

Austin Knudsen
Montana Attorney General
Michael Russell
Thane Johnson
Alwyn Lansing
Michael Noonan
Assistant Attorneys General
MONTANA DEPARTMENT OF JUSTICE
PO Box 201401
Helena, MT 59620-1401
Phone: 406-444-2026
michael.russell@mt.gov
thane.johnson@mt.gov
alwyn.lansing@mt.gov
michael.noonan@mt.gov

Emily Jones
Special Assistant Attorney General
JONES LAW FIRM, PLLC
115 N. Broadway, Suite 410
Billings, MT 59101
Phone: 406-384-7990
emily@joneslawmt.com
Attorneys for Defendants

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>EMPOWER MT; THE MONTANA SCHOOL COUNSELORS ASSOCIATION; THE MONTANA ASSOCIATION OF SCHOOL PSYCHOLOGISTS; DANIEL JOHNSON; LIBBY THREADGOODE; and STUDENT PLAINTIFFS EVA STAHL and R.S.;</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as the Governor of the State of Montana; the MONTANA OFFICE OF PUBLIC INSTRUCTION; ELSIE ARNTZEN, in her official capacity as Superintendent of Public</p>	<p>Cause No.: DV 2024-230 Hon. Christopher Abbott</p> <p style="text-align: center;">DEFENDANTS' ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DEMAND FOR JURY TRIAL</p>
--	---

Instruction; MONTANA BOARD OF
EDUCATION;

Defendants.

For their Answer to Plaintiffs’ First Amended Complaint for Declaratory and Injunctive Relief, Defendants State of Montana, Greg Gianforte in his official capacity as the Governor of the State of Montana, the Montana Office of Public Instruction, Elsie Arntzen in her official capacity as Superintendent of Public Instruction, and Montana Board of Public Education (hereinafter, “Defendants”) answer as follows:

INTRODUCTION

1. The allegations of Paragraph 1 of Plaintiffs’ First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

2. Defendants deny the allegations of Paragraph 2 of Plaintiffs’ First Amended Complaint.

3. The allegations of Paragraph 3 of Plaintiffs’ First Amended Complaint are arguments of counsel and purport to characterize Senate Bill 99 (2021) (“SB 99”), which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

4. Defendants deny the allegations of Paragraph 4 of Plaintiffs’ First Amended Complaint.

5. Defendants deny the allegations of Paragraph 5 of Plaintiffs’ First Amended Complaint.

6. The allegations of Paragraph 6 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

7. The allegations of Paragraph 7 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

8. The allegations of Paragraph 8 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

9. The allegations of Paragraph 9 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

ALLEGATIONS COMMON TO ALL COUNTS

10. The allegations of Paragraph 10 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

11. The allegations of Paragraph 11 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *National Sex Education Standards, Core Content and Skills, K-12* (Second Edition), which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

12. The allegations of Paragraph 12 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *National Sex Education Standards, Core Content and Skills, K-12* (Second Edition), which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

13. The allegations of Paragraph 13 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

14. The allegations of Paragraph 14 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

15. The allegations of Paragraph 15 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

16. The allegations of Paragraph 16 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize the Montana Youth Risk Behavior Survey, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

17. The allegations of Paragraph 17 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize the Montana Youth Risk Behavior Survey, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

18. The allegations of Paragraph 18 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize the Montana Youth Risk Behavior Survey, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

19. The allegations of Paragraph 19 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize an opinion article by Am. College of Obstetricians & Gynecologists, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

20. The allegations of Paragraph 20 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

21. Defendants deny the allegations of Paragraph 21 of Plaintiffs' First Amended Complaint.

22. The allegations of Paragraph 22 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *LGBTQ Youth in Montana Report November 2017*, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

23. The allegations of Paragraph 23 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *The 2021 National School Climate Survey* and *LGBTQ Youth in Montana Report November 2017*, which speak for themselves and are the best evidence of their contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

24. The allegations of Paragraph 24 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *2022 National Survey on LGBTQ Youth Mental Health*, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

25. The allegations of Paragraph 25 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize *2022 National Survey on LGBTQ Youth Mental Health*, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

26. The allegations of Paragraph 26 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

27. The allegations of Paragraph 27 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

28. The allegations of Paragraph 28 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

29. The allegations of Paragraph 29 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

30. The allegations of Paragraph 30 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

31. Defendants deny the allegations of Paragraph 31 of Plaintiffs' First Amended Complaint and all subparts thereof.

32. The allegations of Paragraph 32 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize SB 99, which speaks for itself and is the best

evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

33. The allegations of Paragraph 33 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

34. Defendants deny the allegations of Paragraph 34 of Plaintiffs' First Amended Complaint.

35. The allegations of Paragraph 35 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize the legislative record, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

36. The allegations of Paragraph 36 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize the legislative record, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

37. The allegations of Paragraph 37 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

38. The allegations of Paragraph 38 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

39. Defendants deny the allegations of Paragraph 39 of Plaintiffs' First Amended Complaint.

40. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 40 of Plaintiffs' First Amended Complaint and therefore deny the same.

41. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 41 of Plaintiffs' First Amended Complaint and therefore deny the same.

42. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 42 of Plaintiffs' First Amended Complaint and therefore deny the same.

43. Defendants deny the allegations of Paragraph 43 of Plaintiffs' First Amended Complaint.

44. The allegations of Paragraph 44 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

JURISDICTION AND VENUE

45. Defendants admit the allegations of Paragraph 45 of Plaintiffs' First Amended Complaint.

46. The allegations of Paragraph 46 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize the Montana Uniform Declaratory Judgments Act and Montana Rule of Civil Procedure 57, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

47. The allegations of Paragraph 47 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize numerous sections of Title 27 of the Montana Code Annotated, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

48. The allegations of Paragraph 48 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Montana Code Annotated § 25-2-126, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

49. The allegations of Paragraph 49 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 18 of the Montana Constitution and Montana Code Annotated § 2-9-111, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

50. The allegations of Paragraph 50 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

PARTIES

51. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 51 of Plaintiffs' First Amended Complaint and therefore deny the same.

52. The allegations of Paragraph 52 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

53. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 53 of Plaintiffs' First Amended Complaint and therefore deny the same.

54. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 54 of Plaintiffs' First Amended Complaint and therefore deny the same.

55. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 55 of Plaintiffs' First Amended Complaint and therefore deny the same.

56. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 56 of Plaintiffs' First Amended Complaint and therefore deny the same.

57. Defendants deny the allegations of Paragraph 57 of Plaintiffs' First Amended Complaint.

58. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 58 of Plaintiffs' First Amended Complaint and therefore deny the same.

59. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 59 of Plaintiffs' First Amended Complaint and therefore deny the same.

60. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 60 of Plaintiffs' First Amended Complaint and therefore deny the same.

61. Defendants lack sufficient knowledge or information to admit or deny the allegations of the first two sentences of Paragraph 61 of Plaintiffs' First Amended Complaint and therefore deny the same. Defendants deny the allegations of the last sentence of Paragraph 61 of Plaintiffs' First Amended Complaint.

62. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 62 of Plaintiffs' First Amended Complaint and therefore deny the same.

63. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 63 of Plaintiffs' First Amended Complaint and therefore deny the same.

64. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 64 of Plaintiffs' First Amended Complaint and therefore deny the same.

65. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 65 of Plaintiffs' First Amended Complaint and therefore deny the same.

66. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 66 of Plaintiffs' First Amended Complaint and therefore deny the same.

67. Defendants lack sufficient knowledge or information to admit or deny the allegations of the first sentence of Paragraph 67 of Plaintiffs' First Amended Complaint and therefore deny the same. Defendants deny the remaining allegations of Paragraph 67 of Plaintiffs' First Amended Complaint.

68. Defendants lack sufficient knowledge or information to admit or deny the allegations of the first sentence of Paragraph 68 of Plaintiffs' First Amended Complaint and therefore deny the same. Defendants deny the remaining allegations of Paragraph 68 of Plaintiffs' First Amended Complaint.

69. The allegations of Paragraph 69 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

70. Defendants lack sufficient knowledge or information to admit or deny the allegations of the first three sentences of Paragraph 70 of Plaintiffs' First Amended Complaint and therefore deny the same. The remaining allegations of Paragraph 70 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

71. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 71 of Plaintiffs' First Amended Complaint and therefore deny the same.

72. Defendants deny the allegations of Paragraph 72 of Plaintiffs' First Amended Complaint.

73. The allegations of Paragraph 73 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

74. The allegations of Paragraph 74 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

75. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 75 of Plaintiffs' First Amended Complaint and therefore deny the same.

76. The allegations of Paragraph 76 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

77. Defendants deny the allegations of Paragraph 77 of Plaintiffs' First Amended Complaint.

78. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 78 of Plaintiffs' First Amended Complaint and therefore deny the same.

79. The allegations of Paragraph 79 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

80. The allegations of Paragraph 80 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

81. The allegations of Paragraph 81 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

82. The allegations of Paragraph 82 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

83. The allegations of Paragraph 83 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

84. The allegations of Paragraph 84 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

85. Defendants deny the allegations of Paragraph 85 of Plaintiffs' First Amended Complaint.

86. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 86 of Plaintiffs' First Amended Complaint and therefore deny the same.

87. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 87 of Plaintiffs' First Amended Complaint and therefore deny the same.

88. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 88 of Plaintiffs' First Amended Complaint and therefore deny the same.

89. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 89 of Plaintiffs' First Amended Complaint and therefore deny the same.

90. The allegations of Paragraph 90 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

91. The allegations of Paragraph 91 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

92. The allegations of Paragraph 92 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

93. The allegations of Paragraph 93 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

94. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 94 of Plaintiffs' First Amended Complaint and therefore deny the same.

95. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 95 of Plaintiffs' First Amended Complaint and therefore deny the same.

96. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 96 of Plaintiffs' First Amended Complaint and all subparts thereof and therefore deny the same.

97. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 97 of Plaintiffs' First Amended Complaint and therefore deny the same.

98. The allegations of Paragraph 98 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

99. Defendants lack sufficient knowledge or information to admit or deny the allegations of Paragraph 99 of Plaintiffs' First Amended Complaint and therefore deny the same.

100. The allegations of Paragraph 100 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

101. The allegations of Paragraph 101 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

102. The allegations of Paragraph 102 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

103. Defendants deny the allegations of Paragraph 103 of Plaintiffs' First Amended Complaint.

104. The allegations of Paragraph 104 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

105. The allegations of Paragraph 105 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

106. The allegations of Paragraph 106 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

107. The allegations of Paragraph 107 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

108. Defendants deny the allegations of Paragraph 108 of Plaintiffs' First Amended Complaint.

109. The allegations of Paragraph 109 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

110. The allegations of Paragraph 110 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

111. The allegations of Paragraph 111 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

112. The allegations of Paragraph 112 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

113. The allegations of Paragraph 113 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

114. The allegations of Paragraph 114 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

115. The allegations of Paragraph 115 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions, which require no response.

CLAIMS FOR RELIEF

COUNT I - MONTANA CONSTITUTION ARTICLE II, § 7
(SPEECH, EXPRESSION) (ALL PLAINTIFFS)

116. Defendants restate and incorporate herein their responses to Paragraphs 1-115 of Plaintiffs' First Amended Complaint.

117. The allegations of Paragraph 117 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 7 and Article X, § 7 of the Montana Constitution, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

118. The allegations of Paragraph 118 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 7 of the Montana Constitution, SB 99, and caselaw, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

119. The allegations of Paragraph 119 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 7 of the Montana Constitution, SB 99, and caselaw, which speak for themselves and are the best evidence of their contents; therefore, no response is required.

120. Defendants deny the allegations of Paragraph 120 of Plaintiffs' First Amended Complaint.

121. Defendants deny the allegations of Paragraph 121 of Plaintiffs' First Amended Complaint.

122. Defendants deny the allegations of Paragraph 122 of Plaintiffs' First Amended Complaint.

123. Defendants deny the allegations of Paragraph 123 of Plaintiffs' First Amended Complaint.

COUNT II - MONTANA CONSTITUTION ARTICLE II, § 10
(PRIVACY) (JOHNSON, THREADGOODE R.S., STAHL, MASP, AND MSCA)

124. Defendants restate and incorporate herein their responses to Paragraphs 1-123 of Plaintiffs' First Amended Complaint.

125. The allegations of Paragraph 125 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 10 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

126. The allegations of Paragraph 126 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 15 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

127. Defendants deny the allegations of Paragraph 127 of Plaintiffs' First Amended Complaint.

128. The allegations of Paragraph 128 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

129. Defendants deny the allegations of Paragraph 129 of Plaintiffs' First Amended Complaint.

130. Defendants deny the allegations of Paragraph 130 of Plaintiffs' First Amended Complaint.

COUNT III - MONTANA CONSTITUTION ARTICLE II, § 17
(DUE PROCESS) (ALL PLAINTIFFS)

131. Defendants restate and incorporate herein their responses to the allegations of Paragraphs 1-130 of Plaintiffs' First Amended Complaint.

132. The allegations of Paragraph 132 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize Article II, § 17 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

133. The allegations of Paragraph 133 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize caselaw, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

134. Defendants deny the allegations of Paragraph 134 of Plaintiffs' First Amended Complaint.

135. Defendants deny the allegations of Paragraph 135 of Plaintiffs' First Amended Complaint.

136. The allegations of Paragraph 136 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize SB 99 and caselaw, which speak for themselves and are the best evidence of their contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

137. The allegations of Paragraph 137 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

138. Defendants deny the allegations of Paragraph 138 of Plaintiffs' First Amended Complaint.

139. Defendants deny the allegations of Paragraph 139 of Plaintiffs' First Amended Complaint.

140. Defendants deny the allegations of Paragraph 140 of Plaintiffs' First Amended Complaint.

141. Defendants deny the allegations of Paragraph 141 of Plaintiffs' First Amended Complaint.

COUNT IV - MONTANA CONSTITUTION ARTICLE X, § 1
(EDUCATIONAL OPPORTUNITY) (STAHL, R.S.)

142. Defendants restate and incorporate herein their responses to the allegations of Paragraphs 1-141 of Plaintiffs' First Amended Complaint.

143. The allegations of Paragraph 143 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize Article X, § 1 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

144. The allegations of Paragraph 144 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize caselaw, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

145. Defendants deny the allegations of Paragraph 145 of Plaintiffs' First Amended Complaint.

146. Defendants deny the allegations of Paragraph 146 of Plaintiffs' First Amended Complaint.

147. The allegations of Paragraph 147 of Plaintiffs' First Amended Complaint are arguments of counsel, which require no response. To the extent a response is required, the allegations are denied.

148. The allegations of Paragraph 148 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize SB 99, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

149. Defendants deny the allegations of Paragraph 149 of Plaintiffs' First Amended Complaint.

150. Defendants deny the allegations of Paragraph 150 of Plaintiffs' First Amended Complaint.

151. Defendants deny the allegations of Paragraph 151 of Plaintiffs' First Amended Complaint.

COUNT V - MONTANA CONSTITUTION ARTICLE II, § 4
(DIGNITY, EQUAL PROTECTION) (STAHL)

152. Defendants restate and incorporate herein their responses to the allegations of Paragraphs 1-151 of Plaintiffs' First Amended Complaint.

153. The allegations of Paragraph 153 of Plaintiffs' First Amended Complaint are arguments of counsel and purport to characterize Article II, § 4 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

154. The allegations of Paragraph 154 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize Article II, § 15 of the Montana Constitution, which speaks for itself and is the best evidence of its contents; therefore, no response is required. To the extent a response is required, the allegations are denied.

155. The allegations of Paragraph 155 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize caselaw, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

156. The allegations of Paragraph 156 of Plaintiffs' First Amended Complaint are arguments of counsel and legal conclusions and purport to characterize caselaw, which speaks for itself and is the best evidence of its contents; therefore, no response is required.

157. Defendants deny the allegations of Paragraph 157 of Plaintiffs' First Amended Complaint.

158. Defendants deny the allegations of Paragraph 158 of Plaintiffs' First Amended Complaint.

159. Defendants deny the allegations of Paragraph 159 of Plaintiffs' First Amended Complaint.

160. Defendants deny the allegations of Paragraph 160 of Plaintiffs' First Amended Complaint.

161. Defendants deny the allegations of Paragraph 161 of Plaintiffs' First Amended Complaint.

162. Defendants deny the allegations of Paragraph 162 of Plaintiffs' First Amended Complaint.

DEFENSES

163. Defendants deny each and every allegation of Plaintiffs' First Amended Complaint not specifically admitted.

164. Plaintiffs' First Amended Complaint fails to state a claim upon which relief can be granted.

165. Plaintiffs lack standing.

166. Plaintiffs' claims are not justiciable.

167. Plaintiffs' claims present a non-justiciable political question.

168. SB 99 does not violate the United States Constitution, the Constitution of the State of Montana, or Montana State law.

169. SB 99 serves and is supported by rational, legitimate, and compelling state interests, including but not limited to: preserving parental rights regarding the education of their children; preventing children's exposure to obscene, indecent, and inappropriate material; ensuring a quality and age-appropriate education for Montana children; and to prevent the use of state funds and assets to subsidize or facilitate the presentation or instruction of obscene, indecent, and inappropriate materials.

170. SB 99 is narrowly tailored and rationally related to these important State interests.

171. Defendants raise the above defenses so that they will not be waived and reserve the right to add defenses that may become apparent during discovery or to dismiss those which may later show not to apply.

WHEREFORE, Defendants respectfully pray for the following relief:

1. That Plaintiffs take nothing by their First Amended Complaint;
2. For judgment for Defendants on all counts of Plaintiffs' First Amended Complaint;
3. For costs of suit and attorneys' fees as allowed by law; and
4. For all other relief the Court deems just and proper.

JURY DEMAND

DEFENDANTS DEMAND A TRIAL BY JURY ON ALL FACT ISSUES
AND ANY OTHER ISSUES SO TRIABLE.

DATED this 11th day of June, 2024.

Austin Knudsen
Montana Attorney General

/s/ Alwyn Lansing

Alwyn Lansing
Michael Russell
Thane Johnson
Michael Noonan

Assistant Attorneys General
MONTANA DEPARTMENT OF JUSTICE
PO Box 201401
Helena, MT 59620-1401

Emily Jones
Special Assistant Attorney General
JONES LAW FIRM, PLLC
115 N. Broadway, Suite 410
Billings, MT 59101

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, Austin Miles Knudsen, hereby certify that I have served true and accurate copies of the foregoing Answer/Brief - Answer First Appearance to the following on 06-11-2024:

Jordan P. Helvie (Attorney)
716 S. 20th Ave. Suite 101
Bozeman MT 59718

Representing: Empower MT, Libby Threadgoode, The Montana Association of School Psychologists,
Daniel Johnson, The Montana School Counselors Association, R. S., Eva Stahl
Service Method: eService

Alexander H. Rate (Attorney)
713 Loch Leven Drive
Livingston MT 59047

Representing: Empower MT, Libby Threadgoode, The Montana Association of School Psychologists,
Daniel Johnson, The Montana School Counselors Association, R. S., Eva Stahl
Service Method: eService

Lilia Norma Tyrrell (Attorney)
716 South 20th Avenue
Suite 100
Bozeman MT 59718

Representing: Empower MT, Libby Threadgoode, The Montana Association of School Psychologists,
Daniel Johnson, The Montana School Counselors Association, R. S., Eva Stahl
Service Method: eService

Marthe VanSickle (Attorney)
PO Box 1968
Missoula MT 59806

Representing: Empower MT, Libby Threadgoode, The Montana Association of School Psychologists,
Daniel Johnson, The Montana School Counselors Association, R. S., Eva Stahl
Service Method: eService

Electronically signed by Deborah Bungay on behalf of Austin Miles Knudsen
Dated: 06-11-2024