

HOUSE BILL NO. 538

INTRODUCED BY B. PHALEN, J. SCHILLINGER, T. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS A GROSS NEGLECT OF DUTY FOR A TEACHER, ADMINISTRATOR, OR SPECIALIST TO FAIL TO ENSURE CERTAIN PUPILS RECEIVE INSTRUCTION ON THE UNITED STATES CONSTITUTION OR PLEDGE OF ALLEGIANCE OR TO FAIL TO PROVIDE FOR THE RECITATION OF THE PLEDGE OF ALLEGIANCE; AMENDING SECTIONS 20-7-111 AND 20-7-133, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-7-111, MCA, is amended to read:

"20-7-111. Instruction in public schools. (1) Except as provided in subsection (2), the board of public education shall define and specify the basic instructional program for pupils in public schools, and this program must be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.

(2) The trustees of a school district shall ensure that all pupils in grades 3 through 12 receive instruction about the United States constitution and the pledge of allegiance.

(3) Violation of subsection (2) constitutes gross neglect of duty under 20-4-110."

Section 2. Section 20-7-133, MCA, is amended to read:

"20-7-133. Pledge of allegiance required -- exemption for students and teachers. (1) Except as provided in subsection (4), the pledge of allegiance to the flag of the United States of America must be recited in all public schools of the state and may be followed by a moment of silence.

(2) The recitation required in subsection (1) must be conducted at the beginning of the first class of each school day in kindergarten through grade 12.

(3) The recitation must be conducted:

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

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

2 (4) A school district shall inform all students and teachers of their right to not participate in
3 recitation of the pledge. Any student or teacher who, for any reason, objects to participating in the pledge
4 exercise must be excused from participation. A student or teacher who declines to participate in the pledge may
5 engage in any alternative form of conduct so long as that conduct does not materially or substantially disrupt
6 the work or discipline of the school.

7 (5) If a student or teacher declines to participate in the recitation of the pledge pursuant to this
8 section, a school district may not for evaluation purposes include any reference to the student's or teacher's not
9 participating.

10 (6) Violation of this section constitutes gross neglect of duty under 20-4-110."

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12 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

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