CHAPTER NO. _///2____.

SENATE BILL NO. 175

INTRODUCED BY VAN VALKENBURG, OLSON, COONEY, ELLIS, BENNETT, TURNAGE, HIMSL, TOWE, B. BROWN

> BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

> > IN THE SENATE

Introduced and referred to Committee on Public Health, Welfare, and Safety.
Committee recommend bill do pass as amended. Report adopted.
Printed and placed on members' desks.
Second reading, do pass.
Considered correctly engrossed.
Third reading, passed. Transmitted to second house.
Introduced and referred to Committee on Human Services.
Committee recommend bill be concurred in. Report adopted.
Second reading, concurred in as amended.
Third reading, concurred in as amended.

IN THE SENATE

March 6, 1979	Returned from second house. Concurred in as amended.
March 7, 1979	Second reading, amendments adopted.
March 8, 1979	Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

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STATEMENT OF INTENT RE: S. B. NO. 175

A statement of intent is required for this bill because it provides the Department of Health and Environmental Sciences rule-making authority regarding implementation of this act.

Section 6 authorizes rule-making authority to implement Senate Bill 175 and is intended to authorize the Department of Health and Environmental Sciences to adopt, amend, or repeal rules, in accordance with the Montana Administrative Procedures Act, to require uniformity in reporting and recording the immunization status of each child enrolled in school, and determine appropriate schedules and agents for immunization. Such recording, reporting, and immunization must be compatible with current, recognized medical and public health practices.

Approved by the Senate Committee on Public Health, Welfare, and Safety on February 12, 1979.

ater BILL NO. 175 Borry E 1 INTRODUCED BY 2 T of THE DEPARTMENT H 3 OF HEALTH AND ENVIRONMENTAL SCIENCES BAR BOWN 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR δ IMMUNIZATION OF PUPILS IN PUBLIC AND PRIVATE SCHOOLS: 7 REPEALING SECTION 20-5-401, MCA." я 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Definitions. For the purposes of [this 11 act], the following definitions apply: 12 (1) "Department" means the department of health and 13 environmental sciences provided for in Title 2, chapter 15, 14 part 21. 15 (2) "Governing authority" means a trustee of a school 16 district, a principal, an administrator, or any other 17 13 outhority of a private or public school responsible for the 12 operation of the school. 20 (3) "Immunization" means induction of a state of 21 resistance to a disease through administration of an 22 immunizing alent. 23 (4) "Local health officer or department" means a city. 24 city-county, county, or district health officer or 25 department.

1 (5) "School" means an institution for the teaching of 2 individuals, the curriculum of which is comprised of the 3 work of any combination of kindergarten through grade 12.

4 Section 2. Immunization required. A governing 5 authority may not enroll any person as a pupil in any school 6 unless, prior to enrollment, the person:

7 (1) has been immunized against diphtheria, pertussis, 8 tetanus, poliomyelitis, rubella, and measles (rubeola) in 9 the manner and with immunizing agents approved by the 10 department, except that pertussis vaccination is not 11 required for a person 7 years of age or older;

12 (2) qualifies for conditional enrollment; or

13 (3) files for an exemption.

Section 3. Conditional enrollment. A person who has not been immunized against each disease listed in [section 2] may be enrolled by the governing authority on condition that he has received one or more doses of polio, measles (rubeola), rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older.

Section 4. Personal, religious, or medical exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking enrollment, or the person seeking enrollment, if an adult, signs and files with the governing authority a written

-2- SH 175 INTRODUCED BILL statement on a form prescribed by the department stating
 that immunization is contrary to the personal or religious
 beliefs of the signer. immunization of the person seeking
 enrollment may not be required prior to enrollment in any
 school. The statement must be maintained as part of the
 person's immunization records.

(2) When a parent, quardian, or adult who has the 7 8 responsibility for the care and custody of a minor seeking 9 enrollment, or the person seeking enrollment, if an adult. 10 files with the governing authority a written statement signed by a physician licensed to practice medicine in any 11 jurisdiction of the United States or Canada stating that the 12 13 physical condition of the person seeking enrollment or 14 medical circumstances relating to him indicate that some or 15 all of the required immunizations are not considered safe 16 and indicating the specific nature and probable duration of 17 the medical condition or circumstances which contraindicate 18 immunization, he is exempt from the requirements of [this 19 act] to the extent indicated by the physician's statement. The statement must be maintained as part of the person's 20 21 immunization records.

(3) Whenever there is good cause to believe that a
person for whom an exemption has been filed under this
section has a disease or has been exposed to a disease
listed in [section 2] or will as the result of school

1 attendance be exposed to such disease. the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease. The exclusion period may not exceed 30 calendar 6 days.

7 Section 5. Immunization record. The governing 8 authority of each school shall require written evidence of 9 each pupil's immunization against the diseases listed in 10 [section 2] and shall record the immunization of each pupil 11 as part of his permanent school record on a form prescribed 12 by the department.

Section 6. Rulemaking. The department may adopt rules
 necessary to implement the provisions of [this act].

15 Section 7. Enforcement. (1) The governing authority of 15 any school shall prohibit from further attendance any pupil 17 enrolled conditionally who has failed to obtain the 18 immunizations required by [section 2(1)] within time period 19 established by the department until that pupil has been 20 immunized us required by the department or unless that pupil 21 has been exempted under [section 4].

22 (2) Each governing authority shall file a written
23 report on the immunization status of all pupils under its
24 jurisdiction with the department and the local health
25 department at times and on forms prescribed by the

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department. 1

(3) The local and state health departments shall have 2 access to all information relating to immunization of any 3 pupil in any school. 4

Section 8. Failure to immunize or claim exemption --5 injunction. (1) A parent, guardian, or adult having the 6 responsibility for the care and custody of a minor required 7 by law to attend school shall elect to do one of the 8 Q following:

(a) present evidence to the school that the minor has 10 been immunized against the diseases specified in [section 11 2]; 12

(b) take action to fully immunize the minor against 13 the diseases listed in [section 2], in the manner and with 14 immunizing agents approved by the department; 15

(c) file for an exemption pursuant to [section 4]. 10 (2) If, as a result of the parent, guardian, or 17 responsible adult's failure to make the election referred to 13 in subsection (1), the minor is excluded from school, the 19 department or the local health department may seek an 20 injunction requiring the parent, guardian, or responsible 21 adult to elect and perform one of the alternatives listed in 22 23 subsection (1).

(3) Injunction is the exclusive remedy for failure to 24 take any of the actions referred to in subsection (1). 25

Section 9. Civil penalty. (1) Any person who violates 1 any provision of [this act], any rule promulgated under 2 [this act]+ or any order made pursuant to [this act]+ with 3 the exception of [section 8] and any rule adopted or order 4 issued pursuant to [section 8], is subject to a civil 5 penalty not to exceed \$1,000. The department or the local 6 health department may institute and maintain any enforcement 7 8 proceedings hereunder.

9 (2) Action under subsection (1) is not a bar to enforcement of [this act] or of rules or orders made under 10 it by injunction or other appropriate civil remodies. 11

(3) An action for a civil remedy to enforce [this act] 12 or rules or orders made under it may be brought in the 13 district court of any county where a violation occurs or is 14 15 threatened.

Section 10. Severability. If part of this act is 1.6 17 invilid, all valid parts that are severable from the invalid 13 part remain in effect. If a part of this act is invalid in 19 one or more of its applications, the part remains in effect in all valid applications that are severable from the 20 invalid applications. 21

Section 11. Codification. The code commissioner shall 2? codify this act as an integral part of Title 20+ and the 23 provisions of Title 20 apply to this act. 24 Section 12. Applicability. Sections 1 through 5 and 25

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- 1 sections 7 through 9 apply after August 1+ 1980+
- 2 Section 13. Repeater. Section 20-5-401, NCA, is
- 3 repealed effective August 1, 1980.

-End-

STATE OF MONTANA

Request No. 482-79

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>March 19, 1979</u>, there is hereby submitted a Fiscal Note for <u>Senate Bill 175</u> pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for immunization of pupils in public and private schools.

FISCAL IMPACT:

None.

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BUDGET DIRECTOR J Office of Budget and Program Planning Date: 3/20/79

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Approved by Committee on Public Health, Welfare & Safety

1	SENATE BILL NO. 175
2	INTRODUCED BY VAN VALKENBURG, OLSON, COONEY, ELLIS,
3	BENNETT, TURNAGE, HIMSL, TOWE, B. BROWN
4	BY REQUEST OF THE DEPARTMENT
5	OF HEALTH AND ENVIRONMENTAL SCIENCES
6	
۲	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
8.	IMMUNIZATION OF PUPILS IN PUBLIC AND PRIVATE SCHOOLS;
9	REPEALING SECTION 20-5-401, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Definitions. For the purposes of [this
13	act}, the following definitions apply:
14	(1) "Department" means the department of health and
15	environmental sciences provided for in Title 2+ chapter 15+
16	part 21.
17	(2) "Governing authority" means a-trustee IHE_BOARD_DE
18	<u>IRUSIEES</u> of a school district yo-principalyon <u>OR_IHE</u>
19	administrator y-or-any-other-authority of a private or-public
20	school responsible-for-the-operation-of-the-school.
21	(3) "Immunization" means induction of a state of
22	resistance to a disease through administration of an
23	immunizing agent.
24	(4) "Local health officer or department" means a city.

city-county, county, or district health officer or

Ł department. (5) "School" means an institution for the teaching of 2 individuals, the curriculum of which is comprised of the 3 work of any combination of kindergarten through grade 12. 4 Section 2. Immunization required. [1] A governing 5 authority may not enroll any person as a pupil in any school 6 unless, prior to enrollment, the person: 7 diphtheria 8 (1) has been immunized against pertussis, tetanus, poliomyelitis, rubella, and measles 9 (rubeola) in the manner and with immunizing agents approved 10 by the department, except that pertussis vaccination is not 11 required for a person 7 years of age or older; 12 tet(B) qualifies for conditional enrollment; or 13 #3+(C) files for an exemption. 14 (2) FAILURE TO ACT AS PROVIDED IN SUBSECTION (1) IN A 15 16 BEASONABLE_PERIOD_OF_TIME*_AS_DETERMINED_BY_THE_BOARD_OF TRUSTEES ____IS__AN__EXEMPTION__ON__THE__GROUNDS__PROVIDED__IN 17 LSUBSECTION (1) OF SECTION 41. 18 19 Section 3. Conditional enrollment. A person who has 20 not been immunized against each disease listed in {section 2] way be enrolled by the governing authority on condition 21 that he has received one or more doses of polio, measles 22 23 (rubeola), rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a 24 person 7 years of age or older. 25

-2- SECOND READING

1 Section 4. Personal, religious, or medical exemption. (1) When a parent, guardian, or adult who has the 2 responsibility for the care and custody of a minor seeking 3 4 enrollment, or the person seeking enrollment, if an adult, 5 signs and files with the governing authority a written 6 statement on a form prescribed by the department stating that immunization is contrary to the personal or religious 7 beliefs of the signer, immunization of the person seeking 8 enrollment may not be required prior to enrollment in any 9 school. The statement must be maintained as part of the 10 11 person's immunization records.

12 (2) When a parent, guardian, or adult who has the 13 responsibility for the care and custody of a minor seeking enroliment, or the person seeking enroliment, if an adult, 14 15 files with the governing authority a written statement 16 signed by a physician licensed to practice medicine in any 17 jurisdiction of the United States or Canada stating that the 18 physical condition of the person seeking enrollment or 19 medical circumstances relating to him indicate that some or 20 all of the required immunizations are not considered safe 21 and indicating the specific nature and probable duration of 22 the medical condition or circumstances which contraindicate 23 immunization, he is exempt from the requirements of [this 24 act] to the extent indicated by the physician's statement. 25 The statement must be maintained as part of the person's

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1 immunization records.

(3) Whenever there is good cause to believe that a 2 person for whom an exemption has been filed under this 3 section has a disease or has been exposed to a disease 4 5 listed in [section 2] or will as the result of school attendance be exposed to such disease, the person may be 6 excluded from the school by the local health officer or the 7 department until the excluding authority is satisfied that 8 Q. the person no longer risks contracting or transmitting that disease. The exclusion period may not exceed 30 calendar 10 11 days.

12 Section 5. Immunization record. The governing 13 authority of each school shall require written evidence of 14 each pupil's immunization against the diseases listed in 15 [section 2] and shall record the immunization of each pupil 16 as part of his permanent school record on a form prescribed 17 by the department.

Section 6. Rulemaking. The department may adopt rule
necessary to implement the provisions of [this act].

20 Section 7. Enforcement. (1) The governing authority of 21 any school shall prohibit from further attendance any pupil 22 enrolled conditionally who has failed to obtain the 23 immunizations required by [section 2(1)] within time periods 24 established by the department until that pupil has been 25 immunized as required by the department or unless that pupil

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1 has been exempted under [section 4].

2 (2) Each governing authority shall file a written 3 report on the immunization status of all pupils under its 4 jurisdiction with the department and the local health 5 department at times and on forms prescribed by the 6 department.

7 (3) The local and state health departments shall have
 8 access to all information relating to immunization of any
 9 pupil in any school.

10 Section 8. Failure to immunize or claim exemption --11 injunction. (1) A parent, guardian, or adult having the 12 responsibility for the care and custody of a minor required 13 by law to attend school shall elect to do one of the 14 following:

(a) present evidence to the school that the minor has
been immunized against the diseases specified in [section
2];

18 (b) take action to fully immunize the minor against 19 the diseases listed in [section 2]. in the manner and with 20 immunizing agents approved by the department;

21 (c) file for an exemption pursuant to [section 4].

(2) If, as a result of the parent, guardian, or
responsible adult's failure to make the election referred to
in subsection (1), the minor is excluded from school, the
department or the local health department may seek an

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1 injunction requiring the parent, guardian, or responsible 2 adult to elect and perform one of the alternatives listed in 3 subsection (1).

4 (3) Injunction is the exclusive remedy for failure to
5 take any of the actions referred to in subsection (1).

Section 9. Civil penalty. (1) Any person who violates 6 any provision of [this act], any rule promulgated under 7 [this act], or any order made pursuant to [this act], with 8 the exception of [section 8] and any rule adopted or order 9 10 issued pursuant to [section 8], is subject to a civil 11 penalty not to exceed \$1,000. The department or the local 12 health department may institute and maintain any enforcement 13 proceedings hereunder.

14 {2} Action under subsection {1} is not a bar to
15 enforcement of [this act] or of rules or orders made under
16 it by injunction or other appropriate civil remedies.

17 (3) An action for a civil remedy to enforce [this act]
18 or rules or orders made under it may be brought in the
19 district court of any county where a violation occurs or is
20 threatened.

21 Section 10. Severability. If part of this act is 22 invalid, all valid parts that are severable from the invalid 23 part remain in effect. If a part of this act is invalid in 24 one or more of its applications, the part remains in effect 25 in all valid applications that are severable from the

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2	Section	11.	Codif	fication.	The	code	commissi	ioner	shall
3	codify this	act	35	an integ	ral g	part a	of Title	20, 3	and the

invalid applications.

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4 provisions of Title 20 apply to this act.

5 Section 12. Applicability. Sections 1 through 5 and

6 sections 7 through 9 apply after August 1+ 1980+

7 Section 13. Repeater. Section 20-5-401, MCA, is

8 repealed effective August 1+ 1980.

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SENATE BILL NO. 175	
INTRODUCED BY VAN VALKENBURG. OLSON. COONEY. ELLIS.	1 department.
BENNETT, TURNAGE, HINSL. TOWE, B. BROWN	2 (5) "School" means an institution for the teaching of
BY REQUEST OF THE DEPARTMENT	3 individuals: the curriculum of which is comprised of the
OF HEALTH AND ENVIRONMENTAL SCIENCES	4 work of any combination of kindergarten through grade 12.
	5 Section 2. Immunization required. [1] A governing
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR	6 authority may not enroll any person as a pupil in any school
IMMUNIZATION OF PUPILS IN PUBLIC AND PRIVATE SCHOOLS;	7 unless: prior to enrollment: the person:
REPEALING SECTION 20-5-401, MCA."	8 <u>{t}(A)</u> has been immunized against diphtheria.
	9 pertussis, tetanus, poliomyelitis, rubella, and measles
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10 (rubeola) in the manner and with immunizing agents approved
Section 1. Definitions. For the purposes of [this	11 by the department, except that pertussis vaccination is not
act], the following definitions apply:	12 required for a person 7 years of age or older;
(1) "Department" means the department of health and	13 t2t(B) qualifies for conditional enrollment; or
environmental sciences provided for in Title 2, chapter 15,	14 (3)[[] files for an exemption.
part 21.	15 121_EALLURE_ID_ACI_AS_PROVIDED_IN_SUBSECTION_(1)_IN_A
(2) "Governing authority" means a-trustee INE BOARD OF	16 REASONABLE_PERIOD_DE_TIME+_AS_DETERMINED_BY_THE_BOARD_OF
IRUSTEES of a school districty-a-principaly-an DR_THE	17 IRUSIEES. IS AN EXEMPTION ON THE GROUNDS PROVIDED IN
administratory-or-any-other-authority of a private or-public	10 [SUBSECTION_11_OF_SECTION_4]*
school responsible-for-the-operation-of-the-school.	19 Section 3. Conditional enrollment. A person who has
(3) "Immunization" means induction of a state of	20 not been immunized against each disease listed in [section
resistance to a disease through administration of an	21 2] may be enrolled by the governing authority on condition
immunizing agent.	22 that he has received one or more doses of polio+ measles
(4) "Local health officer or department" means a city,	23 (rubeola), rubella, diphtheria, pertussis, and tetanus
	24 vaccine, except that pertussis vaccine is not required for a
city-county, county, or district health officer or	25 person 7 years of age or older.

-2- SB 175 THIRD READING

1 Section 4. Personal, religious, or medical exemption. 2 (1) When a parent, guardian, or adult who has the 3 responsibility for the care and custody of a minor seeking enrollment. or the person seeking enrollment, if an adult. 4 5 signs and files with the governing authority a written statement on a form prescribed by the department stating 6 7 that immunization is contrary to the personal or religious 8 beliefs of the signer. immunization of the person seeking 9 enrollment may not be required prior to enrollment in any 10 school. The statement must be maintained as part of the 11 person's immunization records.

12 {2} When a parent, guardian, or adult who has the 13 responsibility for the care and custody of a minor seeking 14 enrollment, or the person seeking enrollment, if an adult, 15 files with the governing authority a written statement 16 signed by a physician licensed to practice medicine in any 17 jurisdiction of the United States or Canada stating that the 18 physical condition of the person seeking enroliment or 19 medical circumstances relating to him indicate that some or 20 all of the required immunizations are not considered safe 21 and indicating the specific nature and probable duration of 22 the medical condition or circumstances which contraindicate 23 immunization, he is exempt from the requirements of [this 24 act1 to the extent indicated by the physician's statement. 25 The statement must be maintained as part of the person's

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1 immunization records.

2 (3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this ٦ section has a disease or has been exposed to a disease 4 listed in [section 2] or will as the result of school 5 attendance be exposed to such disease, the person may be 6 excluded from the school by the local health officer or the 7 department until the excluding authority is satisfied that 8 the person no longer risks contracting or transmitting that q 10 disease. The exclusion period may not exceed 30 calendar 11 days.

12 Section 5. Immunization record. The governing 13 authority of each school shall require written evidence of 14 each pupil's immunization against the diseases listed in 15 [section 2] and shall record the immunization of each pupil 16 as part of his permanent school record on a form prescribed 17 by the department.

Section 6. Rulemaking. The department may adopt ru'
 necessary to implement the provisions of [this act].

20 Section 7. Enforcement. (1) The governing authority of 21 any school shall prohibit from further attendance any pupil 22 enrolled conditionally who has failed to obtain the 23 immunizations required by [section 2(1)] within time periods 24 established by the department until that pupil has been 25 immunized as required by the department or unless that pupil

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1 has been exempted under [section 4].

2 (2) Each governing authority shall file a written 3 report on the immunization status of all pupils under its 4 jurisdiction with the department and the local health 5 department at times and on forms prescribed by the 6 department.

7 (3) The local and state health departments shall have
 8 access to all information relating to immunization of any
 9 pupil in any school+

10 Section 8. Failure to immunize or claim exemption --11 injunction. (1) A parent, guardian, or adult having the 12 responsibility for the care and custody of a minor required 13 by law to attend school shall elect to do one of the 14 following:

(a) present evidence to the school that the minor has
been immunized against the diseases specified in [section
2];

(b) take action to fully immunize the minor against
the diseases listed in [section 2]. in the manner and with
immunizing agents approved by the department;

21 (c) file for an exemption pursuant to [section 4].

(2) If as a result of the parent, guardian, or
responsible adult's failure to make the election referred to
in subsection (1), the minor is excluded from school, the
department or the local health department may seek an

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injunction requiring the parent, guardian, or responsible
 adult to elect and perform one of the alternatives listed in
 subsection (1).

4 (3) Injunction is the exclusive remedy for failure to
5 take any of the actions referred to in subsection (1).

6 Section 9. Civil penalty. (1) Any person who violates any provision of [this act], any rule promulgated under 7 8 (this act), or any order made pursuant to [this act], with 9 the exception of [section 8] and any rule adopted or order issued pursuant to [section 8], is subject to a civil 10 penalty not to exceed \$1,000. The department or the local 11 health department may institute and maintain any enforcement 12 13 proceedings hereunder.

14 (2) Action under subsection (1) is not a bar to 15 enforcement of [this act] or of rules or orders made under 16 it by injunction or other appropriate civil remedies.

17 (3) An action for a civil remedy to enforce [this act]
18 or rules or orders made under it may be brought in the
19 district court of any county where a violation occurs or is
20 threatened.

21 Section 10. Severability. If part of this act is 22 invalid: all valid parts that are severable from the invalid 23 part remain in effect. If a part of this act is invalid in 24 one or more of its applications: the part remains in effect 25 in all valid applications that are severable from the

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1	invalid applications.
2	Section 11. Codification. The code commissioner shall
3	codify this act as an integral part of Title 20, and the
4	provisions of Title 20 apply to this act.
5	Section 12. Applicability. Sections 1 through 5 and
6	sections 7 through 9 apply after August 1+ 1980.
7	Section 13. Repeater. Section 20-5-401, MCA, is
8	repealed effective August 1, 1980.
	-End-

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SB 0175/03

1	SENATE BILL NO. 175	1	department.
2	INTRODUCED BY VAN VALKENBURG, OLSON, COONEY, ELLIS,	2	(5) "School" means an institution for the teaching of
3	BENNETT, TURNAGE, HIMSL, TOWE, B. BROWN	3	individuals, the curriculum of which is comprised of the
4	BY REQUEST OF THE DEPARTMENT	4	work of any combination of kindergarten through grade 12.
5	OF HEALTH AND ENVIRONMENTAL SCIENCES	5	Section 2. Immunization required. [1] A governing
6		6	authority may not enroll any person as a pupil in any school
7	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR	7	unless, prior to enrollment, the person:
8	INMUNIZATION OF PUPILS IN PUBLIC AND PRIVATE SCHOOLS;	8	<pre>ft)(A) has been immunized against diphtheria;</pre>
9	REPEALING SECTION 20-5-401. MCA."	9	pertussis, tetanus, poliomyelitis, rubella, and measles
10		10	(rubeola) in the manner and with immunizing agents approved
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11	by the department, except that pertussis vaccination is not
12	Section 1. Definitions. For the purposes of [this	12	required for a person T years of age or older;
13	act], the following definitions apply:	13	<pre>t2t(B) qualifies for conditional enrollment; or</pre>
14	 "Department" means the department of health and 	14	(3)<u>(C)</u> files for an exemption.
15	environmental sciences provided for in Title 2, chapter 15,	15	121EAILURE_IQ_ACT_AS_PROVIDED_IN_SUBSECTION_II_INA
16	part 21.	16	REASONABLEPEBIODOEIINEAS_DETERMINED_BY_THE_BOARD_OF
17	(2) "Governing authority" means e-trustee <u>IHE_BOARD_OF</u>	17	TRUSTEESIS_ANEKEMPIIONONTHEGROUNDSPROVIDEDIN
18	<u>IRUSIEES</u> of a school district y-s-principslyan <u>OR_IHE</u>	18	LSUBSECTION_111_DE_SECTION_41
19	administratory-or-any-other-authority of a private or-public	19	Section 3. Conditional enrollment. A person who has
20	school responsible-for-the-operation-of-the-school.	20	not been immunized against each disease listed in [section
21	(3) "Immunization" means induction of a state of	21	2] may be enrolled by the governing authority on condition
22	resistance to a disease through administration of an	22	that he has received one or more doses of polios measles
23	immunizing agent.	23	(rubeola), rubella, diphtheria, pertussis, and tetanus
24	(4) "Local health officer or department" means a city.	24	vaccine, except that pertussis vaccine is not required for a
25	city-county, county, or district health officer or	25	person 7 years of age or older.
			-2- SB 175 REFERENCE BILL

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Section 4. Personal, religious, or medical exemption. 1 2 (1) When a parent, quardian, or adult who has the responsibility for the care and custody of a minor seeking 3 4 enrollment, or the person seeking enrollment, if an adult, 5 signs and files with the governing authority a written 6 statement on a form prescribed by the department stating that immunization is contrary to the personal or religious 7 8 beliefs of the signer, immunization of the person seeking enroliment may not be required prior to enroliment in any Q 10 school. The statement must be maintained as part of the person's immunization records. 11

(2) When a parent, guardian, or adult who has the 12 responsibility for the care and custody of a minor seeking 13 enrollment, or the person seeking enrollment, if an adult, 14 files with the governing authority a written statement 15 signed by a physician licensed to practice medicine in any 16 17 jurisdiction of the United States or Canada stating that the physical condition of the person seeking enrollment or 18 medical circumstances relating to him indicate that some or 19 all of the required immunizations are not considered safe 20 21 and indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate 22 immunization, he is exempt from the requirements of [this 23 24 act] to the extent indicated by the physician's statement. 25 The statement must be maintained as part of the person's

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1 immunization records.

2 (3) Whenever there is good cause to believe that a 3 person for whom an exemption has been filed under this 4 section has a disease or has been exposed to a disease 5 listed in [section 2] or will as the result of school 6 attendance be exposed to such disease, the person may be 7 excluded from the school by the local health officer or the 8 department until the excluding authority is satisfied that • the person no longer risks contracting or transmitting that disease. The exclusion period may not exceed 30 calendar 10 11 days.

12 Section 5. Immunization record. The governing 13 authority of each school shall require written evidence of 14 each pupil's immunization against the diseases listed in 15 [section 2] and shall record the immunization of each pupil 16 as part of his permanent school record on a form prescribed 17 by the department.

18 Section 6. Rulemaking. The department may adopt rules 19 necessary to implement the provisions of [this act].

20 Section 7. Enforcement. (1) The governing authority of 21 any school shall prohibit from further attendance any pupil 22 enrolled conditionally who has failed to obtain the 23 immunizations required by [section 2(1)] within time periods 24 established by the department until that pupil has been 25 immunized as required by the department or unless that pupil

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1 has been exempted under [section 4].

2 (2) Each governing authority shall file a written
3 report on the immunization status of all pupils under its
4 jurisdiction with the department and the local health
5 department at times and on forms prescribed by the
6 department.

7 (3) The local and state health departments shall have
8 access to all information relating to immunization of any
9 pupil in any school.

10 Section 8. Failure to immunize or claim exemption --11 injunction. (1) A parent, guardian, or adult having the 12 responsibility for the care and custody of a minor required 13 by law to attend school shall elect to do one of the 14 following:

15 (a) present evidence to the school that the minor has
16 been immunized against the diseases specified in [section
17 2];

(b) take action to fully immunize the minor against
the diseases listed in [section 2], in the manner and with
immunizing agents approved by the department;

(c) file for an exemption pursuant to [section 4].
(2) If, as a result of the parent, guardian, or
responsible adult's failure to make the election referred to
in subsection (1), the minor is excluded from school, the
department or the local health department may seek an

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injunction requiring the parent+ guardian+ or responsible
 adult to elect and perform one of the alternatives listed in
 subsection {1}+

4 (3) Injunction is the exclusive remedy for failure to 5 take any of the actions referred to in subsection (1)+

Section 9. Civil penalty. (1) Any person who violates 6 7 any provision of [this act], any rule promulgated under [this act], or any order made pursuant to [this act], with 8 9 the exception of [section 8] and any rule adopted or order issued pursuant to [section 8], is subject to a civil 10 penalty not to exceed \$1,000. The department or the 11 12 local health department may institute and maintain any 13 enforcement proceedings hereunder.

14 {2} Action under subsection {1} is not a bar to 15 enforcement of [this act] or of rules or orders made under 16 it by injunction or other appropriate civil remedies.

17 (3) An action for a civil remedy to enforce [this act]
18 or rules or orders made under it may be brought in the
19 district court of any county where a violation occurs or is
20 threatened.

21 Section 10. Severability. If part of this act is 22 invalid, all valid parts that are severable from the invalid 23 part remain in effect. If a part of this act is invalid in 24 one or more of its applications, the part remains in effect 25 in all valid applications that are severable from the

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- invalid applications.
 Section 11. Codification. The code commissioner shall
 codify this act as an integral part of Title 20. and the
 provisions of Title 20 apply to this act.
 Section 12. Applicability. Sections 1 through 5 and
 sections 7 through 9 apply after August 1. 1980.
 Section 13. Repeater. Section 20-5-401. MCA. is
- 8 repealed effective August 1, 1980.

-End-

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HOUSE OF REPRESENTATIVES

March 2, 1979

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Committee of the Whole amendment to SENATE BILL NO. 175, third reading copy.

1. Page 6, line 11.
 Strike: "\$1,000"
 Insert: "\$500"

AND AS AMENDED, BE CONCURRED IN.