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THE PLEDGE OF ALLEGIANCE AND THE NATIONAL ANTHEM IN WISCONSIN SCHOOLS

INTRODUCTION

The biennial state budget act (2001 Wisconsin Act 16), passed by the legislature and signed by Governor Scott McCallum on August 30, 2001, expanded the statutory provisions for voluntarily reciting of the Pledge of Allegiance to the U.S. Flag in Wisconsin schools and added the option of singing *The Star-Spangled Banner*.

Effective September 1, 2001, all Wisconsin schools, public and private, are required to offer students in grades 1 through 12 the opportunity either to recite the Pledge or to sing or listen to the national anthem each school day. Private schools are offered an exemption if the governing body of the school determines the requirement conflicts with the school's religious doctrine. Wisconsin is currently one of 35 states to have a Pledge requirement.

Prior to Act 16, Wisconsin law, dating back to 1963, had required that both public and private schools offer the Pledge at least once a week at the beginning of the school day for students in grades 1 through 8 only. There was no provision for a private school board to exempt its institution as a whole from the requirement, but the law specified – and the option is continued under Act 16: “No pupil may be compelled, against the pupil's objections or those of the pupil's parents or guardian, to recite the pledge.” The act makes the singing of the national anthem voluntary under that same option.

HISTORY OF THE PLEDGE OF ALLEGIANCE AND THE NATIONAL ANTHEM

The Pledge of Allegiance. In 1892, public school students first recited the Pledge of Allegiance as part of the national school celebration held to mark the 400th Anniversary of Christopher Columbus' discovery of America. President Benjamin Harrison and the U.S. Congress had ordered the public school ceremony in a national proclamation. The original version of the Pledge was written by Francis Bellamy, a Baptist minister, and first printed in *The Youth's Companion*, a Boston-based magazine. In 1923 and 1924, the National Flag Conference, led by the American Legion and the Daughters of the American Revolution, changed Bellamy's words from “my Flag” to “the Flag of the United States of America”.

After the United States entered World War II, the Pledge was adopted by the U.S. Congress in 1942 in conjunction with developing rules for use and display of the U.S. Flag in 36 *United States Code Annotated* 172. Based on a campaign led by the Knights of Columbus, Congress added the words “under God” to the Pledge in 1954 (68 Stat. 249).

The Star-Spangled Banner. On September 14, 1814, Francis Scott Key wrote the words for the song that later became the U.S. national anthem in the midst of a British bombardment of Fort McHenry at Baltimore Harbor during the War of 1812. Although known today as *The Star-Spangled Banner*, the original title of the poem was *Defense of Fort M'Henry*. Key indicated that the poem was to be sung to the tune of the song, *To Anacreon in Heaven*, a popular melody. The

current title was applied to the song in October 1814, and it gained popularity. By the end of the century, the U.S. Army had adopted it to use in daily flag ceremonies. In 1931, Congress made *The Star-Spangled Banner* the official national anthem (36 *United States Code Annotated* 301).

HISTORY OF WISCONSIN'S PLEDGE OF ALLEGIANCE REQUIREMENT

Section 118.06 (2), Wisconsin Statutes, which required the weekly offering of the Pledge (prior to the section's amendment by Act 16), was created by Chapter 65, Laws of 1963, which became effective on May 29, 1963. The law was introduced as 1963 Assembly Bill 6 by the Wisconsin Legislative Council, based on a draft from the Council's Education Committee. AB-6 constituted a second attempt to pass the measure. Its predecessor, 1961 Assembly Bill 2, which had also been introduced by the Legislative Council, had been vetoed by Governor Gaylord A. Nelson.

Governor Nelson based his veto on Attorney General John W. Reynolds' opinion (50 OAG 172) that requiring the Pledge to be recited once a week by all pupils in grades 1 to 8 would violate the First and Fourteenth Amendments to the U.S. Constitution. The attorney general based his opinion on the U.S. Supreme Court's decision in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). In this case, the U.S. Supreme Court upheld the claim of a group of Jehovah's Witnesses that the state law requirement for reciting the Pledge in school was unconstitutional because it violated their religious beliefs.

Responding to Governor Nelson's previous veto, the 1963 Legislature amended Assembly Bill 6 to make reciting the Pledge in school voluntary rather than mandatory.

FURTHER INFORMATION

Copies of Section 118.06, Wisconsin Statutes, may be downloaded by accessing Act 16 on the Internet at <http://www.legis.state.wi.us/2001/data/acts/01act16.pdf>, or they may be obtained by calling the Legislative Reference Bureau at (608) 266-0342.