

SENATE BILL NO. 445

INTRODUCED BY B. BROWN, E. SMITH,  
MAZUREK, GAGE, BLAYLOCK, MCCALLUM,  
ELLIOTT, BERG, HAFPEY

BY REQUEST OF THE SENATE COMMITTEE ON  
EDUCATION AND CULTURAL RESOURCES

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Education and Cultural Resources.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 44; Noes, 5. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Education and Cultural Resources.
March 10, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1983	Second reading, concurred in.
March 21, 1983	Third reading, concurred in.

IN THE SENATE

March 22, 1983

Returned to Senate with amendments.

March 23, 1983

Second reading, amendments concurred in.

March 24, 1983

Third reading, amendments concurred in. Ayes 48; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 445  
 2 INTRODUCED BY *Rep Brown E. Smith Mazurek by*  
 3 *Blaylock* BY REQUEST OF THE SENATE COMMITTEE ON *Edwards*  
 4 *Haffey* EDUCATION AND CULTURAL RESOURCES *Berg*

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXEMPTIONS TO  
 7 COMPULSORY ENROLLMENT IN PUBLIC SCHOOLS BY PROVIDING THAT A  
 8 CHILD MAY BE EXEMPT IF ENROLLED IN A PAROCHIAL OR CHURCH  
 9 SCHOOL WHICH KEEPS ATTENDANCE AND IMMUNIZATION RECORDS,  
 10 PROVIDES 180 DAYS OF PUPIL INSTRUCTION OR THE EQUIVALENT,  
 11 PROVIDES AN ORGANIZED COURSE OF STUDY, AND IS HOUSED IN A  
 12 FACILITY MEETING FIRE AND HEALTH STANDARDS; PROVIDING THAT,  
 13 FOR COMPULSORY ENROLLMENT EXEMPTIONS FOR STUDENTS IN PRIVATE  
 14 OR HOME SCHOOLS, THE REQUIREMENTS FOR PAROCHIAL AND CHURCH  
 15 SCHOOLS MUST BE MET AND IN ADDITION THAT NOTIFICATION OF  
 16 ATTENDANCE MUST BE MADE TO SCHOOL AUTHORITIES; AMENDING  
 17 SECTION 20-5-102, MCA."

18  
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 20-5-102, MCA, is amended to read:

21 "20-5-102. Compulsory enrollment and excuses. (1)  
 22 Except as provided in subsection (2), any parent, guardian,  
 23 or other person who is responsible for the care of any child  
 24 who is 7 years of age or older prior to the first day of  
 25 school in any school fiscal year shall cause the child to be

1 instructed in the program prescribed by the board of public  
 2 education pursuant to 20-7-111 until the later of the  
 3 following dates:

4 (a) the child's 16th birthday;

5 (b) the date of completion of the work of the 8th  
 6 grade.

7 (2) Such parent, guardian, or other person shall  
 8 enroll the child in the school assigned by the trustees of  
 9 the district within the first week of the school term or  
 10 when he establishes residence in the district unless the  
 11 child is:

12 (a) enrolled in a ~~private--institution~~ parochial or  
 13 church school which ~~provides--instruction--in--the--program~~  
 14 ~~prescribed--by--the--board--of--public--education--pursuant--to~~  
 15 20-7-111 is affiliated with a religious organization with  
 16 sincerely held religious beliefs and which is in compliance  
 17 with the provisions of [section 20-7-111];

18 (b) enrolled in a school of another district or state  
 19 under any of the tuition provisions of this title;

20 (c) provided with supervised correspondence study or  
 21 supervised home study under the transportation provisions of  
 22 this title;

23 (d) excused from enrollment in a school of the  
 24 district when it is shown that his bodily or mental  
 25 condition does not permit his attendance and the child

cannot be instructed under the special education provisions of this title;

(e) excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child; or

(f) excused by the board of trustees upon a determination that such attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

~~(g) enrolled in a private or home school that complies with the provisions of [section 2(21)]. For the purposes of this subsection (g), a home school is the instruction by a parent of his child, stepchild, or ward in his residence.~~

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final."

**NEW SECTION.** Section 2. Nonpublic school requirements for compulsory enrollment exemption. (1) To qualify its students for exemption from compulsory enrollment under

20-5-102, a parochial or church school shall:

(a) maintain records on pupil attendance and disease immunization and make such records available to the county superintendent of schools on request;

(b) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and 20-1-302;

(c) be housed in a building that complies with applicable local health and safety regulations; and

(d) provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111.

(2) To qualify its students for exemption from compulsory enrollment under 20-5-102, a private or home school shall:

(a) comply with the provisions of (a) through (c) of subsection (1);

(b) notify the county superintendent of schools of the student's attendance at the school; and

(c) provide instruction in the program prescribed by the board of public education pursuant to 20-7-111.

**NEW SECTION.** Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to section 2.

-End-

App. by comm. on education  
and cultural resources

1 *Sen. Smith* BILL NO. *445*  
2 INTRODUCED BY *Rep. Brown* *E. Smith* *Mazurk* *Rep.*  
3 *Blaylock* *M. Sullivan* BY REQUEST OF THE SENATE COMMITTEE ON *Edwards*  
4 *Haffey* EDUCATION AND CULTURAL RESOURCES *Berg*

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXEMPTIONS TO  
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16 ATTENDANCE MUST BE MADE TO SCHOOL AUTHORITIES; AMENDING  
17 SECTION 20-5-102, MCA."

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20 Section 1. Section 20-5-102, MCA, is amended to read:

21 "20-5-102. Compulsory enrollment and excuses. (1)  
22 Except as provided in subsection (2), any parent, guardian,  
23 or other person who is responsible for the care of any child  
24 who is 7 years of age or older prior to the first day of  
25 school in any school fiscal year shall cause the child to be

1 instructed in the program prescribed by the board of public  
2 education pursuant to 20-7-111 until the later of the  
3 following dates:

4 (a) the child's 16th birthday;  
5 (b) the date of completion of the work of the 8th  
6 grade.

7 (2) Such parent, guardian, or other person shall  
8 enroll the child in the school assigned by the trustees of  
9 the district within the first week of the school term or  
10 when he establishes residence in the district unless the  
11 child is:

12 (a) enrolled in a private--institution parochial or  
13 church school which provides--instruction--in--the--program  
14 prescribed--by--the--board--of--public--education--pursuant--to  
15 20-7-111 is affiliated with a religious organization with  
16 sincerely held religious beliefs and which is in compliance  
17 with the provisions of [section 2111];

18 (b) enrolled in a school of another district or state  
19 under any of the tuition provisions of this title;

20 (c) provided with supervised correspondence study or  
21 supervised home study under the transportation provisions of  
22 this title;

23 (d) excused from enrollment in a school of the  
24 district when it is shown that his bodily or mental  
25 condition does not permit his attendance and the child

1 cannot be instructed under the special education provisions  
2 of this title;

3 (e) excused from compulsory school attendance upon a  
4 determination by a district judge that such attendance is  
5 not in the best interest of the child; or

6 (f) excused by the board of trustees upon a  
7 determination that such attendance by a child who has  
8 attained the age of 16 is not in the best interest of the  
9 child and the school; or

10 ~~(g) enrolled in a private or home school that complies~~  
11 ~~with the provisions of [section 2(2)]. For the purposes of~~  
12 ~~this subsection (g), a home school is the instruction by a~~  
13 ~~parent of his child, stepchild, or ward in his residence.~~

14 (3) The excuse provided for in subsection (2)(d) of  
15 this section shall be issued by the district superintendent  
16 or the county superintendent when there is no district  
17 superintendent employed by the district. Whenever an excuse  
18 is denied by the applicable official, an appeal of such  
19 decision may be made to the district court of the county  
20 within 10 days after the decision upon giving a bond in the  
21 amount set by the court to pay all costs of the appeal. The  
22 decision of the district court shall be final."

23 ~~NEW SECTION.~~ Section 2. Nonpublic school requirements  
24 for compulsory enrollment exemption. (1) To qualify its  
25 students for exemption from compulsory enrollment under

1 20-5-102, a parochial or church school shall:

2 (a) maintain records on pupil attendance and disease  
3 immunization and make such records available to the county  
4 superintendent of schools on request;

5 (b) provide at least 180 days of pupil instruction or  
6 the equivalent in accordance with 20-1-301 and 20-1-302;

7 (c) be housed in a building that complies with  
8 applicable local health and safety regulations; and

9 (d) provide an organized course of study that includes  
10 instruction in the subjects required of public schools as a  
11 basic instructional program pursuant to 20-7-111.

12 (2) To qualify its students for exemption from  
13 compulsory enrollment under 20-5-102, a private or home  
14 school shall:

15 (a) comply with the provisions of (a) through (c) of  
16 subsection (1);

17 (b) notify the county superintendent of schools of the  
18 student's attendance at the school; and

19 (c) provide instruction in the program prescribed by  
20 the board of public education pursuant to 20-7-111.

21 ~~NEW SECTION.~~ Section 3. Codification instruction.  
22 Section 2 is intended to be codified as an integral part of  
23 Title 20, and the provisions of Title 20 apply to section 2.

-End-

1 *Amended* BILL NO. *445*  
 2 INTRODUCED BY *Bob Brown, E. Smith, Mazurek, Hays*  
 3 *Blaylock* BY REQUEST OF THE SENATE COMMITTEE ON *Edwards*  
 4 *Haffey* EDUCATION AND CULTURAL RESOURCES *Berg*

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 13 church school which ~~provides--instruction--in--the--program~~  
 14 ~~prescribed--by--the--board--of--public--education--pursuant--to~~  
 15 ~~20-7-111~~ is affiliated with a religious organization with  
 16 sincerely held religious beliefs and which is in compliance  
 17 with the provisions of [section 211];

18 (b) enrolled in a school of another district or state  
 19 under any of the tuition provisions of this title;

20 (c) provided with supervised correspondence study or  
 21 supervised home study under the transportation provisions of  
 22 this title;

23 (d) excused from enrollment in a school of the  
 24 district when it is shown that his bodily or mental  
 25 condition does not permit his attendance and the child

1 cannot be instructed under the special education provisions  
2 of this title;

3 (e) excused from compulsory school attendance upon a  
4 determination by a district judge that such attendance is  
5 not in the best interest of the child; or

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14 (3) The excuse provided for in subsection (2)(d) of  
15 this section shall be issued by the district superintendent  
16 or the county superintendent when there is no district  
17 superintendent employed by the district. Whenever an excuse  
18 is denied by the applicable official, an appeal of such  
19 decision may be made to the district court of the county  
20 within 10 days after the decision upon giving a bond in the  
21 amount set by the court to pay all costs of the appeal. The  
22 decision of the district court shall be final."

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24 for compulsory enrollment exemption. (1) To qualify its  
25 students for exemption from compulsory enrollment under

1 20-5-102, a parochial or church school shall:

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3 immunization and make such records available to the county  
4 superintendent of schools on request;

5 (b) provide at least 180 days of pupil instruction or  
6 the equivalent in accordance with 20-1-301 and 20-1-302;

7 (c) be housed in a building that complies with  
8 applicable local health and safety regulations; and

9 (d) provide an organized course of study that includes  
10 instruction in the subjects required of public schools as a  
11 basic instructional program pursuant to 20-7-111.

12 (2) To qualify its students for exemption from  
13 compulsory enrollment under 20-5-102, a private or home  
14 school shall:

15 (a) comply with the provisions of (a) through (c) of  
16 subsection (1);

17 (b) notify the county superintendent of schools of the  
18 student's attendance at the school; and

19 (c) provide instruction in the program prescribed by  
20 the board of public education pursuant to 20-7-111.

21 **NEW SECTION.** Section 3. Codification Instruction.  
22 Section 2 is intended to be codified as an integral part of  
23 Title 20, and the provisions of Title 20 apply to section 2.

-End-



HOUSE EDUCATION AND CULTURAL RESOURCES COMMITTEE  
AMENDMENTS TO SB 445, THIRD READING COPY, BLUE  
MARCH 9, 1983

Page 1 of 2

1. Title, line 8.

Strike: "PAROCHIAL OR CHURCH"

Insert: "NONPUBLIC OR HOME"

2. Title, lines 12 through 15.

Strike: "THAT" on line 12 through "AND" on line 15

3. Title, line 15.

Following: "THAT"

Insert: ", FOR STUDENTS IN HOME SCHOOLS,"

4. Title, line 17.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

5. Page 2, lines 12 through 17.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

6. Page 3, line 10.

Strike: "private"

Insert: "nonpublic"

7. Page 3, line 11.

Strike: "[section 2(2)]"

Insert: "[section 2]"

8. Page 3, line 12.

Following: "subsection"

Strike: "(g)"

Insert: "(f)"

9. Page 3, line 13.

Following: "residence"

Insert: "and a nonpublic school includes a parochial, church,  
religious, or private school"

10. Page 3, line 24.

Strike: "(1)"

11. Page 4, line 1.

Strike: "parochial or church"

Insert: "nonpublic or home"

12. Page 4, line 2.

Strike: "(a)"

Insert: "(1)"

Page 2 of 2

13. Page 4, line 5.

Strike: "(b)"

Insert: "(2)"

14. Page 4, line 7.

Strike: "(c)"

Insert: "(3)"

15. Page 4, line 8.

Following: "regulations;"

Strike: "and"

16. Page 4, line 9.

Strike: "(d)"

Insert: "(4)"

17. Page 4, line 11.

Following: "20-7-111"

Strike: "."

Insert: "; and"

18. Page 4, lines 12 through 16.

Strike: lines 12 through 16 in their entirety

19. Page 4, line 17.

Strike: "(b)"

Insert: "(5) in the case of home schools,"

20. Page 4, line 18.

Following: "school"

Strike: "; and"

21. Page 4, lines 19 and 20.

Strike: line 19 through "20-7-111" on line 20

22. Page 4, line 24.

Following: line 23

Insert: "NEW SECTION. Section 4. Effective date. This act is  
effective July 1, 1983."

## SENATE BILL NO. 445

INTRODUCED BY B. BROWN, E. SMITH,  
MAZUREK, GAGE, BLAYLOCK, MCCALLUM,  
ELLIOTT, BERG, HAFLEY

BY REQUEST OF THE SENATE COMMITTEE ON  
EDUCATION AND CULTURAL RESOURCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXEMPTIONS TO  
COMPULSORY ENROLLMENT IN PUBLIC SCHOOLS BY PROVIDING THAT A  
CHILD MAY BE EXEMPT IF ENROLLED IN A ~~PAROCHIAL--OR--CHURCH~~  
~~NONPUBLIC OR HOME~~ SCHOOL WHICH KEEPS ATTENDANCE AND  
IMMUNIZATION RECORDS, PROVIDES 180 DAYS OF PUPIL INSTRUCTION  
OR THE EQUIVALENT, PROVIDES AN ORGANIZED COURSE OF STUDY,  
AND IS HOUSED IN A FACILITY MEETING FIRE AND HEALTH  
STANDARDS; PROVIDING ~~THAT--FOR--COMPULSORY--ENROLLMENT~~  
~~EXEMPTIONS--FOR--STUDENTS--IN--PRIVATE--OR--HOME--SCHOOLS--THE~~  
~~REQUIREMENTS--FOR--PAROCHIAL--AND--CHURCH--SCHOOLS--MUST--BE--MET~~  
AND IN ADDITION THAT, FOR STUDENTS IN HOME SCHOOLS,  
NOTIFICATION OF ATTENDANCE MUST BE MADE TO SCHOOL  
AUTHORITIES; AMENDING SECTION 20-5-102, MCA; AND PROVIDING  
AN EFFECTIVE DATE."

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

Section 1. Section 20-5-102, MCA, is amended to read:

"20-5-102. Compulsory enrollment and excuses. (1)

Except as provided in subsection (2), any parent, guardian,  
or other person who is responsible for the care of any child  
who is 7 years of age or older prior to the first day of  
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instructed in the program prescribed by the board of public  
education pursuant to 20-7-111 until the later of the  
following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th  
grade.

(2) Such parent, guardian, or other person shall  
enroll the child in the school assigned by the trustees of  
the district within the first week of the school term or  
when he establishes residence in the district unless the  
child is:

~~(a) enrolled in a private institution parochial or~~  
~~church school which provides instruction in the program~~  
~~prescribed by the board of public education pursuant to~~  
~~20-7-111 is affiliated with a religious organization with~~  
~~sincerely held religious beliefs and which is in compliance~~  
~~with the provisions of section 20-7-111;~~

(b) (A) enrolled in a school of another district or  
state under any of the tuition provisions of this title;

(c) (B) provided with supervised correspondence study  
or supervised home study under the transportation provisions

1 of this title;

2 ~~(d)(C)~~ excused from enrollment in a school of the  
3 district when it is shown that his bodily or mental  
4 condition does not permit his attendance and the child  
5 cannot be instructed under the special education provisions  
6 of this title;

7 ~~(e)(D)~~ excused from compulsory school attendance upon  
8 a determination by a district judge that such attendance is  
9 not in the best interest of the child; or

10 ~~(f)(E)~~ excused by the board of trustees upon a  
11 determination that such attendance by a child who has  
12 attained the age of 16 is not in the best interest of the  
13 child and the school; or

14 ~~(g)(F) enrolled in a private NONPUBLIC or home school~~  
15 ~~that complies with the provisions of [section 2+2+]. For the~~  
16 ~~purposes of this subsection (g) (F), a home school is the~~  
17 ~~instruction by a parent of his child, stepchild, or ward in~~  
18 ~~his residence AND A NONPUBLIC SCHOOL INCLUDES A PAROCHIAL,~~  
19 ~~CHURCH, RELIGIOUS, OR PRIVATE SCHOOL.~~

20 (3) The excuse provided for in subsection (2)(d) of  
21 this section shall be issued by the district superintendent  
22 or the county superintendent when there is no district  
23 superintendent employed by the district. Whenever an excuse  
24 is denied by the applicable official, an appeal of such  
25 decision may be made to the district court of the county

1 within 10 days after the decision upon giving a bond in the  
2 amount set by the court to pay all costs of the appeal. The  
3 decision of the district court shall be final."

4 ~~NEW SECTION.~~ Section 2. Nonpublic school requirements  
5 for compulsory enrollment exemption. ~~(1)~~ To qualify its  
6 students for exemption from compulsory enrollment under  
7 20-5-102, a ~~parochial--or--church~~ NONPUBLIC OR HOME school  
8 shall:

9 ~~(a)(1)~~ maintain records on pupil attendance and  
10 disease immunization and make such records available to the  
11 county superintendent of schools on request;

12 ~~(b)(2)~~ provide at least 180 days of pupil instruction  
13 or the equivalent in accordance with 20-1-301 and 20-1-302;

14 ~~(c)(3)~~ be housed in a building that complies with  
15 applicable local health and safety regulations; and

16 ~~(d)(4)~~ provide an organized course of study that  
17 includes instruction in the subjects required of public  
18 schools as a basic instructional program pursuant to  
19 20-7-111; AND

20 ~~(2)--To--qualify--its--students--for--exemption--from~~  
21 ~~compulsory--enrollment--under--20-5-102--a--private-or-home~~  
22 ~~school--shall--~~

23 ~~(a)--comply--with--the--provisions--of--(a)--through--(c)--of~~  
24 ~~subsection--(1)--~~

25 ~~(b)(5) IN THE CASE OF HOME SCHOOLS,~~ notify the county

1 superintendent of schools of the student's attendance at the  
2 school; and

3 ~~{c)--provide instruction in the program prescribed by~~  
4 ~~the board of public education pursuant to 20-7-111.~~

5 NEW SECTION. Section 3. Codification instruction.  
6 Section 2 is intended to be codified as an integral part of  
7 Title 20, and the provisions of Title 20 apply to section 2.

8 SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY  
9 1, 1983.

-End-