

## 1 HOUSE BILL NO. 77

2 INTRODUCED BY SIMPKINS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING RECITATION OF THE PLEDGE OF ALLEGIANCE IN  
5 PUBLIC SCHOOLS; PROVIDING THAT A STUDENT OR TEACHER MUST BE EXCUSED FROM  
6 PARTICIPATION IF THE STUDENT'S OR TEACHER'S CONVICTIONS PRECLUDE PARTICIPATION;  
7 CLARIFYING THAT A TEACHER WHO EXERCISES THE RIGHT NOT TO PARTICIPATE IN THE PLEDGE  
8 RECITATION IS STILL REQUIRED TO TEACH SUBJECTS RELATED TO THE FLAG IN A PRESCRIBED  
9 CURRICULUM; AND AMENDING SECTION 20-4-301, MCA."

10

11 WHEREAS, the United States Supreme Court has consistently ruled that a state may require  
12 recitation of the pledge of allegiance so long as any student or teacher objecting to participation for any  
13 reason is allowed to nondisruptively refuse to participate; and

14 WHEREAS, courts have also ruled that a student who refuses to participate in the pledge of  
15 allegiance cannot be compelled to take any particular action, such as standing, remaining seated, or leaving  
16 the room during group recitation of the pledge; and

17 WHEREAS, in an effort to educate students in the American values of patriotism and love of country  
18 and to pass on the feelings of civic pride and commitment to America, the Board of Public Education, as  
19 one small step in increasing Montana students' awareness of their heritage as Americans, enacted a policy  
20 on January 26, 1989, recommending that teachers in every public school classroom begin the day with  
21 recitation of the pledge of allegiance while allowing an excuse from participation for any student or teacher  
22 who objects for any reason; and

23 WHEREAS, in 1980 the United States Supreme Court let stand the decision in Palmer v. Board of  
24 Education of City of Chicago, 603 F.2d 1271 (7th Cir. 1979), certiorari denied, 444 U.S. 1026 (1980),  
25 which held that while a teacher may not be required to participate in the pledge of allegiance, the teacher,  
26 despite any personal convictions, may be required to teach subjects related to the flag or other patriotic  
27 matters in the prescribed curriculum; and

28 WHEREAS, section 20-4-301, MCA, requires a teacher to provide moral and civic instruction to  
29 impress students with the principles of morality, truth, justice, and patriotism; to instruct students in the  
30 principles of free government; and to train them to comprehend the rights, responsibilities, and dignity of

INTRODUCED BILL

1 American citizenship.

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4

5 **NEW SECTION. Section 1. Pledge of allegiance required -- exemption for students and teachers.**

6 (1) Except as provided in subsection (3), the pledge of allegiance to the flag of the United States of  
7 America must be included in the curriculum and must be recited in all public schools of the state.

8 (2) The recitation required in subsection (1) must be conducted at the beginning of the first class  
9 of each school day:

10 (a) by each individual classroom teacher or the teacher's surrogate; or

11 (b) over the school intercom system by a faculty member or person designated by the principal.

12 (3) A student or teacher who, for any reason, objects to participating in the pledge exercise must  
13 be excused from participation. A student or teacher who declines to participate in the pledge may engage  
14 in any alternative form of conduct so long as that conduct does not materially or substantially disrupt the  
15 work or discipline of the school.

16

17 **Section 2.** Section 20-4-301, MCA, is amended to read:

18 **"20-4-301. Duties of teacher -- nonpayment for failure to comply.** (1) ~~Any~~ A teacher under  
19 contract with a district shall:

20 (a) conform to and enforce the laws, board of public education policies, and ~~the~~ policies of the  
21 trustees of the district;

22 (b) ~~utilize~~ use the course of instruction prescribed by the trustees;

23 (c) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks  
24 prescribed by the superintendent of public instruction;

25 (d) within 10 days after the conclusion of each school semester, prepare a report in the manner  
26 and on the forms prescribed by the superintendent of public instruction, which must include the pupil  
27 attendance and absence data from ~~his~~ the teacher's register that is necessary to calculate ANB. The report  
28 must be submitted to:

29 (i) the district superintendent, if there is one;

30 (ii) the principal of the school, if there is one and there is no district superintendent; or

1 (iii) the county superintendent or all county superintendents when the teacher is reporting for a joint  
2 district, if there is no district superintendent or principal.

3 (e) exercise due diligence in the care of school grounds and buildings, furniture, equipment, books,  
4 and supplies; and

5 (f) provide moral and civic instruction by:

6 (i) endeavoring to impress the pupils with the principles of morality, truth, justice, and patriotism,  
7 including curriculum related to the flag;

8 (ii) teaching the pupils to avoid idleness, profanity, and falsehood;

9 (iii) instructing the pupils in the principles of free government and training them to comprehend the  
10 rights, responsibilities, and dignity of American citizenship.

11 (2) The trustees are authorized to withhold the salary warrant of any teacher who does not comply  
12 with the provisions of subsection (1)(a) or (1)(b) until the teacher does comply with the provisions.

13 (3) The trustees may not pay any ~~teacher his~~ teacher's last month's salary until ~~he has provided~~  
14 a complete and accurate semester report has been provided to the required person, as determined by the  
15 person and as required in subsection (1)(d) ~~of this section.~~"

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17 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
18 integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to  
19 [section 1].

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17 WHEREAS, in an effort to educate students in the American values of patriotism and love of country  
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8 (2) The recitation required in subsection (1) must be conducted at the beginning of the first class;

9 (A) of each school day; IN KINDERGARTEN THROUGH GRADE 6; AND

10 (B) OF EACH SCHOOL WEEK IN GRADES 7 THROUGH 12.

11 (3) THE RECITATION MUST BE CONDUCTED:

12 (a) by each individual classroom teacher or the teacher's surrogate; or

13 (b) over the school intercom system by a faculty member or person designated by the principal.

14 ~~(3)(4)~~ A student or teacher who, for any reason, objects to participating in the pledge exercise  
15 must be excused from participation. A student or teacher who declines to participate in the pledge may  
16 engage in any alternative form of conduct so long as that conduct does not materially or substantially  
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19 **Section 2.** Section 20-4-301, MCA, is amended to read:

20 **"20-4-301. Duties of teacher -- nonpayment for failure to comply.** (1) ~~Any~~ A teacher under  
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24 (b) ~~utilize~~ use the course of instruction prescribed by the trustees;

25 (c) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks  
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27 (d) within 10 days after the conclusion of each school semester, prepare a report in the manner  
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APPROVED BY COM ON EDUCATION  
AND CULTURAL RESOURCES

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11 (2) The recitation required in subsection (1) must be conducted at the beginning of the first class;

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13 (B) OF EACH SCHOOL WEEK IN GRADES 7 THROUGH 12.

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15 (a) by each individual classroom teacher or the teacher's surrogate; or

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17 ~~(3)~~(4) A SCHOOL DISTRICT SHALL INFORM ALL STUDENTS AND TEACHERS OF THEIR RIGHT  
 18 TO NOT PARTICIPATE IN RECITATION OF THE PLEDGE. ANY student or teacher who, for any reason,  
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 20 who declines to participate in the pledge may engage in any alternative form of conduct so long as that  
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22 (5) IF A STUDENT OR TEACHER DECLINES TO PARTICIPATE IN THE RECITATION OF THE PLEDGE  
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 30 trustees of the district;

- 1 (b) ~~utilize~~ use the course of instruction prescribed by the trustees;
- 2 (c) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks  
3 prescribed by the superintendent of public instruction;
- 4 (d) within 10 days after the conclusion of each school semester, prepare a report in the manner  
5 and on the forms prescribed by the superintendent of public instruction, which must include the pupil  
6 attendance and absence data from ~~his~~ the teacher's register that is necessary to calculate ANB. The report  
7 must be submitted to:
- 8 (i) the district superintendent, if there is one;
- 9 (ii) the principal of the school, if there is one and there is no district superintendent; or
- 10 (iii) the county superintendent or all county superintendents when the teacher is reporting for a joint  
11 district, if there is no district superintendent or principal.
- 12 (e) exercise due diligence in the care of school grounds and buildings, furniture, equipment, books,  
13 and supplies; and
- 14 (f) provide moral and civic instruction by:
- 15 (i) endeavoring to impress the pupils with the principles of morality, truth, justice, and patriotism,  
16 including ANY curriculum related to the flag PRESCRIBED BY THE TRUSTEES;
- 17 (ii) teaching the pupils to avoid idleness, profanity, and falsehood;
- 18 (iii) instructing the pupils in the principles of free government and training them to comprehend the  
19 rights, responsibilities, and dignity of American citizenship.
- 20 (2) The trustees are authorized to withhold the salary warrant of any teacher who does not comply  
21 with the provisions of subsection (1)(a) or (1)(b) until the teacher does comply with the provisions.
- 22 (3) The trustees may not pay any ~~teacher his~~ teacher's last month's salary until ~~he has provided~~  
23 a complete and accurate semester report has been provided to the required person, as determined by the  
24 person and as required in subsection (1)(d) ~~of this section.~~"

25

26 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
27 integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to  
28 [section 1].

29

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