expanding the scope of permitted firearm possession in the state. And even if the Legislature could extend more general laws to campuses, it couldn’t treat universities differently than other public institutions.

Less is decided, because there’s no overarching precedent set — other than the Legislature can’t specifically target universities with its gun policies.

“Instead of a big ruling in favor of either side, [it] would be a small ruling that simply says ‘Whatever the answers might be to those other big questions, the law before us here discriminates against the university system relative to other similarly situated organizations,’” Johnstone said.

For either side, if one of those two bigger decisions is made, it could mean more than just the regulation of guns on campus.

“Saying that the Legislature does have power to control firearms policies on campus ... could be read to authorize the Legislature to control other policies on campuses,” Johnstone said. “And that would set a precedent that would probably lead to additional efforts by the Legislature to make campus policy outside the Board of Regents.”

On the other hand, “The other side would be a big win for the Board of Regents saying that the Legislature does not have the power to establish firearms policy on campus,” he continued.

But if the Board of Regents wins, then an unelected board is given more power over MUS. That’s also potentially problematic, said Lee Banville, political analyst and University of Montana journalism professor.

“The thing that’s slightly worrisome about [the Board of Regents’ sweeping win] if you’re the court, is you’re investing in a non-elected board — or an appointed board — almost absolute control,” Banville said.

And in saying the Board of Regents has total control over higher education, the court would be giving it authority to set policy about, essentially, anything that doesn’t violate the U.S. Constitution, he said. And vice versa with the Legislature.

It would be surprising to see the court go very aggressively in that direction, Banville said.

But regardless of which decision the courts make, students should be paying attention to the legal battle — and others like it around the state, Banville said. As higher education continues to be politicized, these kinds of precedent-setting suits do end up affecting students.

“Schools have always been hot-button political issues,” he said. “But I think we’ve seen, whether it’s the use of Critical Race Theory in K-12 or it’s HB 102 in higher education, there’s sort of this effort to insert political views into education. And I think students should be aware that’s a thing that’s happening.”

As of Friday, Nov. 19, Judge McMahon had not taken action on the requests for summary judgement. If the case goes to oral arguments at the district level, the Helena court will likely hear arguments by the end of this year or early next year.