

MONTANA KAIMIN

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

In the Crosshairs



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Cover design by MaKayla O'Neil

Fall 2021 | Special Issue

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 consitutional question.



Addie Slanger, Editor-in-Chief



Sean Anderson, a senior at the University of Montana, loads an AR-15 magazine for his gun at a shooting range outside of Missoula. Currently, students are able to bring their firearms to school and store them at UMPD’s gun locker. **RIDLEY HUDSON | MONTANA KAIMIN**



The Montana Kaimin is a weekly independent student newspaper at the University of Montana. The Kaimin office and the University of Montana are located on land originally inhabited by the Salish People. Kaimin is a derivative of a Salish language word, “Qe’ymin,” that is pronounced kay-MEEN and means “book,” “message” or “paper that brings news.”

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The University of Montana is caught in the crosshairs of HB 102. Once it becomes a law, the concept of open carry would become a reality not just at UM, but at campuses across the Montana University System **ANTONIO IBARRA | MONTANA KAIMIN**

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Who controls the politics of guns in Montana?

EMILY TSCHETTER
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ORIGINALLY PUBLISHED: Oct. 7, 2021

During any given election cycle, campaign ads with gun-toting politicians donning hunting vests and poised to shoot a target out of frame bombard every television viewer in Montana. Unlike in most states, Montanans can't assume these politicians have an "R" by their name when they get to the ballot box.

According to the World Population Review, two-thirds of Montanans own at least one firearm, making it the state with the highest gun ownership rate in the nation. Guns manifest in the political culture with House Bill 102, which would allow for concealed carry of firearms without a permit on college campuses.

It is one of the most right-leaning, deregulatory pieces of legislation to come out of the past legislative session, and passed on party lines before being temporarily halted by a judge in a lawsuit between the Board of Regents

and the attorney general. Despite blocks in the courts, HB 102 passed its readings and votes quickly, partially due to cohesive lobbying efforts in support of it and a lack of pro-gun control legislators.

"The anti-gun side of this debate in Montana has no contenders. They have no traction," Gary Marbut, president of the Montana Shooting Sports Association (MSSA), said. "We've had many bills with popular support over the years, but until 2020, we had Steve Bullock vetoing many of them despite their majority support in the legislature. That's not the case anymore."

Gun politics are, in short, Marbut's bread and butter. He is the head of the largest gun rights interest group in the state, the author of multiple books on gun politics. He claims he authored much of the pro-gun legislation of the past few decades, including HB 102.

His organization, MSSA, has seen 70 of its legislative initiatives passed and enacted into law, with many others falling victim to former Governor Steve Bullock's veto pen, as well as Brian Schweitzer's, his Democratic predecessor. The Democratic party's 16-year reign on the Montana governorship ended in 2020, and Republicans and pro-gun advocates are pleased with their leverage in the legislature.

"This was our first unified Republican government in 16 years and our legislators rightly took advantage of that," the UM College Republicans stated in an email.

Marbut and the UM College Republicans agreed that after the 2020 election, the left and gun control advocates have

no significant voice or place in gun politics in Montana anymore, with Marbut even stating that MSSA has not needed to spend a lot of its resources in lieu of the shifted political climate.

"We have chosen not to spend money in the last couple of election cycles because it has not been necessary. Montana voters no longer want to elect people who are anti-gun," Marbut said. "We can spend our money more effectively than the candidates can anyways."

Despite the relaxation of several gun control provisions passed under Democratic governorships in past legislative sessions, multiple smaller committees and government bodies resolved to oppose HB 102. The Associated Students of the University of Montana voted almost unanimously in its resolution to oppose the bill in a 22-1 vote count.

"ASUM has taken the position that HB 102 is not a well-informed policy, and it is not the right way to ensure safety on our campus," ASUM President Noah Durnell said. "The bill could foster a culture on campus that could make students feel unsafe and even have unthinkable, destructive outcomes."

Moms Demand Action and Helena Youth Against Gun Violence (HYAGV), activist groups that advocate for more restrictions on gun access and ownership, are concerned for their future roles in gun legislation negotiations. Clara

McRae, a UM student, co-founder of HYAGV and organizer of the Helena March For Our Lives, felt troubled by recent political culture developments in both the state and nationwide.

"There has been a recent hardcore ideological shift in the past five years to the right, and interest groups are capitalizing on it to spread rhetorical arguments and generally find ways to deregulate all levels of government," McRae said.

It's been three years since the mass shooting in Parkland, Florida, that sparked a national student movement for sweeping gun control reforms. McRae said she is not satisfied with the results of their efforts and is losing faith in the room for gun control expansion under the current government electoral system.

"Since the March For Our Lives, nothing has really changed for the better, and some things have changed for the worse, especially over the past legislative session," McRae said. "[Student activists] should just continue what we're doing, but we might need even larger reforms before we have a chance to turn the tides."

Moms Demand Action, a pro-gun control lobbying group that emerged in the wake of the Sandy Hook Elementary School shooting in 2012, continued its advocacy through the last legislative session. Volunteers with the Montana chapter see the gun policy situation as regressive and damaging to their past advocacy and legislation efforts.

"In Montana, we had pretty good common sense gun laws up until this legislative session. I'll say that

"HB 102 could definitely have dangerous consequences on college campuses, and it is not supported by any evidence. Lax gun restrictions on college campuses have had mixed results, but it sets a bad cultural precedent that could make students feel unsafe."

Clara McRae

we definitely lost a lot of ground and our voices were not heard during the legislative session, but we are still here and working," Sherri Sprigg, a volunteer with the Montana chapter of Moms Demand Action, said. "Moms Demand Action is not an anti-gun group. We just promote common sense and safe gun legislation, which a lot of voters do not understand."

Sprigg also recognized the ideological shift that McRae noted, yet the UM College Republicans asserted that although gun control advocates do not have a lot of traction in Montana, they still have an advantage in the media and public gun rights messaging.

"We feel many students are ill-informed, both about gun rights generally and HB 102 specifically, because they've been misinformed by the media and anti-gun individuals," the UM College Republicans said. "If students were more informed about the gun purchasing process and why we have a right to bear arms, they would be more in support of HB 102."

Marbut said Gov. Greg Gianforte wanted HB 102 to be the first bill on his desk to sign, so supporters for the bill in the legislature hurried it through all the readings and votes. Gun control advocates claimed this was a deliberate strategy on behalf of the bill sponsors and gun rights interest groups to limit the opportunity for opposing voices to be heard.

"National and statewide interest groups have a huge role in gun politics in Mon-

tana, which is a huge reason why HB 102 got passed so efficiently," Durnell of ASUM said. "The bill went through the legislature very fast, which was intentional to avoid massive public backlash on behalf of the sponsors."

Activists against HB 102 are concerned with the culture the bill could create on college campuses, as well as the possibility of an increased rate of suicide by firearm with greater gun availability.

"HB 102 could definitely have dangerous consequences on college campuses, and it is not supported by any evidence," McRae said. "Lax gun restrictions on college campuses have had mixed results, but it sets a bad cultural precedent that could make students feel unsafe."

"We are mostly concerned with the enabling of more firearm suicides, but there is no evidence that introducing more guns into a space would prevent any mass shootings," Sprigg said. "By allowing for wide access to guns in public spaces like HB 102, we could see increased suicide rates among students, who have already dealt with a lot mentally with COVID-19."

In contrast, advocates for HB 102 question gun-free zones and champion the ability for people to possess guns as a means of defense.

"HB 102 would eliminate dangerous gun-free zones where, statistically, mostly criminals possess guns," Marbut said.

The UM College Republicans expanded this in the context of UM's campus, saying students shouldn't have to call Griz Walk when walking on campus at night.

"They should be allowed to know that they are able to protect themselves when the need arises," the group said.

Despite gains made by the Republican Party and gun rights groups, advocates for gun control have not given up a future with their policies being enacted in Montana.

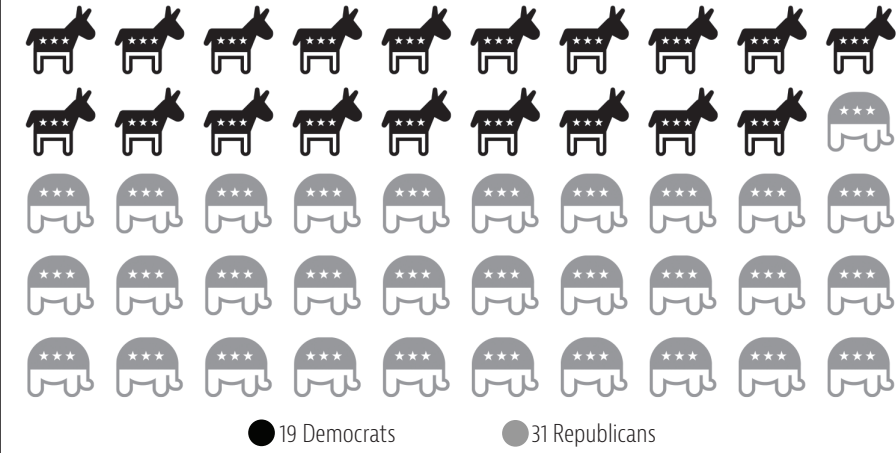
"I have not lost all hope. There are still plenty of people that have political power that are reasonable, Democrats and Republicans alike," McRae said.

In the past, members from either side of the political aisle have made agreements on gun legislation. State Rep. Seth Berglee, the primary sponsor of HB 102, signed on as a sponsor to a gun control bill authored by Helena Youth Against Gun Violence in 2019.

"If we work with people like Berglee on common sense gun legislation, we will always be able to find some sort of compromise," McRae said.

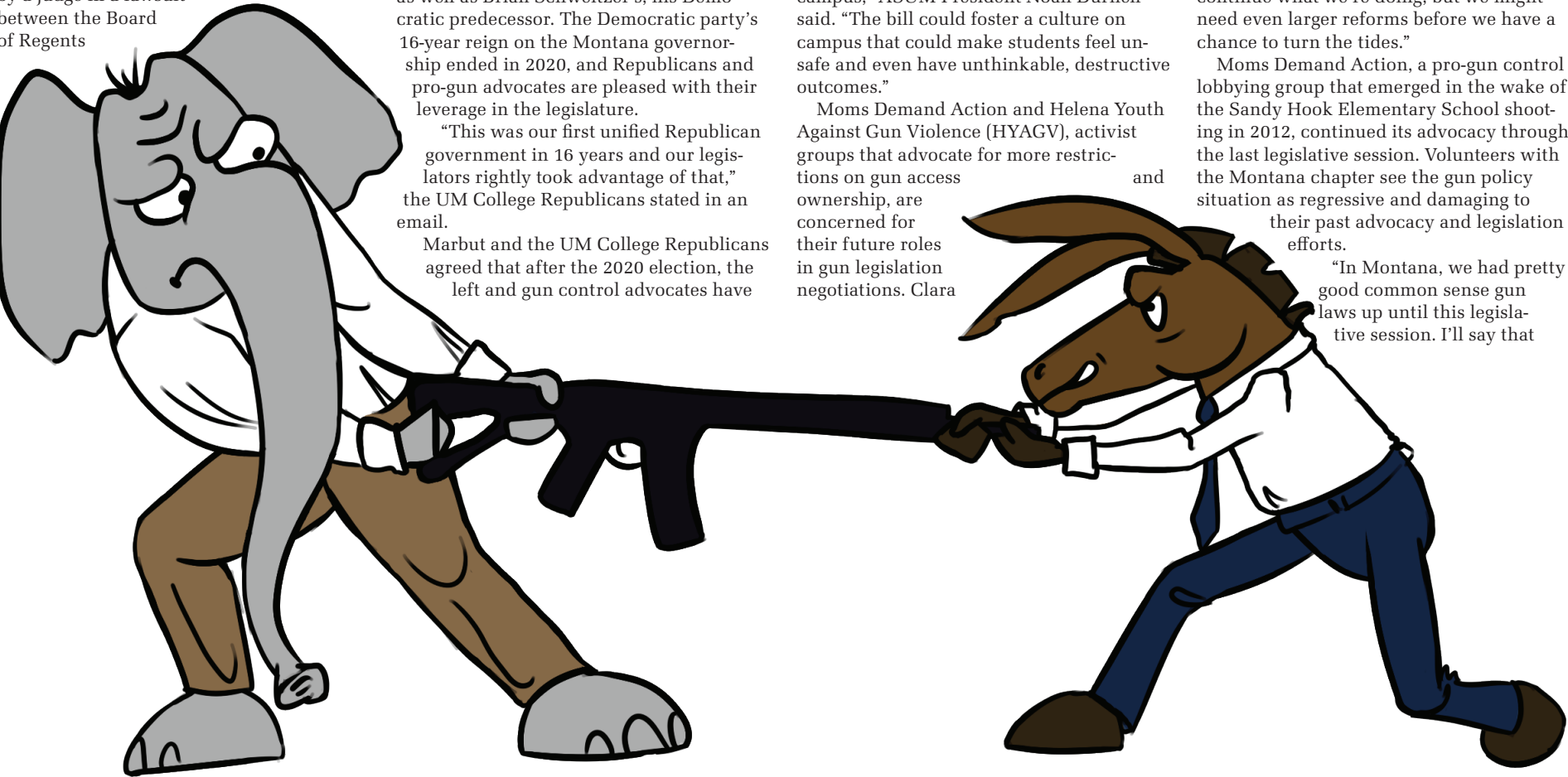
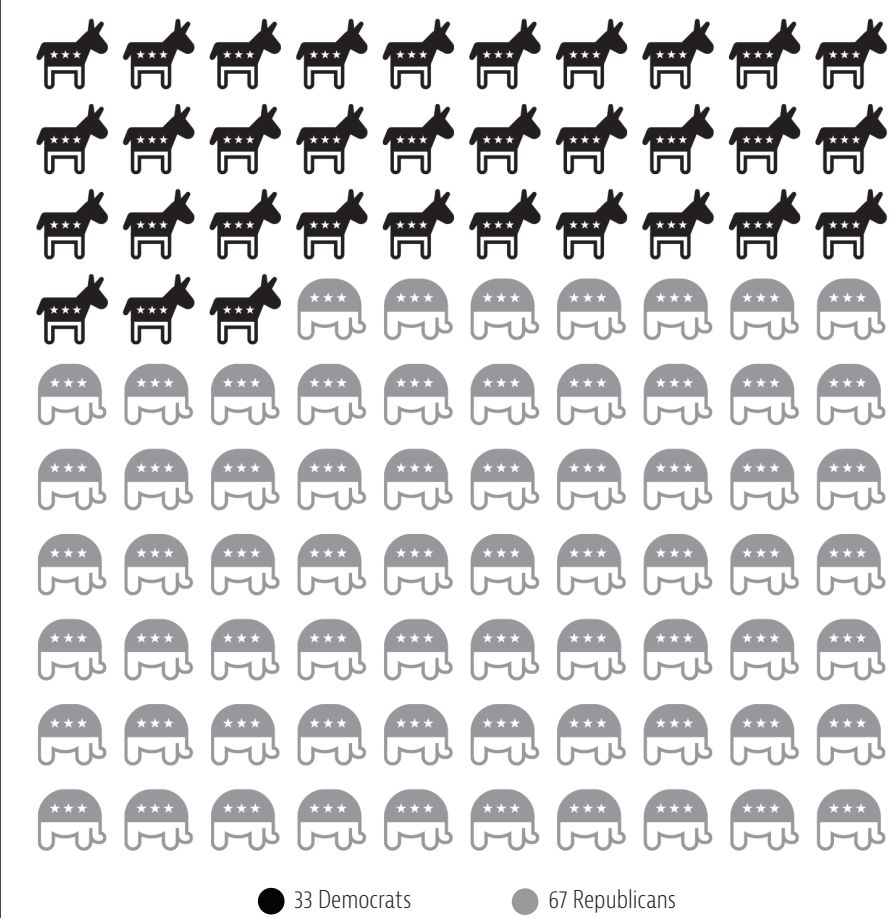
Montana Senate 2021

Party breakdown out of 50 senators



Montana House of Representatives 2021

Party breakdown out of 100 representatives



Q&A

Seth Berglee, Montana’s gun bill sponsor

Griffen Smith
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Originally published online: Sept. 24, 2021

As House Bill 102, a law proposing sweeping firearms law changes in Montana, is being argued over in district court, its sponsor watches from the sidelines. Montana State Representative Seth Berglee, a Republican from Joliet, introduced the bill in the 2021 session, but has worked to expand gun rights during his four terms in Helena. He spoke to the Montana Kaimin in a phone interview, detailing his four terms in the Legislature and his thoughts on guns and the Montana University System.

Editor’s note: This interview has been edited for length and clarity.

Griffen Smith (GS): Let’s get right on to the first question. Tell me about yourself and how you got to the state Legislature.

Seth Berglee (SB): I grew up in Montana, northeast Montana. My family farmed and ranched. It was a pretty normal Montana

the Capitol Building, because when you’re up there you’re spending a minimum of six or eight hours on some of the easy days. A lot of times you are there 12 to 16 hours. So yeah, it’s a big chunk of life. It’s a very unique experience, and I’m super honored to be able to do it.

GS: In your eight years, tell me about some of the goals that you had in mind going into Helena.

SB: I would say the two major areas I have worked on have been [the] Second Amendment, firearms, related bills, and then a lot of education stuff. My last three sessions I was the chair of the House Education Committee, which is interesting, because I was actually homeschooled through high school ... I had developed some expertise on the firearm side because of my competitive shooting background. We have a lot of laws on the books that aren’t really congruent with the realities of firearms. So for instance, this last session I carried House Bill 102, but I have carried or worked on legislation for teachers to carry in schools, campus carry before allowing concealed carry ... kind of across the board, firearms reform. House Bill 102 addressed a big chunk of that, actually. That was probably one of the things that I was most involved in. In terms of education, I was trying to give parents more control over their children’s education. We have some great schools in the state. But we also know that not every school always fits every kid ... So just trying to give parents more options has been a pretty big push.

GS: And focusing more on guns, I would say everyone has a different view on guns. Everyone has a unique view, some quite opposite to each other. I think it’d be important to just explain your view on guns.

SB: Sure. To me, firearms are a tool. Ultimately, they’re an inanimate object. So they are essentially an extension of whoever’s utilizing them or using them. The guns themselves are not good. They are a reflection of the purpose behind them. So that leads us into a discussion of the idea behind firearms or weapons in general, not just firearms. And to me, firearms are an extension of your right to either be on defense or offense.

You can use it one of two ways and generally when you’re carrying a firearm, unless you’re in the military or some law enforcement agencies, you’re not carrying a gun offensively to enforce your directives on somebody else. That’s war. And so the idea behind self-defense is that it’s a defen-

sive position. And the idea behind defense is to provide one a lethal means of protection, or up to a lethal means of protection and preventing someone from harming you. You can never tell how many people’s lives could have been saved if there would have been someone with their gun.

The other side of that equation is the safety factor. If you look at something like the Virginia Tech shooting, when you have a guy that gets a couple pistols, goes into a school building with several classrooms, chains the door shut, and could choose to kill over 30 people. No one in that building was armed, they had no way of essentially effectively defending themselves. If you had somebody in those classrooms, with your firearm that was even moderately competent, it likely would have changed the outcome.

As lawmakers, I think two things: One, the government shouldn’t be regulating anything unless it has a compelling interest. We should have the ability to essentially move and act and do things freely from government intervention, unless there’s a compelling need. And to me, I don’t see the compelling need to regulate firearms. I could take my .45 in my leather holster, walk around downtown completely legally. I could even walk into a bar legally with an open carry in just a leather holster. So that’s where the permitless carry aspect of my bill came in saying, “Look, we don’t require a permit for someone to carry a gun openly. Why are we requiring a permit for them to carry concealed?” We want to encourage people, in my mind, to carry concealed because I think — in my professional opinion from having trained people around as, you know, multiple branches of the military, federal law enforcement, local law enforcement, SWAT teams — that’s the smart way to do it. No one knows you have it, they can’t target you, they can’t target the gun. So let’s encourage people to do that.

GS: There’s a lot of students on campus that kind of have the exact opposite view on guns that you do. They don’t like them. They don’t want them on campus. What would you say to them?

SB: I think two things. One, the rationale of “I don’t like it” is not a viable argument to me. And I don’t think that’s what should be a viable argument for any of the laws that you make. What it comes down to is, what are the realities of it? We need to have a worldview that’s congruent with reality. And so the question I asked is “I get where you’re coming from, let’s have a conversation about what it is that you’re afraid of.”



MONTANA STATE LEGISLATURE | CONTRIBUTED

Okay, they could say I’m afraid that someone’s going to get angry, they’re going to pull out a gun, and they’re going to shoot. Now that’s a viable reason. If that’s a real possibility, then it should be addressed. And so you start looking at statistics like, OK, statistically, what are the chances of X or Y happening? And it’s just so low. I mean, you look at it [and] there’s like 14 or 16 states that allow concealed carry on campuses ... And so the argument that, well, someone’s gonna get mad, they’re gonna shoot somebody, it hasn’t ever happened that I’ve been able to find.

So to me, just from a likelihood standpoint, more people are killed by mass shooters. A concealed carry permit holder is likely to run the numbers, your chances are many times greater of the mass shooting incident than some random concealed

carry person pulling out their gun getting angry. The other argument I’ve heard is it could be accidental. Someone accidentally pulls out the gun themselves, shoots somebody. And there are a few instances, if you look around you can find some of them. In Utah, even a professor shot himself in the foot. I think he had a gun in his office, it discharged itself.

Those instances occasionally do happen. If you look at accidental firing, or accidental discharges, they’re a limited number of people. But then you look at the numbers of people that conceal-carry [in] Montana [and it] is like 35,000 people. And that number has been climbing. So it’s probably about 40,000 now. So we’ve got a million people. So if you’re looking at percentage-wise, you got a couple percent out of 100 people in the state. There’s people that

carry concealed without a permit, but people will always carry concealed without permits. Just a reality.

So what are the chances of an accidental shooting happening? Once again, extremely low. The last time somebody was killed in a school shooting in Montana, that was in 1990, at Montana State, where a teen who was angry shot two other students on campus with a shotgun. And so we have 200,000 students in Montana. We haven’t had a shooting in 30 years; hopefully you never do. But kids that have been killed in a school shooting are essentially zero.

It’s like but we don’t we don’t wrap our lives around and alter laws based on our fear of being killed by a grizzly bear because it’s statistically so low as to be irrelevant. That’s kind of where I get to, it’s like, “Is it a rational fear?” No, I don’t think so.

GS: That brings up an interesting point about Montana specifically. You mention this in your closing speech in the Senate Judiciary Committee. Do you think that Montana is unique in that we have a lot of guns compared to an East Coast state like New Jersey?

SB: The point that I was making is that in New York, or New Jersey, or Maryland, or even California, they’re very regulated. In New York you have to have a permit to own a firearm. Whereas here, if I’m 17, my dad could just give me one. You go to some one of these more-regulated states that don’t allow high capacity rounds, you have to have a permit. They don’t allow ownership under 21, some of them for pistols. There’s more people around Montana campuses that own guns and carry guns and have guns in their houses or their vehicles than there would be in a state like that.

Our culture is different, many upbringings make us familiar with guns. And I think too, at some point, we have to ask, is this an education problem? Or is this a reality problem? As a citizen in America, you could carry on that side of the street across campus. We could allow the same thing here; there’s no difference, there’s no statistical difference between kids off campus or kids on campus. So we shouldn’t be denying a right that’s available to them everywhere else.

GS: For House Bill 102, and kind of your work on guns, there’s a lot of changes that you were involved with there. Is House Bill 102 the ultimatum to gun law change, or do you think more needs to happen with gun laws?

SB: It definitely took a big swath. And I think it did clean up a lot of the laws and make them more congruent with modern realities and statistics. There’s probably a few things that could still be adjusted. So we’ve looked at sort of the public K-12 education and I didn’t touch that with my bill. Essentially, the school board could give permission to a teacher or administrator to carry a firearm concealed. But there’s no training requirements. It’s sort of at the discretion of the school board. I think it would be a better idea to have a state law that outlined the process, or allowed for more opportunities for people to be able to carry in K-12. But for the most part, I think a lot of it has been pretty well received. And I think it makes things clearer for a lot of people in Montana.

GS: Going to House Bill 102, tell me your thought process on why you think the state Legislature should control guns rather than the Montana Board of Regents.

SB: It’s not so much that we want to control firearms, it’s that we want to establish a hierarchy of rights. To say the Board of Regents has absolute totalitarian control over any aspect of the university system, like its own private state within a state, is an overreach. I don’t see how they have the ability to regulate firearms or the Second Amendment or the First Amendment based on their ability to run the university system.

And so the argument they’re essentially making is that they have to pay taxes, they have to fall under a broad swath of other regulations that the Legislature sets, and they abide by those. There are arguments with this as well. This is like a specific reach of rights. So if it’s a general mandate that applies to the university system, the university system has to follow it like everybody else.

But in the case of firearms, the university system argues that it doesn’t apply to them. To me, it seems like a counterintuitive argument, because adults have the ability to carry a firearm in the state, that’s already a right afforded to them. But they can’t carry on college campuses. So it applies to everyone in the state except on the campuses. The judge in the lawsuit specifically stated that it isn’t about firearms, it’s about specific authority of the Legislature to override the Board of Regents’ decisions. If this was tax law, that’s very different from first or second amendment rights. I think we are afforded a higher degree of protection under the Constitution for these specific purchases, which is why I called it out in the bill.



Sean Anderson, a senior at the University of Montana, fires some rounds at a shooting range using his personal AR-15. Anderson is one of many gun-owning students at UM who is paying close attention to what the school policy will be involving HB 102 and guns on campus. In Montana, you have to be 18 years old to purchase a long gun and 21 to legally purchase a handgun. **RIDLEY HUDSON | MONTANA KAIMIN**

Holstered?

New state law puts campus carry in limbo

Story by Griffen Smith ORIGINALLY PUBLISHED: Sept. 9, 2021

HALSTON WITT is a gun owner. The freshman biology major from South Dakota says her desire to carry a gun for self-protection was sparked by an incident that occurred at her home when she was young. A man pounded on the door over and over, demanding entry, until finally giving up and leaving Witt and her mother alone. Witt grew up around firearms and hunting. She recalled a Christmas when her dad gave her a .22-gauge shotgun with her name engraved on the side. She was in elementary school. “It was kind of jarring,” she said. “My



Halston Witt, a freshman at the University of Montana, left her hand gun at home in South Dakota. Witt carries a gun for safety reasons. She plans to bring it back to school when she goes home after learning that she can store her firearm with UMPD. **RIDLEY HUDSON | MONTANA KAIMIN**

cousin got an iPod.” Now, nearly a decade later, Witt hasn’t turned away from guns. She wanted to bring her pistol, purchased legally by her father, to campus this year, but left it at home in Watertown, South Dakota. She did not know the rules in Montana, and didn’t feel comfortable bringing her gun into the dorms. As Witt started her first day at the University of Montana, she was caught between two realities involving guns on

campus: the current policy, which requires her to check her gun into a police locker, and a new law being challenged in court that would have meant she could carry it anywhere on campus, out in the open or concealed. For UM administration and the Montana University System, the issue of guns on campus has become more than a theoretical debate. House Bill 102, one of the most unrestrictive gun laws in the country, passed in the Montana legisla-

“If I can boil it down, anyone can physically bring a gun into a space. I should legally be able to bring one, too.”

Sen. Seth Berglee

ture this spring. The bill would allow anyone to carry a gun on campus, openly or concealed. It would overrule UM’s current policy — one that has been on the books since 1987 and requires students who want to bring guns onto campus to check them into a gun locker. The policy says nobody except law enforcement may carry on campus. In May, the Board of Regents was preparing to implement HB 102 by its original June 1 deadline. But after two meetings seeking public comment — most of which urged the board to fight against the legislation — the regents sued the legislature on May 19, arguing it had overstepped its bounds. On May 28, three days before the law would have gone into effect, a Lewis and Clark County judge temporarily barred it from going into effect. Ten days later, on June 7, the judge indefinitely extended the order to prohibit enactment of HB 102 until the lawsuit could be heard in court. Because Montana’s constitution explicitly gives the Board of Regents authority over affairs on campus, the legal battle will determine more than just whether guns should be on campus. Instead, a larger question is at stake: Who has the right to control the Montana University System?

A long-standing policy

For years, gun advocates in Montana have sought to loosen restrictions. The political climate in 2021 gave them the window of opportunity they were looking for: a majority Republican legislature, with a Republican governor at the helm for the first time in 16 years. At a Senate Judiciary Committee hearing in January, Sen. Seth Berglee, a Republican state senator from Joliet, Montana, introduced HB 102, legislation he has been trying to pass for eight years. Berglee’s bill changed Montana’s concealed carry laws to allow permissive carry anywhere one can open carry, rather

than obtaining a concealed carry permit from a county sheriff’s office. The bill also allows concealed guns in banks and bars, which usually only allow firearms on their premises when people are open carrying. Most notably for the state’s universities, HB 102 stipulated that the Montana University System couldn’t ban guns on campus, and in setting gun policy, it can only follow the guidelines from the legislature. The bill would also allow permitless concealed carry on campus. Berglee cited several examples of states that allowed guns at universities. Campus carry exists in more than a dozen states, but only Utah matches HB 102 in explicitly requiring guns be allowed on every college campus. That Utah legislation, and most other gun-friendly campuses, still mandate that gun carriers have a concealed carry permit, though — differing from HB 102’s proposed permitless concealed carry. “If I can boil it down, anyone can physically bring a gun into a space,” Rep. Berglee said in a recent interview with the Kaimin. “I should legally be able to bring one, too.” Under HB 102, MUS could mandate holstering guns on campus, restrict firearms at controlled events and allow students in residence halls to object to their roommate bringing their gun. At the January hearing, the National Rifle Association, along with interest groups from around the country, testified in favor of HB 102. But most of the hearing consisted of opposition speeches. Many were from students and educators. Some, like Montana State University student Daisy Khoury, had seen the dark side of guns. “When I was 13 years old, one of my best friends committed suicide right in front of me. He shot himself in the head with a handgun,” Khoury said. “Guns have no place on a college campus, or near any school.” Despite almost an hour of opposing testimony, the bill passed the Senate Judiciary Committee on Jan. 20. And after it ran through the state House and Senate on party lines, Gov. Greg Gianforte signed HB 102 into law before the legislative session was even halfway over.

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

Daisy Khoury

Ask the Oval: HB 102

Sophia Mathena | Junior | Integrative Physiology

"If it were a law, I would be okay with it. I grew up with guns. But I have mixed feelings for campus. Bad apples would probably ruin it for people."



Noah Woodin | Freshman | Media Arts

"Everyone should be well versed on firearms. I definitely see both sides to guns. Maybe UM could issue background checks for students bringing a gun to the dorm."



Justin Miller | Transfer student | Diesel Equipment Technology

"A year ago I would have totally been for guns on campus, but now that I live on one, I know this isn't the place for them. There is a time and place for guns, and people on campus are not comfortable seeing a gun."



Matt Hunter | Grad student | Accounting

"I don't like the idea of guns on campus. I grew up with them, my family owns guns. I think it could work for hunting rifles, but that's about it."



RIDLEY HUDSON | MONTANA KAIMIN

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. So the bill changes nothing for students while it remains embroiled in court.

"In this case, the Board of Regents really felt like we needed some clarity on what roles the board has and what the legislative role is," said Helen Thigpen, executive director of government relations and public affairs for the Commissioner of Higher Education. "This suit is 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 v. Board of Regents, which centered around a bill allowing the legislature to regulate specific budgets of college departments through a committee. The court sided with the university system, strengthening its precedent of college campus control.

The Montana Federation of Public Employees has also brought a suit against HB 102 in a Bozeman court.

"Either court can rule the law is 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 considered part of the state's culture. Compared to other states, Montana has the highest rate of gun ownership per capita, at 66.3% of people, according to a 2020 report from the Rand Corporation. The national average is 48%.

With the bill tied up in court, MUS policy still rules. Any student who wishes 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 police lockers varies, but it is not more than a couple dozen, according to Brad Giffin, chief of UMPD. The number also changes often, as any student can take their gun out of the locker.

But Giffin also said many students are not aware of UMPD's gun locker, and often break the rules.

"People who don't want to store

their guns are possibly bringing them on campus," he said. "We recommend people check the gun in, but they are also allowed to store them in their cars as long as it is unloaded, secured and the car is locked."

This may be the answer for students like Witt, who feels protected having a gun.

"As an 18-year-old woman who isn't large, I use it for self protection," Witt said. "When I stop alone in Baker, Montana, while driving home, I feel more comfortable being armed."

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 was an option.

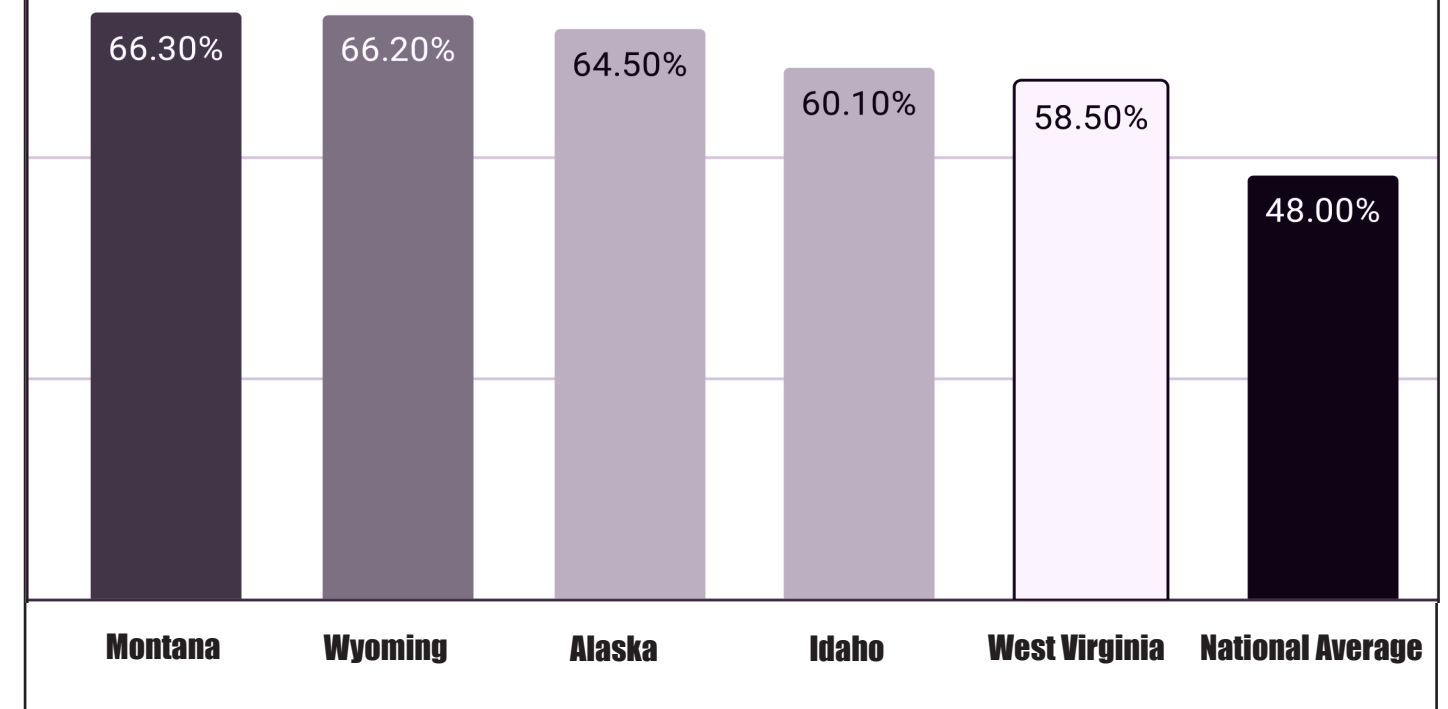
While the amount of students who do not follow university gun laws in Montana is uncountable, some say they exist. State representative Braxton Mitchell, a 20-year-old Republican from Columbia Falls, published an opinion piece in the Missoulian June 10 stating he knows students who bring their guns on campus because they feel an obligation to keep others safe.

"I can name countless friends in our university system who currently conceal carry on campus and have firearms in their dorms, which is currently not allowed," he wrote. "These students are responsible and have the background and knowledge to safely own and equip firearms."

UM strategic communications director Dave Kuntz said he has not heard about cases of students violating gun policy, and little is known about students with firearms outside of UM's campus.

Should HB 102 become campus policy, Giffin said, a top concern for UMPD is accidental discharge and easy access to guns.

Gun Ownership by State 2021 Top 5 States



Montana has the highest rate of gun ownership per capita in the U.S., according to data from the Rand Corporation. MCKENNA JOHNSON | MONTANA KAIMIN

Long-lasting trauma

Roughly 200 people die from guns in Montana each year, according to data from the Centers for Disease Control and Prevention. In 2019, the Montana Department of Public Health and Human Services reported that 60% of the state's suicides were by gun, and 72% of youth suicides were done with firearms.

Tracee Anderson, interim director of the Curry Health Center's counseling program, said the easy accessibility to firearms that could come if HB 102 becomes campus policy is a concern for her office as well.

"Our fear is that easy accessibility to firearms could mean more suicide attempts," Anderson said. "Look at the experience students have when they are in a new space. There's trepidation, anxiety, uncertainty — typical challenges to

coming into a new environment. But we don't know what will happen."

The last gun death at UM reported by the Kaimin was student Kole Swartz, who died in 2015 after accidentally shooting himself at a home in Clinton, Montana.

Khoury, the MSU student who testified against the bill, has personal experience losing a friend to suicide. It still affects her today.

Her parents were there for her. She had a therapist. But Khoury explained that the process of coping with the loss of her friend was deeply personal.

Khoury struggled.

By the end of high school, she did not have a plan for college or anything else.

But Khoury said she has grown since her friend's passing. She decided to apply to MSU on a whim, and is studying to be a forensic psychologist.

When she heard about HB 102 in January, she reached out to her dean and MSU president Waded Cruzado. She talked to representatives in MSU's student government, the Associated Students of Mon-

tana State University, who set her up to talk at the hearing.

She raised concerns HB 102 would make students with gun trauma feel unsafe at colleges and threaten their mental health.

"The bill just instilled fear in me," Khoury said. "Some people feel safer being armed, but those like me feel safer knowing there is not a gun in my area."

She followed the bill as it progressed and landed on Gianforte's desk. But like many other students, she did not know about the lawsuit, or that it had stopped HB 102 from taking effect.

Her first week of school was filled with thoughts of which passing student's backpack could contain a firearm.

Witt, the freshman biology major at UM, is a stark contrast to Khoury. She said on her first day walking to class she felt comfortable at UM. She wasn't carrying her gun, but UM's campus seemed safe. Besides, she carries mace and a knife.



Scoping out HB 102

What open carry on campus means
to one UM gun-owning student

Story and Photos by Antonio Ibarra

ORIGINALLY PUBLISHED ONLINE: Nov. 22, 2021



ABOVE: Nicole Bealer, a University of Montana junior in wildlife biology, has mixed feelings about the Montana Legislature's passing of HB 102. Although she feels comfortable with the idea of open carry firearms, Bealer worries about the impact of guns being in the hands of young college students and what that would look like in a campus setting.

LEFT: Bealer looks down the shooting range through the scope of her .306 rifle as she sets to fire a couple of practice rounds. Bealer, a proponent of firearm safety, believes more people need to take gun handling more seriously. After the passage of HB 102, she said she's concerned about the potential impacts of guns being around college campuses.

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 first-hand 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 wild-

life biology junior from Houston, gun safety is something that she continuously 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 conceal 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 UMPD.

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,



Bealer helps University of Montana junior Zoe Fintz, right, from New York, with her 0.306 rifle marksmanship at Big Sky Practical Shooting Club. One of the many tasks Bealer has as hunt coordinator for Backcountry Hunter & Anglers is helping members like Fintz by taking them on practice shoots at gun ranges to improve their marksmanship to prepare for their first hunting trips.



ABOVE: Knealing in front of a shooting targets, Bealer congratulates Fintz on her improved marksmanship shooting for the day. Bealer is helping Fintz prepare for her first hunting expedition in the coming months. UM's chapter of Backcountry Hunters & Anglers provides its members with tools such as targets to practice firearm and marksman skills.



Bealer understands why people enjoy shooting recreationally outside of a hunting context, but she doesn't see guns as toys. The guns she now owns have only been for hunting purposes, which is why she sees them as tools designed to kill things and not to be played with. "I shoot because I'm preparing to hunt. I'm not quite recreational enough to just go spend money on ammo just for shits and giggles," she said.



Ammo and rifles like the .306 pictured above are sometimes provided by UM's BHA officers and other chapter members. This facilitates hunting opportunities for those who don't have access to firearms and ammo.

which temporarily barred it from becoming a law. As it remains held in court, many have been left to figure out the potential implications of an HB 102-campus.

The passing of HB 102 affects concerned students like Bealer. While she feels comfortable 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 love it. I don't know if I trust the general population that much, especially college students," she said. "Mental health-wise, we're all over the place."

Apart from her college life and delving into the hunting world of Montana, Bealer is the hunt coordinator at UM's chapter of Backcountry Hunters & Anglers, a nonprofit focusing on the outdoor heritage of hunting and fishing in North America. She helps educate students about hunting on Montana's public lands and hosts firearm workshops specializing in gun safety for members who have never handled firearms.

While students certainly have been dealing with unknown variables in the face of this legislation, if there's another person on UM's campus getting headaches from the uncertainty of HB 102, it's Chief of Police Brad Giffin.

"I think [HB 102] just wasn't very well thought through," he said. "The law is pretty broad when it comes to college campuses. I don't necessarily agree with all of the laws that are on the books, but it's my job to enforce them."

If HB 102 escapes judicial hold-up, Giffin and UMPD would be in charge of enforcing the law's policy around campus. Giffin said one of the most problematic parts of the bill is the open carry component to it. Confusion could arise from students holstering guns on campus.

Giffin has recently been working with schools such as the University of Wyoming and Texas A&M — who currently have campus concealed-carry policies — to see how they're enforcing firearms. One of the main issues Giffin said officers at Wyoming have encountered is public negligence of where people can't have firearms on campus.

Currently, Montana Board of Regents policy "prohibits carrying firearms on or at any campus of the Montana University System." However, UMPD has a weapons storage vault where students, staff and faculty can safely store and access their firearms at any given time.

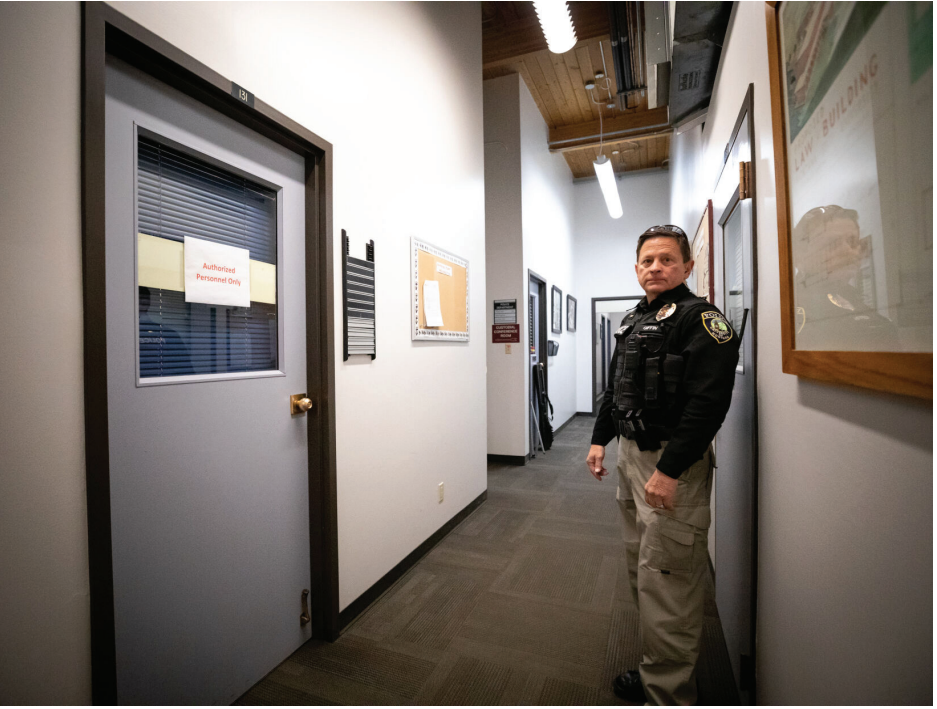
As the future of HB 102's implementation remains in question, Bealer said she doesn't feel comfortable with the idea of seeing her peers "packing heat" around UM's campus, given how immature students can be when it comes to guns.

"It's an alarming idea to think of a bunch of freshmen with guns, especially from the dumb things I've seen young people do," she said. "It's a frightening idea that you could have easily accessible guns all the time in a sort of dorm setting."



LEFT: Fintz, right, walks down the range with Bealer to place shooting targets as they set to go through marksmanship training at the Big Sky Practical Shooting Club range east of Missoula. Bealer said one of the main barriers when she first delved into the hunting world were the ammo and firearm expenses.

LEFT: As a proponent of firearm safety, Bealer ensures UM's BHA members learn the basics of safe gun handling practices to keep themselves and people around them safe. Firearm safety includes using proper noise-canceling equipment, treating all guns as loaded, keeping the barrel pointed in a safe direction and maintaining a safe distance from others.



ABOVE: Chief of Police Brad Giffin stands outside UMPD's weapons storage vault where students cans store and access their firearms on campus at any time. The Montana Board of Regents currently has a policy in place that bans weapons on any Montana University System campus.

ASUM, ASMSU differ on legal action on controversial bills

JACOB OWENS
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ORIGINALLY PUBLISHED: Sept. 16, 2021

As the legal fight over House Bill 102 and other bills escalated last spring, the student government at one of Montana's two largest universities joined in, while the other remained an observer to the ongoing battle.

The Associated Students of Montana State University (ASMSU) signed on to a lawsuit June 3 challenging the constitutionality of House Bills 102, 112 and 349 and Senate Bill 319.

HB 102 allows guns on campus. HB 112 requires transgender athletes to compete under their assigned-at-birth sex. HB 349 expands free speech on campus while prohibiting student group discrimination. And SB 319 allows political student group opt-in funding.

The Associated Students of the University of Montana (ASUM) did not choose to join the legal fight. But both organizations believe they have the legal standing to do so independent of their universities.

UM did not believe ASUM could sign on to the lawsuit independently of the University. Though ASUM disagreed, it opted not to sign on to the suit.

"It wasn't necessarily about just taking our stance and running with it. It was really about this whole concept of the Board of Regents and their constitutional authority, which we felt was violated by the Legislature in this session," ASUM's president Noah Durnell said. "And so after the Board of Regents signed on we really didn't think ASUM joining was going to be the most effective approach to meeting those ends."

Durnell said the organization didn't join the suit because the Montana University System's Board of Regents, the state's higher education authority, eventually filed another suit against HB 102 – but also because UM informed ASUM that if students are further harmed by any bills, the University will work with ASUM to defend students.

Norris Blossom, ASMSU's president, said ASMSU joined the suit to protect the constitutional authority of the Board of Regents and not because of the substance of the bills.

"Regardless of what the bills would've been, it's always inappropriate for the Legislature to pass bills that are clearly in the realm where the Board of Regents should govern," Blossom said.

ASMSU signed onto a lawsuit brought forth by the Goetz, Baldwin & Geddes Firm, as well as the Graybill Law Firm, following majority approval by its student senate. This suit is separate from the one brought by the Board of Regents on May 27 that challenged the constitutionality of HB 102 and resulted in an indefinite hold on the law June 7.

Durnell said last spring was "tense" after

ASUM researched whether it had legal standing to independently join the same suit ASMSU did. He said research done by ASUM's executives and student legal interns with professional legal advice from Lou Villemez, the ASUM legal services director, led to the conclusion ASUM could join the suit independent from UM.

Durnell said one of the cases that supported this conclusion was Associated Students of the University of Montana v. The City of Missoula. According to a memo that was part of ASUM's legal research, the Montana Supreme Court classified ASUM as "an unincorporated association of students enrolled at the University" in the 1993 case where ASUM was a plaintiff.

Durnell said UM disagreed with ASUM's findings that it could join the suit independently from UM, an area there is still no consensus on. Durnell said this disagreement was not what prevented ASUM from joining the suit, though.

"If we decided it was the best decision for us to join we would've still joined, and determined whether we were able to later, because it was so time sensitive," he said.

Dave Kuntz, the director of strategic communications at UM, said the University has no official stance on if ASUM can represent itself independently in court. He said any conversations on the topic were informal and not official legal opinions.

Kuntz said the Board of Regents lawsuit is the best way to challenge HB 102's constitutionality, a sentiment Durnell agreed with.

Blossom said ASMSU did not ask MSU's permission to join the suit but informed them of their decision to join it. He said the organization did not hear much feedback, good or bad, from the administration.

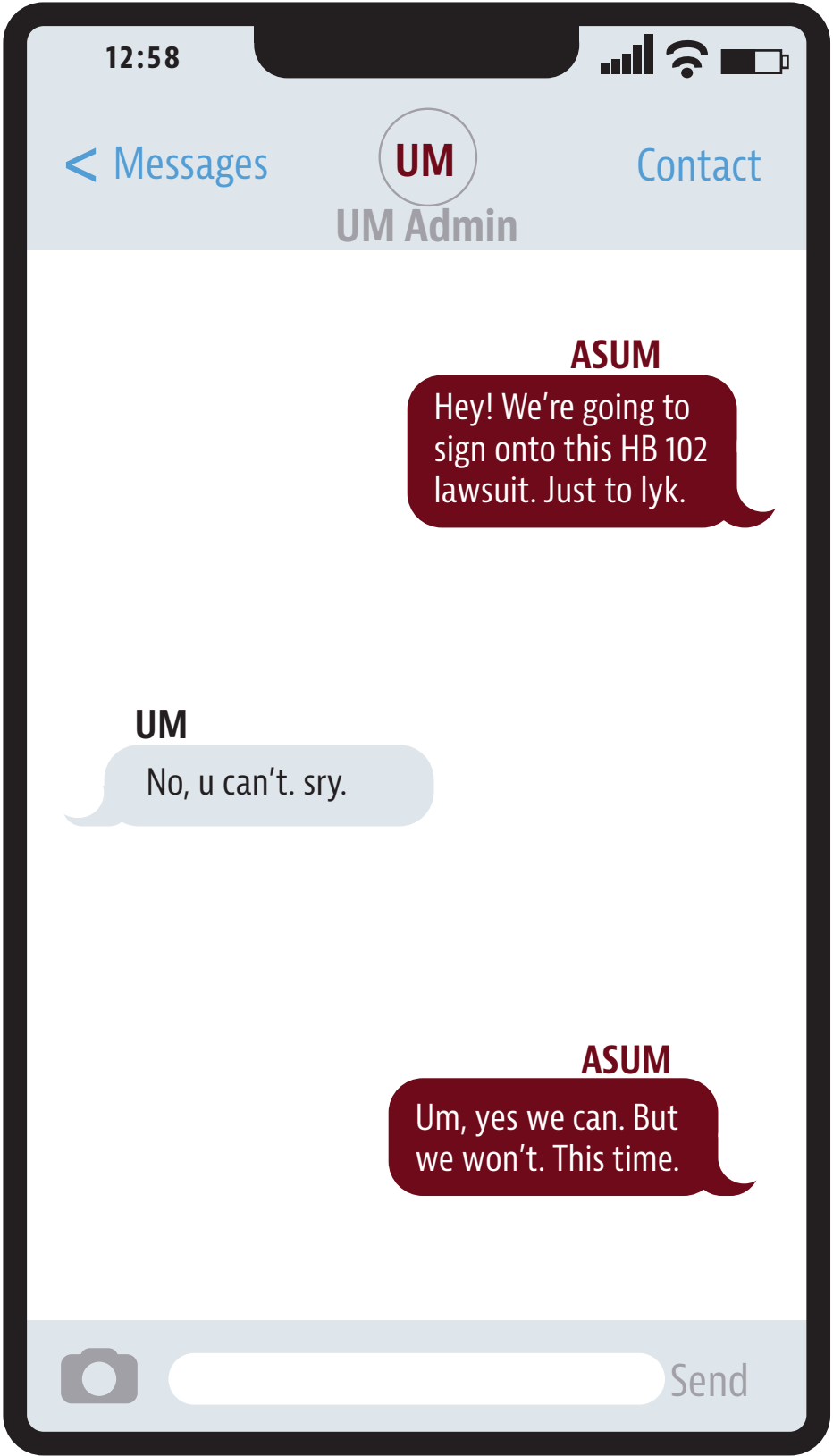
"At the end of the day we serve students here at Montana State University, we don't serve administrators at MSU," he said.

Blossom said MSU's administration and ASMSU are "close partners," but ASMSU has autonomy from the University.

Durnell said ASUM believes a victory in the Board of Regents suit against HB 102 could set a precedent that could then be used in litigation against other bills, like those mentioned in the other suit.

Durnell said the latest legislative session has shown how much UM cares about its students. He said ASUM's ability to join a lawsuit or not has no implication on how well the organization can represent UM students.

"I have no doubt in ASUM's ability to represent students, and that should not be defined by our ability to join a lawsuit or not," he said.



MAKAYLA O'NEIL | MONTANA KAIMIN

Clear bags or bulletproof ones: How will UM Athletics adapt if gun bill remains intact?

TYE BROWN
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ORIGINALLY PUBLISHED: Oct. 28, 2021

The University of Montana, UM Athletics and the Montana University System's Board of Regents have no contingency plans to keep firearms out of certain sporting events if the contentious House Bill 102 makes it through court intact.

HB 102, which usurps existing Board of Regents policy prohibiting the open or concealed carry of firearms on Montana University System campuses, was halted in May by a district court judge. While litigation is pending, the current board policy remains in effect.

If HB 102 goes into effect as written, exceptions are granted to either the board or a unit of the university system to prohibit firearms at events where campus authorities have authorized alcohol to be served and consumed, as well as events with armed security and controlled access.

"These are exceptions that either the board or the university system can come up with," said Anthony Johnstone, a professor at UM's Blewett School of Law. "If the board decides to adopt a uniform strategy, that may be one option. But either one of them can adopt a policy interpreting this law."

Currently the University has no concrete plans to enforce the exceptions outlined in the bill.

"The University has had a working group that has been meeting and sort of discussing the implementation of House Bill 102, but I don't know that we finalized our approach," said Paula Short, associate vice president of Campus Preparedness and Response.

Helen Thigpen, executive director of government relations and public affairs for the Office of the Commissioner of Higher Education, said she believes the decision to implement the exceptions will be left to the Board of Regents, but did not comment on whether they would do so.

"We just have to wait and see what the district court does," Thigpen said. "It hasn't been addressed substantively in the district court yet, and we don't expect that until early next year."

But if either the board or the University move to take advantage of the exceptions as currently written, many decisions that would limit the open and concealed carry of firearms at campus sporting events are still up to the University of Montana

Department of Athletics.

"Board policy also governs the possession and consumption of alcoholic beverages on campus," Thigpen said in an emailed statement.

Chuck Maes, senior associate athletic director, spoke about the alcohol exception. Currently the board has only approved alcohol sales at football and conference soccer games, but Maes hopes a decision will be made in November to allow alcohol sales for next basketball season.

"We're exploring the option, as is MSU, with doing it for basketball," Maes said. "But right now I'm not sure if we'll do it or not."

Maes said UM athletics is considering where to set up a beer garden, and what parameters must be met before the board allows it.

"If the Commissioner (of Higher Education) approves it, he'll tell us what the conditions are to do it, and then we'll see if we can meet those conditions," Maes said.

This would still leave non-conference soccer matches, volleyball, cross country, track and field, tennis and softball ineligible for HB 102's alcohol exception.

Otherwise, HB 102 states that exceptions for prohibiting firearms may be made at events that are "open to the public with controlled access and armed security on site." This would apply to basketball games and other public events in the Adams Center, as well as football, but none of the other aforementioned sports.

Kent Haslam, director of athletics at the University of Montana, said UM Athletics is responsible for setting up controlled access points and armed security for campus sporting events by contracting with the university police department.

"Right now, our plan is to continue to restrict firearms at football games through metal detectors and clear bags," Haslam said.

When speaking about providing armed security for other events, Haslam said, "We haven't talked through that. I'd rely on UMPD, the people who provide security, to give us that advice."

UMPD Lt. Chris Croft said UMPD employs 13 officers and football games are "all hands on deck." Men's basketball, the next highest-attended sport, averaged just over 4,000 people a game during the 2019-2020 season, according to NCAA attendance records. Croft said only one or two officers



MCKENNA JOHNSON | MONTANA KAIMIN

HB 102 MUS Faculty and Staff Survey

The Kaimin sent an informal survey to 678 members of the Montana University System’s faculty and staff — polling their thoughts on the potential of open and concealed campus carry if HB 102 is to pass through court unscathed. Respondents were asked to select one answer to each question, with the additional ability to add anonymous comments to each.

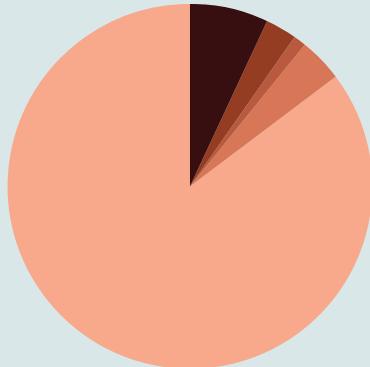
The emails were collected from MUS campus directories. Below are the survey results, as well as a random selection of faculty and staff comments. The comments were selected to demonstrate the varying and nuanced opinions of each respondent. The Kaimin sent the survey out Nov. 15 and closed it on Nov. 19, receiving a total of 155 responses.

ANDREA HALLAND & MAKAYLA O’NEIL | MONTANA KAIMIN

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 guns on campus promote a feeling of distress and fear for students not raised around guns. I also do not think our police officers should have guns on them on campus.
- » I believe in the right to bear arms. An individual should be able to own firearms and have them in their residence. If their residence is on campus that right should still exist.

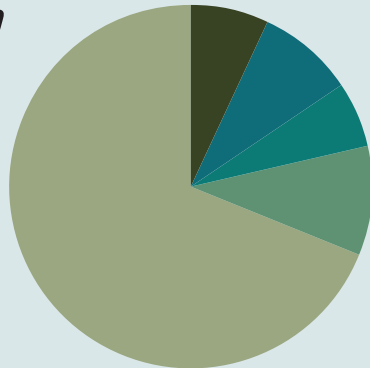


- 85.1 % Strongly disagree
- 3.9 % Somewhat disagree
- 1.3 % Neither agree nor disagree
- 2.6 % Somewhat agree
- 7.1 % Strongly agree

Guns have a place on campus. Do you agree?

Comments

- » Guns will be on campus regardless of the legislation. It is naïve to think that by outlawing guns on campus that they will go away. The only people that will follow the rules are the ones that are of limited safety concern. The criminals will continue to break the law (hence they are criminals) and will continue to carry firearms on campus.
- » I imagine there are already plenty of concealed guns on campus that we don’t know about. I don’t necessarily think they have a place on campus, but I do think they have a place in society, especially in MT.

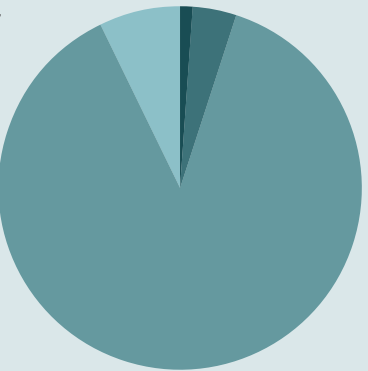


- 68.8 % Strongly disagree
- 9.7 % Somewhat disagree
- 5.8 % Neither agree nor disagree
- 8.4 % Somewhat agree
- 7.1 % Strongly agree

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

Comments

- » I am a pistol owner, and I hunt with a rifle. I know what weapons are capable of in the wrong hands, and I know how easily it is to get flustered and not handle the weapon appropriately. And I have never been in a tense 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.
- » No, absolutely not. I am much more worried about an accidental discharge then I am confident that an untrained student can protect me in case from another human with a firearm.

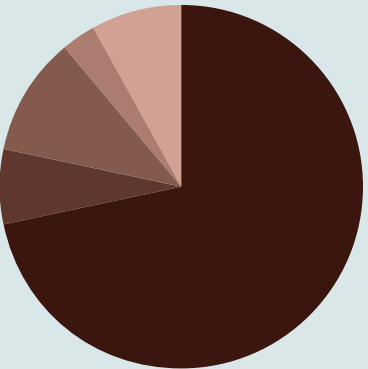


- 7.2 % Yes
- 87.6 % No
- 3.9 % Maybe
- 1.3 % Not really

Do you think the Legislature overstepped its authority by passing HB 102?

Comments

- » MUS and OCHE make decisions regarding the curriculum and operation of a university, not politicians with no experience with or ties to campus life. Not only did it overstep its legal authority, but it stepped over a moral line when rural, non-college community representatives voted to put the rest of us at risk to satisfy their own ideologies.
- » We operate under the Board of Regents, an autonomous governing body, and as such, they should have the final say on campus laws, not the MT State Government.



- 7.8 % 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

MARIAH THOMAS
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ORIGINALLY PUBLISHED: Nov. 4, 2021

It wasn’t until I was 17 years old that I learned both of my parents had faced down the barrel of a gun.

My mom and dad — both teachers — had a gun threat on their campus at Cocopah Middle School in Scottsdale, Arizona in 2006. At the time, my sister and I were at school five minutes away, in lockdown.

Unknown to me, an armed SWAT team entered both of my parents’ classrooms that day. When their classroom doors swung open for students to be evacuated, it was my parents in the crosshairs of assault rifles — in front of students who were inducted into the “lockdown generation.”

Let me explain what I mean by “lockdown generation.” I was born in 2000, one year after the Columbine school shooting left 13 dead at a Colorado high school.

Before Columbine, most students didn’t experience active shooter trainings or lockdown drills when they were on a school campus. In fact, it wasn’t until the academic year of 2005-06 — the year I entered kindergarten, and the year SWAT entered my parents’ classrooms — that more than 40% of public schools in the nation began implementing these procedures and drills, according to the National Education Association. By 2015-16, as I entered high school, this percentage had increased to 95%.

Since Columbine, there have been 256,000 children impacted by gun violence in schools, and 284 school shootings, according to a database compiled by the Washington Post.

My entire family has lived through 21 years in which we’ve known the exact procedure for if a gunman walked onto our campus. Generation Z is the only generation to know, since kindergarten, the terror of practicing what we’d do if someone attempted to kill us in our classroom.

My parents adapted to the “lockdown generation” in their classrooms, albeit in a traumatic manner I didn’t learn about until long after the fact. But me — I was born into it.

Over my 21 years, I’ve heard many solutions proposed to end this epidemic of gun violence on school grounds. But one argument in particular has never made sense to me.

It goes like this: “A good guy with a gun can stop a bad guy with a gun.” This argument posits that, with more guns on campus, students and teachers alike will feel more safe at school. It is one that, to me, is inherently

untrue.

This year, with House Bill 102 passing in Montana’s legislative session, allowing concealed carry of firearms on UM’s campus, the “good guy with a gun” argument has followed me to college.

HB 102 is currently tied up in court. But should it come out of court unscathed and be put into action on MUS campuses, I’ll have the fear that a bad guy with a gun and a good guy with a gun will become indistinguishable at my school. Rather, a person carrying on campus would just be a person with a gun — a concept that, for me, a member of the “lockdown generation,” is bone-chilling.

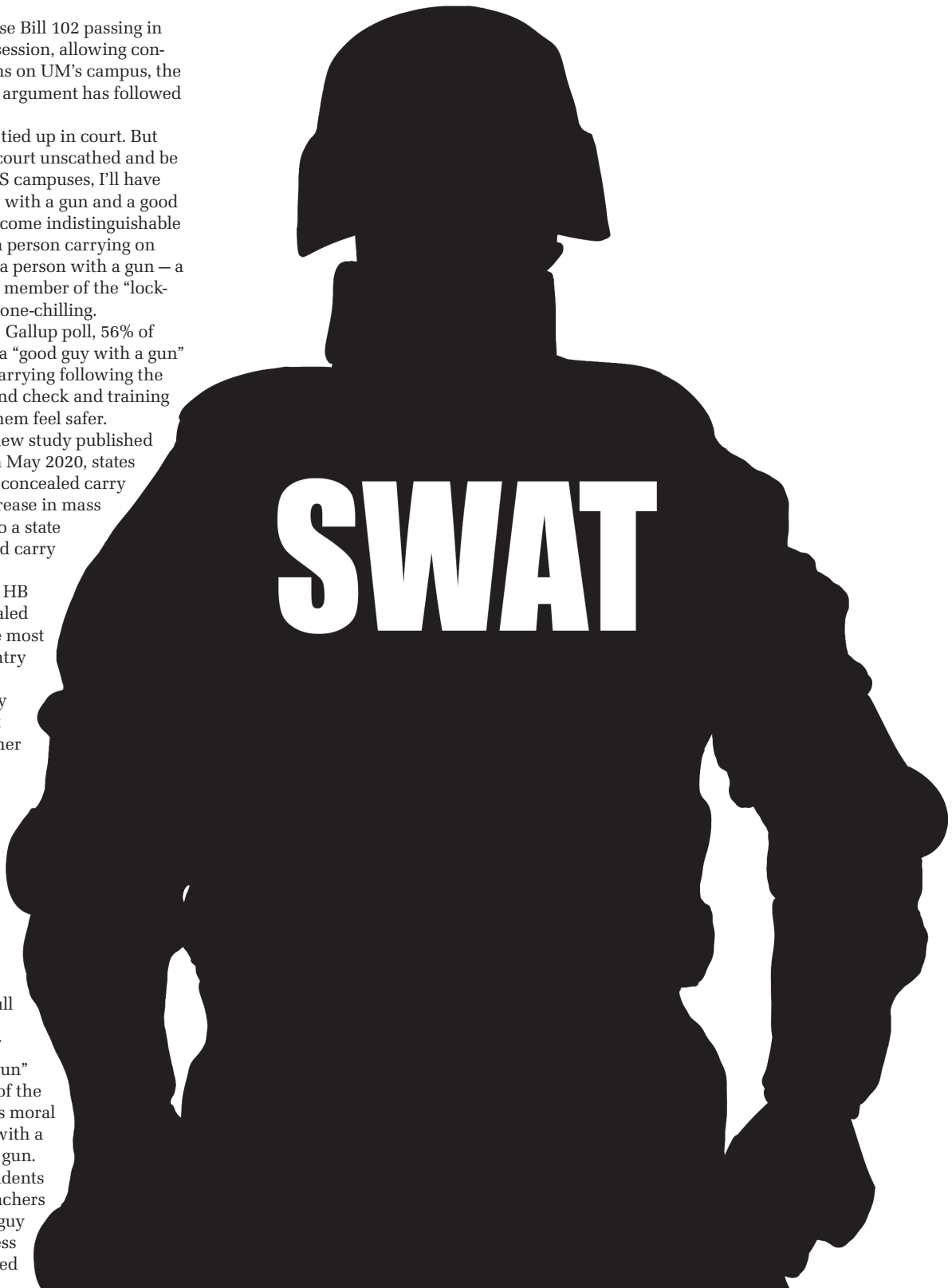
According to a 2015 Gallup poll, 56% of Americans do believe a “good guy with a gun” (someone concealed-carrying following the passage of a background check and training course) would make them feel safer.

But according to a new study published by Justice Quarterly in May 2020, states with more permissive concealed carry laws have a 53.5% increase in mass shootings, compared to a state with average concealed carry laws.

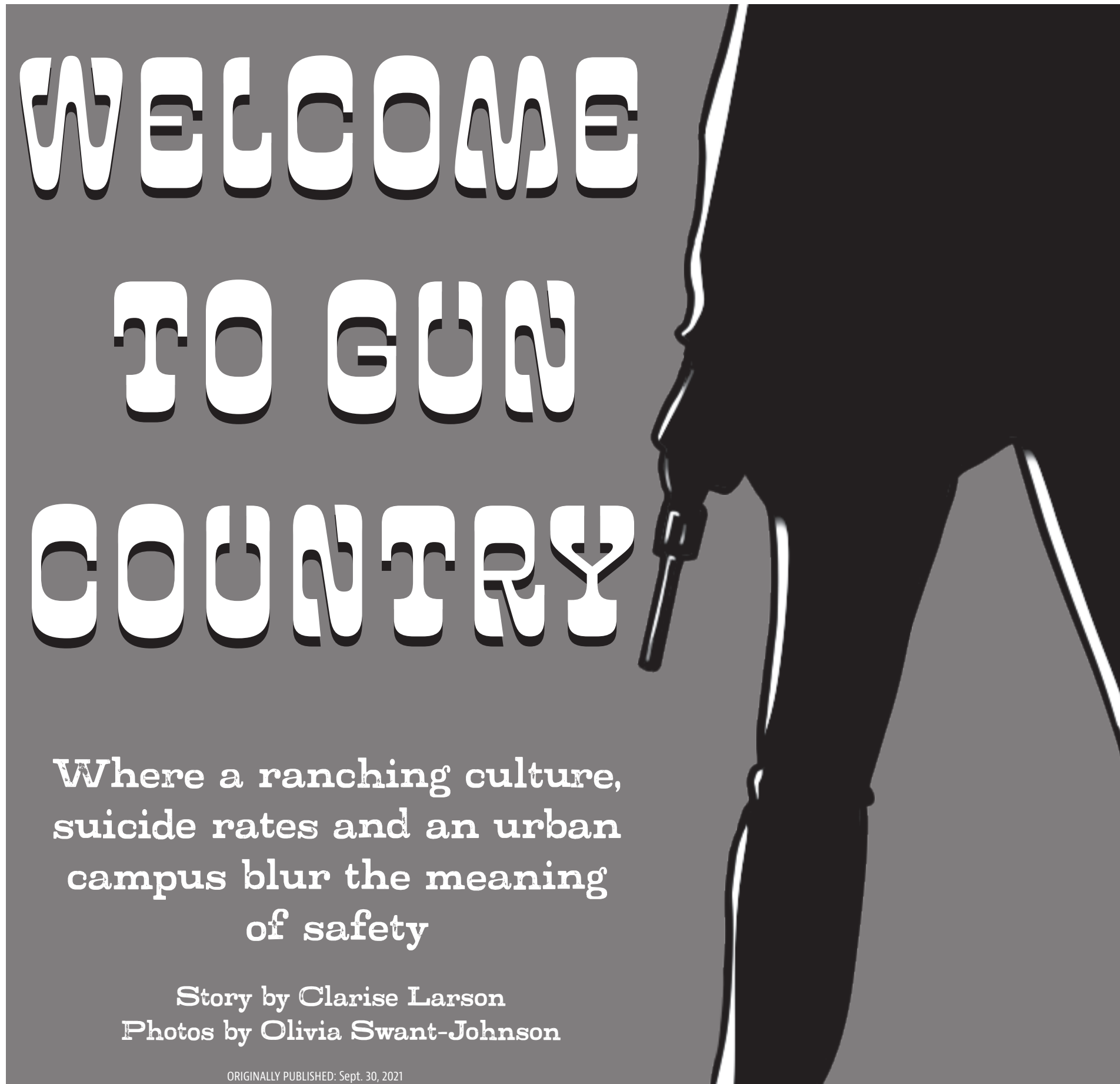
With the passage of HB 102, Montana’s concealed carry laws became the most permissive in the country on college campuses.

As for my family, my dad is retired now, but my mom is still a teacher in Montana. And for her, the trauma of gun violence in her career hasn’t come from a gunman firing shots at her. It came from the good guy with a gun bursting into her classroom as she had to face him down, feigning calmness, in front of a classroom full of students.

This is the reality of the “good guy with a gun” argument. At the end of the day, regardless of one’s moral proclivities, a person with a gun is a person with a gun. For a generation of students like me, along with teachers like my parents, that “guy with a gun” — regardless of who it is — has caused a lifetime of fear.



MAKAYLA O’NEIL | MONTANA KAIMIN



Wylie Galt, fourth-generation rancher and Republican state Speaker of the House, stands on his property in White Sulphur Springs, Montana. Galt, who wears an Apple Watch and no cowboy hat, and whose property is home to nine wind turbines, challenges other stereotypes that could be assumed about him as well. "I have 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."

GALT 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 I don't want to worry about '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. The bill passed both the House and Senate on party lines. A lawsuit filed by the Montana Board of Regents has delayed the bill's enactment.

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 with a permit. But only Utah matches HB 102 in explicitly requiring guns be allowed on every college campus. That Utah legislation, and most other gun-friendly campuses, still mandate that gun carriers have a concealed carry permit.

Guns have long had a central role in Montana's ranching, farming and hunting



Ada Smith comes from a legacy of Montana ranching she hopes to help sustain. Smith is pursuing her Ph.D. at the University, exploring how ranchers plan for and respond to drought and other climate-related events in Montana.

culture. And today, ranches and farms account for 62% of Montana’s land, according to a report by the National Agricultural Statistics Service. Understanding how those who own the majority of the state’s land view this controversial piece of legislation is important to unlocking the reason bills like HB 102 pass here, but not in other places. Some ranchers, like Galt, see guns as tools of their trade, necessary to ensure the safety of their families, workers and livestock.

Others, like Ralph Thisted and his granddaughter Ada Smith, or Montana’s farmer in the Senate, Jon Tester, see a different side to guns — one where responsibility matters and guns are not a tool to use lightly.

And still others, like Ryan Busse, a former firearms executive, have seen a much darker side to firearms.

In Montana, there are multiple narratives when it comes to guns. And HB 102 has brought this debate to the forefront of Montanans’ minds.

The intended effects of HB 102 are simple. The unintended implications are unknown. But the culture of Montana that fostered the bill is one both students and ranchers — each possessing differing views and experiences with firearms — share.

A WAY OF LIFE

If you wanted to find Thisted in the 1990s, he’d be on his ranch in Ninemile Valley, where a den of wolves made his land their home. The wolves had traveled down from Canada, and they should have been shot dead before the first calf cried. But that’s not who Thisted was.

He was a rancher who had a love for animals and a curiosity for life, said Thisted’s granddaughter Smith. So when he found wolves on his land, he was welcoming and curious when wildlife biologists at the University of Montana wanted to study them.

Smith is currently pursuing a Ph.D. at UM, exploring how ranchers plan for and respond to drought and other climate-related

events in Montana.

She grew up spending summers on her grandpa’s ranch, watching him steward land because of his love for the beautiful place he lived and worked. Smith’s grandpa hunted wild game because he felt too much of a connection to the animals on his ranch to eat them. She watched him care for all life on his land, not just the animals he raised.

But time kept moving forward from the parts of her childhood spent in the hills of Ninemile Valley. Smith’s grandpa died in 2017, and she isn’t a kid anymore. When she studies on campus, she is well aware that HB 102 could bring a type of ranch culture to the Oval.

In Ninemile Valley, Thisted hoped he would never have to use his rifle unless it was life or death in the country, Smith said.

Reflecting on her grandpa’s relationship with firearms, Smith said she saw a difference between carrying a gun for hunting or ranching and bringing it into a social setting. Rifles are tools for getting food and a very last-resort type of protection from wildlife.

It was only recently Smith chose to hunt herself, and even then, she only uses her gun to put food on the table.

Smith said she thinks sometimes guns can be associated with macho and domineering types of behavior and that connotation misrepresents the majority of gun owners.

“They’re kind of like trucks, or other status symbols, or an extension of your manliness,” Smith said. “And that was the opposite of who my grandpa was. He was such a quiet, humble guy who didn’t even seem to need to prove anything to anybody.”

Smith doesn’t agree with HB 102. She said she hopes not all gun owners and ranchers get blamed for the potential negative consequences of this bill.

“The ‘guns-a-blazin’ cowboy culture’ in popular media not only misrepresents the diversity of ranchers we have in Montana today, but it also glorifies the violence of colonialism, which has had ongoing repercussions for Indigenous people, the land and society as a whole,” Smith said.

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Ada Smith

INDIVIDUAL FREEDOMS

Off the dirt road to Galt’s ranch, cows lifted their heads as a vehicle passed the low-traffic lane. Barns full of tools and old vehicles led to his house. Galt stood at the door entrance, wearing white socks, a flannel, a shiny buckle and his notorious stern face.

Galt said he feels gun owners in the ranching community don’t need people at the federal level telling them how to do things. He argued ranching families like his have been out in the fields for a century, know how to take care of the land and know how to live in this area safely.

“If you leave us alone, we know what to do,” Galt said.

Galt said almost all his vehicles are equipped with a gun for convenient use on the ranch. Plus, there’s that pistol on his hip.

When looking at the gun laws already in place before HB 102, Galt said not much has changed besides being able to “throw a coat on.” He’s referring to the bill’s new allowance for the concealed carry of firearms. For ranchers like Galt who carry firearms regularly, he said the bill will make certain they don’t break the law inadvertently by forgetting they’re carrying.

“We’re instilled at a very young age how to handle, how to treat safely and to not play with [guns].”

Rep. Wylie Galt



Ranches and farms account for 62% of Montana’s land. With each individual cow requiring between 25 and 60 acres of range, Galt said Montanans have ranches to thank for the state’s wide open spaces.

“It makes us feel a lot safer that we are not going to be breaking a rule by throwing a coat on,” Galt said.

Galt said ranchers in Montana view guns as tools and are properly trained on how to use them.

On UM’s campus, the need for protection against wildlife is typically zero-to-none, with the exception of the occasional black bear on the loose. Though campus is certainly not the wilderness of a ranch, Galt said he still believes guns should be allowed.

“I think we did put a sidebar that they have to be trained, they have to know what they’re doing,” Galt said. “And there are a lot of fears and worries that people can have that I think a gun would make a lot more people comfortable with.”

As a student at Montana State University in the early 2000s, Galt admitted he always had a firearm in his truck parked on campus, despite the laws prohibiting them. He said he had his rifle in case he hit a deer on the way home or wanted to go hunting.

Current campus policy, which was on the books when Galt went to MSU, says

students can store guns in a gun locker on campus or in their vehicle, as long as the car is locked and the gun unloaded. Even under this policy, campuses in the state have still experienced gun violence.

According to an L.A. Times article from 1990, prior to Galt’s time at MSU, students James Clevenger and Brian Boeder were shot and killed in their dorm room by fellow MSU student Brett Byers. The murderer was under the influence and crashed his car before the homicides occurred.

Within the same week of MSU’s shooting, the New York Times reported two students at Carroll College were victims of gun violence. A man who was thought to be drunk entered the college’s cafeteria, shooting and killing an employee, Sharon Hance, and wounding another employee.

Darrel Randall Stahl, the shooter at Carroll College, had no affiliation with the campus, and the murder was thought to be random. He was also believed to be an unemployed ranch hand.

Despite the state’s history with gun violence on campuses, Galt said he thinks HB 102 will show the vast majority of gun

owners in Montana will be responsible with expanded carrying privileges.

For Galt himself, the responsibility that comes along with guns is something he understands well.

“We were taught at a young age: you get a BB gun first, prove that you are safe, then you upgrade to a .22, which then you get to go shoot the varmints. We’re instilled at a very young age how to handle, how to treat safely and to not play with them,” Galt said about his personal upbringing.

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.

“Something I’ve noticed in my political career is that rights are not stolen overnight,” Galt said. “It’s a slow erosion. At some point, you have to stick the flag in the ground somewhere. It’s either, do you keep moving it back or do you sit there and defend it?”

Galt said he believes safe gun owners should be allowed to have the individual freedoms in the constitution. He added everyone has the right to bear arms, even on a university campus.

LOOKING BOTH WAYS

But across Montana, there is another narrative of gun safety and use. According to the Montana Department of Public Health and Human Services, 60% of suicides in the state are completed with firearms. And 72% of youth suicides in the state are completed with guns. Ryan Busse wrote a book called “Gun-fight: My Battle Against the Industry That Radicalized America.” He’s also a former vice president of sales for the firearms manufacturing company Kimber America, and is an avid hunter and proud gun owner. Busse grew up on a ranch with “a shotgun in one hand and a rifle in the other,” but recognized guns have a dark side. He said HB 102 is irresponsible and dangerous for students and instructors on Montana campuses. “All rights need to be balanced with equal amounts of responsibility to freedoms, and it’s my opinion that forcing colleges to allow firearms on campus is not responsible,” Busse said. According to the bill, the Board of Regents, or any unit within the University system, cannot regulate, restrict the possession, transportation or storage of a firearm on university property by a person who owns a firearm under state or federal law and meets the minimum safety and training requirements. Busse said he believes HB 102 was a way for Republican legislators to capitalize on Montana’s November 2020 red wave, as the state elected its first Republican governor in 16 years. “This is a Republican Legislature that has been waiting decades to do things just to be provocative,” Busse said. “In the past 18 months, loaded and open carrying high-capacity AR-15s have been showing up in places and in ways that should frighten every citizen in Montana.” In addition to his outspoken opposition against HB 102, Busse has a personal story to tell of the negative impact of firearms. Busse’s father lost his best friend to a gun-related injury, and Busse said he knows firsthand what gun violence can look like. He said he’s seen a shift in the political climate of guns in Montana. It is no longer about safety. Busse said while attending events related to the gun climate in Montana over the years, he’s seen hundreds of people hold-

ing loaded AR-15s in Montana streets. “These are simply tools of intimidation. There is no way that is responsible for firearm behavior,” Busse said. U.S. Sen. Tester, the only farmer in Congress, agreed guns are tools that come with great responsibility. While Tester is part of the U.S. Senate, representing Montanans on a national stage rather than as part of the state legislature that produced HB 102, he still had opinions about the bill. He told the Kaimin he thinks this bill is just a “solution looking for a problem” and doesn’t understand the logical reasoning behind it. “A gun is a damn valuable 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],” Tester

“A gun is a damn valuable 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, but [Gov. Greg] Gianforte did.” Tester said he hopes people continue to feel safe sending their kids 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. Tester said he encourages students to take a look at the bill. If they like it, support it. If they don’t, say something. “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 on campus understands that it is not the wild west. It’s not fun and games — it’s a hell of a responsibility.”



Galt said within the ranching community, most of the distrust of the government comes from a history of conflict with the Forest Service. “If you leave us alone, we know what to do,” Galt said. For him, HB 102 is less a statement of where guns should be and more about protecting Montanans from the erosion of gun rights.

In the war for control of Montana’s universities, a lawsuit over guns is the first battle

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Lawsuits were filed. Legal documentation has been submitted. Now, all eyes turn to the district court in Helena for a legal battle that may be a step closer to determining a winner in the tug-of-war between the Board of Regents and the Montana Legislature over control of the state’s universities. The flashpoint: House Bill 102, which expanded Montanans’ legal right to carry firearms, open or concealed, after Republican Gov. Greg Gianforte signed it into law in February 2021. The law also seeks to allow students to carry guns on college campuses, making it one of the least restrictive gun laws in the nation. In May, the Board of Regents, Montana University System’s ruling authority, sued the state, alleging HB 102 was an unconstitutional breach of power and that the Legislature overstepped its bounds. On May 28, three days before the law was set to be implemented by universities, a district court temporarily stopped the campus carry portion of the bill from going into effect until a decision could be made on the case. Soon, both sides will meet in Helena to present their arguments. But the court battle has brought up a larger constitutional question: Who controls Montana’s universities? The question is one 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 regulate guns at public universities, that means lawmakers have a foothold for more control over university policy issues. The precedent this lawsuit is exploring is not one of gun control, but one of regent authority, said Ali Bovingdon, chief legal counsel for the Commissioner of Higher Education. The commissioner’s office oversees the entire Montana University System. Bovingdon is an attorney for the Board of Regents in the suit. “We believe that this is a fairly narrow legal question as to whether or not the Board of Regents or the Legislature is the body that has the constitutional authority to make these sorts of decisions,” Bovingdon said. “The Attorney General, on behalf of the state, is arguing that this is actually a proper function of the legislative role and that it’s an exercise of their police power.” “It’s a narrow legal question about just re-

ally who has the authority,” she continued. “And we believe, based on the language of the constitution and the way Montana courts have interpreted that clause — Article X, Section 9 — that this is a proper function of the board.” The Board of Regents has the authority under the clause Bovingdon referenced to maintain control over university campuses. The Montana Code Annotated states: “The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.” But the state, led by Montana Attorney General Austin Knudsen, is arguing the regents don’t have full control over the universities under this provision, especially as appointed officials not elected to their positions. “The constitution says the Board has full authority ‘to supervise, coordinate, manage and control the university system ... This does not mean it has the power over any and all matters that ‘affect’ the university system,” one of the state’s briefs asserts. “The Board provides no limiting principle to its authority. The Board simply repeats that it has ‘full authority,’ which — if taken literally — would lead to absurd results. The Board’s argument ... would elevate the Board to a fourth branch of government,” the brief states. Both the state and the Board of Regents filed petitions for summary judgement, which asks for the case to proceed at the district level without oral arguments. If the judge approves those requests, he will decide the case based on the lawyers’ briefs alone. If Judge Michael McMahon doesn’t approve summary judgement, Bovingdon said oral arguments, where lawyers from each side present their case to the judge, will likely begin at the end of this year or in early 2022. Whatever decision the court makes will likely be appealed to the Montana Supreme Court, Bovingdon said. The court usually hears cases in six to 12 months, meaning a final decision could be made by spring 2023. “It’s entirely likely that we could go through the next year without having a final decision, and just kind of being in this status quo space where the law is enjoined,” Bovingdon said. *Story continued on next page.*



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.



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"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.



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