

HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,  
SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

JANUARY 23, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
JANUARY 24, 1989	FIRST READING.
JANUARY 27, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES CONNELLY AND SQUIRES AND SENATORS B. BROWN AND HARP ADDED AS SPONSORS.
FEBRUARY 14, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1989	PRINTING REPORT.
FEBRUARY 16, 1989	SECOND READING, DO PASS.
FEBRUARY 17, 1989	ENGROSSING REPORT.
FEBRUARY 18, 1989	THIRD READING, PASSED. AYES, 93; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 6, 1989	ON MOTION, REREFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 14, 1989 SECOND READING, CONCURRED IN.  
MARCH 16, 1989 THIRD READING, CONCURRED IN.  
AYES, 47; NOES, 0.  
RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989 RECEIVED FROM SENATE.  
SECOND READING, AMENDMENTS  
CONCURRED IN.  
MARCH 31, 1989 THIRD READING, AMENDMENTS  
CONCURRED IN.  
SENT TO ENROLLING.  
APRIL 5, 1989 REPORTED CORRECTLY ENROLLED.  
APRIL 6, 1989 SIGNED BY SPEAKER.

IN THE SENATE

APRIL 7, 1989 SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 7, 1989 DELIVERED TO GOVERNOR.  
APRIL 12, 1989 RETURNED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.  
APRIL 13, 1989 SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.  
APRIL 14, 1989 THIRD READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.  
TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 18, 1989 SECOND READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

APRIL 19, 1989

THIRD READING, GOVERNOR'S RECOM-  
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 19, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 364  
2 INTRODUCED BY R. Nelson  
3 BY REQUEST OF THE DEPARTMENT OF HEALTH  
4 AND ENVIRONMENTAL SCIENCES  
5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION  
7 OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL  
8 CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN  
9 THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A  
10 STUDENT'S ATTENDANCE IN SCHOOL; TO ELIMINATE THE RIGHT OF A  
11 STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR  
12 RELIGIOUS GROUNDS; TO REMOVE THE LIMIT ON THE LENGTH OF TIME  
13 THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE  
14 OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION  
15 REQUIREMENTS; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405,  
16 MCA; AND PROVIDING AN EFFECTIVE DATE."  
17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
19 **Section 1.** Section 20-5-402, MCA, is amended to read:  
20 "20-5-402. Definitions. For the purposes of this part,  
21 the following definitions apply:  
22 (1) "Department" means the department of health and  
23 environmental sciences provided for in Title 2, chapter 15,  
24 part 21.  
25 (2) "Governing authority" means the board of trustees

1 of a school district or the administrator of a private  
2 school, preschool, vocational-technical center, college, or  
3 university.  
4 (3) "Immunization" means induction of a state of  
5 resistance to a disease through administration of an  
6 immunizing agent.  
7 (4) "Local health officer or department" means a city,  
8 city-county, county, or district health officer or  
9 department.  
10 (5) "Local health department" means a city,  
11 city-county, county, or district health department.  
12 (6) "Preschool" means a place or facility that  
13 provides, on a regular basis and as its primary purpose,  
14 educational instruction designed for children 5 years of age  
15 or younger and that:  
16 (a) serves no child under 5 years of age for more than  
17 3 hours a day; and  
18 (b) serves no child 5 years of age for more than 6  
19 hours a day.  
20 (5)(7) "School" means an a place or institution for  
21 the teaching of individuals, including a preschool, any  
22 establishment the curriculum of which is comprised of the  
23 work of any combination of kindergarten through grade 12, a  
24 vocational-technical center, a college, or a university."  
25 **Section 2.** Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- grace period for transfers. (1) The governing authority of any school may not allow any person to commence attendance as a pupil unless the person:

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

(b) qualifies for conditional attendance;

(c) files for an exemption; or

(d) is a pupil transferring from another school district, in which case the provisions of subsection (2) apply.

(2) A person who transfers from one school district to another has 30 calendar days after commencement of attendance at the school to which he or she transfers to either complete immunization as specified in subsection (1)(a), commence immunization in the manner required by 20-5-404, or file for an exemption. If none of the foregoing actions is taken within 30 days, the transfer pupil is prohibited from further attendance until such an action is taken."

**Section 3.** Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional attendance. The governing

authority of a school may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older."

**Section 4.** Section 20-5-405, MCA, is amended to read:

"20-5-405. ~~Personal;--religious;--or--medical~~ Medical exemption. ~~{1}--When-a-parent;--guardian;--or--adult-who-has-the~~ responsibility--for--the-care-and-custody-of-a-minor-seeking to-attend-school;--or-the-person-seeking-to-attend-school;--if an-adult;--signs-and-files-with--the--governing--authority--a written--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-to-attend--school--may--not--be--required--prior--to commencement-of-attendance-in-any-school;--The-statement-must be--maintained-as-part-of-the-person's-immunization-records;

~~{2}{1}~~ (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada

1 stating that the physical condition of the person seeking to  
 2 attend school or medical circumstances relating to him  
 3 indicate that some or all of the required immunizations are  
 4 not considered safe and indicating the specific nature and  
 5 probable duration of the medical condition or circumstances  
 6 which contraindicate immunization, he is exempt from the  
 7 requirements of this part to the extent indicated by the  
 8 physician's statement. The statement must be maintained as  
 9 part of the person's immunization records.

10 (3)(2) Whenever there is good cause to believe that a  
 11 person for whom an exemption has been filed under this  
 12 section has a disease or has been exposed to a disease  
 13 listed in 20-5-403 or will as the result of school  
 14 attendance be exposed to such disease, the person may be  
 15 excluded from the school by the local health officer or the  
 16 local health department until the excluding authority is  
 17 satisfied that the person no longer risks contracting or  
 18 transmitting that disease. ~~The--exclusion--period--may--not~~  
 19 ~~exceed--30--calendar--days--"~~

20 NEW SECTION. Section 5. Extension of authority. Any  
 21 existing authority to make rules on the subject of the  
 22 provisions of [this act] is extended to the provisions of  
 23 [this act].

24 NEW SECTION. Section 6. Severability. If a part of  
 25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this  
 2 act] is invalid in one or more of its applications, the part  
 3 remains in effect in all valid applications that are  
 4 severable from the invalid applications.

5 NEW SECTION. Section 7. Effective date. [This act] is  
 6 effective July 1, 1989.

-End-

APPROVED BY COMM. ON EDUCATION  
AND CULTURAL RESOURCES

## HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,

SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-402, MCA, is amended to read:

"20-5-402. Definitions. For the purposes of this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, preschool, vocational-technical-center, college--or university OR POSTSECONDARY SCHOOL.

(3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer or-department" means a city, city-county, county, or district health officer or department.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "POSTSECONDARY SCHOOL" MEANS A VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR COLLEGE.

{6}(7) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

(a) serves no child under 5 years of age for more than 3 hours a day; and

(b) serves no child 5 years of age for more than 6 hours a day.

(5)(7)(8) "School" means an a place or institution for the teaching of individuals, including--a preschool; any establishment the curriculum of which is comprised of the work of:

(A) any combination of kindergarten through grade 12; a vocational-technical center; a college; or--a--university;

(B) A POSTSECONDARY SCHOOL; OR

(C) A PRESCHOOL."

**Section 2.** Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- grace--period--for transfers RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

(1) The governing authority of any school OTHER THAN A POSTSECONDARY SCHOOL may not allow any person to commence attendance as a pupil unless the person:

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

(b) qualifies for conditional attendance; OR

(c) files for an exemption;--or

(d) --is--a--pupil--transferring--from--another--school district;--in--which--case--the--provisions--of--subsection--(2) apply;

(2) --A person who transfers from one school district to another--has--30--calendar--days--after--commencement--of attendance--at--the--school--to--which--he--or--she--transfers--to either--complete--immunization--as--specified--in--subsection (1)(a);--commence--immunization--in--the--manner--required--by 20-5-404;--or--file--for--an--exemption;--if--none--of--the--foregoing actions--is--taken--within--30--days;--the--transfer--pupil--is prohibited--from--further--attendance--until--such--an--action--is taken.

(2) (A) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A PUPIL UNLESS THE PERSON:

(I) HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED BY THE DEPARTMENT; OR

(II) FILES FOR AN EXEMPTION.

(B) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY [THIS ACT].

(3) A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION



1 OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A  
 2 PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF  
 3 IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL  
 4 CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL  
 5 SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE  
 6 SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

7 **Section 3.** Section 20-5-404, MCA, is amended to read:

8 "20-5-404. Conditional attendance. The governing  
 9 authority of a school OTHER THAN A POSTSECONDARY SCHOOL may  
 10 allow the commencement of attendance in school by a person  
 11 who has not been immunized against each disease listed in  
 12 20-5-403 if that person has received one or more doses of  
 13 polio, measles (rubeola), mumps, rubella, diphtheria,  
 14 pertussis, and tetanus vaccine, except that pertussis  
 15 vaccine is not required for a person 7 years of age or  
 16 older."

17 **Section 4.** Section 20-5-405, MCA, is amended to read:

18 "20-5-405. ~~Personal, religious, or medical~~ Medical OR  
 19 RELIGIOUS exemption. ~~{1} When a parent, guardian, or adult~~  
 20 ~~who has the responsibility for the care and custody of a~~  
 21 ~~minor seeking to attend school, or the person seeking to~~  
 22 ~~attend school, if an adult, signs and files with the~~  
 23 ~~governing authority a written statement on a form prescribed~~  
 24 ~~by the department stating that immunization is contrary to~~  
 25 ~~the personal or religious beliefs of the signer,~~

1 ~~immunization of the person seeking to attend school may not~~  
 2 ~~be required prior to commencement of attendance in any~~  
 3 ~~school. The statement must be maintained as part of the~~  
 4 ~~person's immunization records.~~

5 (1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE  
 6 RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING  
 7 TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF  
 8 AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY,  
 9 PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A  
 10 NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT  
 11 STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS  
 12 TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE  
 13 PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED  
 14 PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE  
 15 MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A  
 16 PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT  
 17 TO THE PENALTY FOR PERJURY PROVIDED IN 45-7-201.

18 ~~{2}{1}~~ (2) When a parent, guardian, or adult who has  
 19 the responsibility for the care and custody of a minor  
 20 seeking to attend school, or the person seeking to attend  
 21 school, if an adult, files with the governing authority a  
 22 written statement signed by a physician licensed to practice  
 23 medicine in any jurisdiction of the United States or Canada  
 24 stating that the physical condition of the person seeking to  
 25 attend school or medical circumstances relating to him

1 indicate that some or all of the required immunizations are  
 2 not considered safe and indicating the specific nature and  
 3 probable duration of the medical condition or circumstances  
 4 which contraindicate immunization, he is exempt from the  
 5 requirements of this part to the extent indicated by the  
 6 physician's statement. The statement must be maintained as  
 7 part of the person's immunization records.

8 ~~(3)~~<sup>(2)</sup>(3) Whenever there is good cause to believe that  
 9 a person for whom an exemption has been filed under this  
 10 section has a disease or has been exposed to a disease  
 11 listed in 20-5-403 or will as the result of school  
 12 attendance be exposed to such disease, the person may be  
 13 excluded from the school by the local health officer or the  
 14 local health department until the excluding authority is  
 15 satisfied that the person no longer risks contracting or  
 16 transmitting that disease. ~~The--exclusion--period--may--not~~  
 17 ~~exceed--30--calendar--days--."~~

18 **SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:**

19 "20-5-408. Enforcement. (1) The governing authority of  
 20 any school other than a postsecondary school shall prohibit  
 21 from further attendance any pupil allowed to attend  
 22 conditionally who has failed to obtain the immunizations  
 23 required by 20-5-403(1) within time periods established by  
 24 the department until that pupil has been immunized as  
 25 required by the department or unless that pupil has been

1 exempted under 20-5-405.

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 **NEW SECTION. Section 6. Extension of authority.** Any  
 11 existing authority to make rules on the subject of the  
 12 provisions of [this act] is extended to the provisions of  
 13 [this act].

14 **NEW SECTION. Section 7. Severability.** If a part of  
 15 [this act] is invalid, all valid parts that are severable  
 16 from the invalid part remain in effect. If a part of [this  
 17 act] is invalid in one or more of its applications, the part  
 18 remains in effect in all valid applications that are  
 19 severable from the invalid applications.

20 **NEW SECTION. Section 8. Effective date.** [This act] is  
 21 effective July 1, 1989.

-End-

## HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,

SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-402, MCA, is amended to read:

"20-5-402. Definitions. For the purposes of this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, preschool, vocational-technical center, college, or university OR POSTSECONDARY SCHOOL.

(3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer or department" means a city, city-county, county, or district health officer or department.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "POSTSECONDARY SCHOOL" MEANS A VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR COLLEGE.

(7) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

1 (a) serves no child under 5 years of age for more than  
2 3 hours a day; and

3 (b) serves no child 5 years of age for more than 6  
4 hours a day.

5 (5)(7)(8) "School" means an a place or institution for  
6 the teaching of individuals, including--a-preschool; any  
7 establishment the curriculum of which is comprised of the  
8 work of:

9 (A) any combination of kindergarten through grade 12;  
10 a-vocational-technical-center, a college, or a university;

11 (B) A POSTSECONDARY SCHOOL; OR

12 (C) A PRESCHOOL."

13 **Section 2.** Section 20-5-403, MCA, is amended to read:

14 **"20-5-403. Immunization required -- grace--period--for**  
15 **transfers** RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

16 (1) The governing authority of any school OTHER THAN A  
17 POSTSECONDARY SCHOOL may not allow any person to commence  
18 attendance as a pupil unless the person:

19 (a) has been immunized against diphtheria, pertussis,  
20 tetanus, poliomyelitis, rubella, mumps, and measles  
21 (rubeola) in the manner and with immunizing agents approved  
22 by the department, except that pertussis vaccination is not  
23 required for a person 7 years of age or older;

24 (b) qualifies for conditional attendance; OR

25 (c) files for an exemption; or

1 (d) is a pupil transferring from another school  
2 district, in which case the provisions of subsection (2)  
3 apply;

4 (2) A person who transfers from one school district to  
5 another has 30 calendar days after commencement of  
6 attendance at the school to which he or she transfers to  
7 either complete immunization as specified in subsection  
8 (1)(a), commence immunization in the manner required by  
9 20-5-404, or file for an exemption, if none of the foregoing  
10 actions is taken within 30 days; the transfer pupil is  
11 prohibited from further attendance until such an action is  
12 taken.

13 (2) (A) THE GOVERNING AUTHORITY OF A POSTSECONDARY  
14 SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A  
15 PUPIL UNLESS THE PERSON:

16 (I) HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES  
17 (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED  
18 BY THE DEPARTMENT; OR

19 (II) FILES FOR AN EXEMPTION.

20 (B) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL  
21 MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF  
22 ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY  
23 [THIS ACT].

24 (3) A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO  
25 ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION

1 OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A  
 2 PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF  
 3 IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL  
 4 CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL  
 5 SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE  
 6 SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

7 **Section 3.** Section 20-5-404, MCA, is amended to read:

8 "20-5-404. **Conditional attendance.** The governing  
 9 authority of a school OTHER THAN A POSTSECONDARY SCHOOL may  
 10 allow the commencement of attendance in school by a person  
 11 who has not been immunized against each disease listed in  
 12 20-5-403 if that person has received one or more doses of  
 13 polio, measles (rubeola), mumps, rubella, diphtheria,  
 14 pertussis, and tetanus vaccine, except that pertussis  
 15 vaccine is not required for a person 7 years of age or  
 16 older."

17 **Section 4.** Section 20-5-405, MCA, is amended to read:

18 "20-5-405. ~~Personal;--religious;--or-medical~~ Medical OR  
 19 RELIGIOUS exemption. ~~{1}-When-a-parent,-guardian,-or-adult~~  
 20 ~~who--has--the--responsibility--for-the-care-and-custody-of-a~~  
 21 ~~minor-seeking-to-attend-school,-or--the--person--seeking--to~~  
 22 ~~attend--school,-if--an--adult,-signs--and--files--with-the~~  
 23 ~~governing-authority-a-written-statement-on-a-form-prescribed~~  
 24 ~~by-the-department-stating-that-immunization-is--contrary--to~~  
 25 ~~the---personal---or---religious---beliefs---of--the--signer,~~

1 ~~immunization-of-the-person-seeking-to-attend-school-may--not~~  
 2 ~~be--required--prior--to--commencement--ot--attendance-in-any~~  
 3 ~~school.-The-statement-must-be-maintained-as--part--of--the~~  
 4 ~~person's-immunization-records:~~

5 (1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE  
 6 RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING  
 7 TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF  
 8 AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY,  
 9 PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A  
 10 NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT  
 11 STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS  
 12 TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE  
 13 PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED  
 14 PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE  
 15 MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A  
 16 PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT  
 17 TO THE PENALTY FOR PERJURY PROVIDED IN 45-7-201.

18 ~~{2}{1}~~(2) When a parent, guardian, or adult who has  
 19 the responsibility for the care and custody of a minor  
 20 seeking to attend school, or the person seeking to attend  
 21 school, if an adult, files with the governing authority a  
 22 written statement signed by a physician licensed to practice  
 23 medicine in any jurisdiction of the United States or Canada  
 24 stating that the physical condition of the person seeking to  
 25 attend school or medical circumstances relating to him

1 indicate that some or all of the required immunizations are  
 2 not considered safe and indicating the specific nature and  
 3 probable duration of the medical condition or circumstances  
 4 which contraindicate immunization, he is exempt from the  
 5 requirements of this part to the extent indicated by the  
 6 physician's statement. The statement must be maintained as  
 7 part of the person's immunization records.

8 ~~{3}{2}{3}~~ Whenever there is good cause to believe that  
 9 a person for whom an exemption has been filed under this  
 10 section has a disease or has been exposed to a disease  
 11 listed in 20-5-403 or will as the result of school  
 12 attendance be exposed to such disease, the person may be  
 13 excluded from the school by the local health officer or the  
 14 local health department until the excluding authority is  
 15 satisfied that the person no longer risks contracting or  
 16 transmitting that disease. ~~The--exclusion--period--may--not~~  
 17 ~~exceed--30--calendar--days."~~

18 **SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:**

19 **"20-5-408. Enforcement.** (1) The governing authority of  
 20 any school other than a postsecondary school shall prohibit  
 21 from further attendance any pupil allowed to attend  
 22 conditionally who has failed to obtain the immunizations  
 23 required by 20-5-403(1) within time periods established by  
 24 the department until that pupil has been immunized as  
 25 required by the department or unless that pupil has been

1 exempted under 20-5-405.

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 **NEW SECTION. Section 6. Extension of authority.** Any  
 11 existing authority to make rules on the subject of the  
 12 provisions of [this act] is extended to the provisions of  
 13 [this act].

14 **NEW SECTION. Section 7. Severability.** If a part of  
 15 [this act] is invalid, all valid parts that are severable  
 16 from the invalid part remain in effect. If a part of [this  
 17 act] is invalid in one or more of its applications, the part  
 18 remains in effect in all valid applications that are  
 19 severable from the invalid applications.

20 **NEW SECTION. Section 8. Effective date.** [This act] is  
 21 effective July 1, 1989.

-End-

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

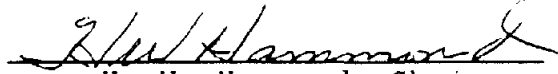
We, your committee on Education and Cultural Resources, having had under consideration HB 364 (third reading copy -- blue), respectfully report that HB 364 be amended and as so amended be concurred in:

Sponsor: Nelson, R. (Brown)

1. Title, line 15.  
Strike: "PERJURY"  
Insert: "FALSE SWEARING"

2. Page 6, line 17.  
Strike: "PERJURY"  
Insert: "false swearing"  
Strike: "45-7-201"  
Insert: "45-7-202"

AND AS AMENDED BE CONCURRED IN

Signed: 

H. W. Hammond, Chairman

SENATE

HB 364

## 1 HOUSE BILL NO. 364

2 INTRODUCED BY R. NELSON, CONNELLY,

3 SQUIRES, B. BROWN, HARP

4 BY REQUEST OF THE DEPARTMENT OF HEALTH

5 AND ENVIRONMENTAL SCIENCES

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION  
8 OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL  
9 CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN  
10 THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A  
11 STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY  
12 SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT  
13 FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO  
14 REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY  
15 AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY; TO REMOVE THE  
16 LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED  
17 FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS  
18 EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY  
19 GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO  
20 RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL;  
21 AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408,  
22 MCA; AND PROVIDING AN EFFECTIVE DATE."

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Section 20-5-402, MCA, is amended to read:

1 "20-5-402. Definitions. For the purposes of this part,  
2 the following definitions apply:

3 (1) "Department" means the department of health and  
4 environmental sciences provided for in Title 2, chapter 15,  
5 part 21.

6 (2) "Governing authority" means the board of trustees  
7 of a school district or the administrator of a private  
8 school, preschool, ~~vocational-technical-center, college, or~~  
9 university OR POSTSECONDARY SCHOOL.

10 (3) "Immunization" means induction of a state of  
11 resistance to a disease through administration of an  
12 immunizing agent.

13 (4) "Local health officer or-department" means a city,  
14 city-county, county, or district health officer or  
15 department.

16 (5) "Local health department" means a city,  
17 city-county, county, or district health department.

18 (6) "POSTSECONDARY SCHOOL" MEANS A  
19 VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF  
20 THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR  
21 COLLEGE.

22 (7) "Preschool" means a place or facility that  
23 provides, on a regular basis and as its primary purpose,  
24 educational instruction designed for children 5 years of age  
25 or younger and that:



1 (a) serves no child under 5 years of age for more than  
2 3 hours a day; and

3 (b) serves no child 5 years of age for more than 6  
4 hours a day.

5 (5)(7)(8) "School" means an a place or institution for  
6 the teaching of individuals, including--a-preschool, any  
7 establishment the curriculum of which is comprised of the  
8 work of:

9 (A) any combination of kindergarten through grade 12,  
10 a-vocational-technical-center, a-college, or--a--university;

11 (B) A POSTSECONDARY SCHOOL; OR

12 (C) A PRESCHOOL."

13 **Section 2.** Section 20-5-403, MCA, is amended to read:

14 **"20-5-403. Immunization required -- grace--period--for**  
15 **transfers** RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

16 (1) The governing authority of any school OTHER THAN A  
17 POSTSECONDARY SCHOOL may not allow any person to commence  
18 attendance as a pupil unless the person:

19 (a) has been immunized against diphtheria, pertussis,  
20 tetanus, poliomyelitis, rubella, mumps, and measles  
21 (rubeola) in the manner and with immunizing agents approved  
22 by the department, except that pertussis vaccination is not  
23 required for a person 7 years of age or older;

24 (b) qualifies for conditional attendance; OR

25 (c) files for an exemption; or

1 (d)--is--a--pupil--transferring--from--another---school  
2 district;--in--which--case--the-provisions-of-subsection-(2)  
3 apply-

4 (2)--A-person-who-transfers-from-one-school-district-to  
5 another--has--30--calendar--days---after---commencement---of  
6 attendance--at--the--school--to-which-he-or-she-transfers-to  
7 either-complete--immunization--as--specified--in--subsection  
8 (1)(a);--commence--immunization--in--the--manner-required-by  
9 20-5-404, or file for an exemption, if none of the foregoing  
10 actions is taken within--30--days;--the--transfer--pupil--is  
11 prohibited--from--further-attendance-until-such an action is  
12 taken.

13 (2) (A) THE GOVERNING AUTHORITY OF A POSTSECONDARY  
14 SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A  
15 PUPIL UNLESS THE PERSON:

16 (I) HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES  
17 (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED  
18 BY THE DEPARTMENT; OR

19 (II) FILES FOR AN EXEMPTION.

20 (B) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL  
21 MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF  
22 ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY  
23 [THIS ACT].

24 (3) A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO  
25 ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION

OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

**Section 3.** Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional attendance. The governing authority of a school OTHER THAN A POSTSECONDARY SCHOOL may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older."

**Section 4.** Section 20-5-405, MCA, is amended to read:

"20-5-405. ~~Personal, religious, or medical~~ Medical OR RELIGIOUS exemption. ~~(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written 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 to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records.~~

(1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY, PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT TO THE PENALTY FOR PERJURY PROVIDED IN 45-7-201.

~~(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to him~~

1 indicate that some or all of the required immunizations are  
 2 not considered safe and indicating the specific nature and  
 3 probable duration of the medical condition or circumstances  
 4 which contraindicate immunization, he is exempt from the  
 5 requirements of this part to the extent indicated by the  
 6 physician's statement. The statement must be maintained as  
 7 part of the person's immunization records.

8 ~~(3)~~(2)(3) Whenever there is good cause to believe that  
 9 a person for whom an exemption has been filed under this  
 10 section has a disease or has been exposed to a disease  
 11 listed in 20-5-403 or will as the result of school  
 12 attendance be exposed to such disease, the person may be  
 13 excluded from the school by the local health officer or the  
 14 local health department until the excluding authority is  
 15 satisfied that the person no longer risks contracting or  
 16 transmitting that disease. ~~The--exclusion--period--may--not~~  
 17 ~~exceed--30--calendar--days--"~~

18 **SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:**

19 **"20-5-408. Enforcement.** (1) The governing authority of  
 20 any school other than a postsecondary school shall prohibit  
 21 from further attendance any pupil allowed to attend  
 22 conditionally who has failed to obtain the immunizations  
 23 required by 20-5-403(1) within time periods established by  
 24 the department until that pupil has been immunized as  
 25 required by the department or unless that pupil has been

1 exempted under 20-5-405.

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 **NEW SECTION. Section 6.** Extension of authority. Any  
 11 existing authority to make rules on the subject of the  
 12 provisions of [this act] is extended to the provisions of  
 13 [this act].

14 **NEW SECTION. Section 7.** Severability. If a part of  
 15 [this act] is invalid, all valid parts that are severable  
 16 from the invalid part remain in effect. If a part of [this  
 17 act] is invalid in one or more of its applications, the part  
 18 remains in effect in all valid applications that are  
 19 severable from the invalid applications.

20 **NEW SECTION. Section 8.** Effective date. [This act] is  
 21 effective July 1, 1989.

-End-

## HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,

SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY FALSE SWEARING; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-402, MCA, is amended to read:

"20-5-402. Definitions. For the purposes of this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, preschool, vocational-technical-center, college, or university OR POSTSECONDARY SCHOOL.

(3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer or department" means a city, city-county, county, or district health officer or department.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "POSTSECONDARY SCHOOL" MEANS A VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR COLLEGE.

~~(6)~~(7) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

(a) serves no child under 5 years of age for more than 3 hours a day; and

(b) serves no child 5 years of age for more than 6 hours a day.

{5}{7}{8} "School" means an a place or institution for the teaching of individuals, including--a--preschool;--any establishment the curriculum of which is comprised of the work of:

(A) any combination of kindergarten through grade 12; a--vocational--technical--center;--a--college;--or--a--university;

(B) A POSTSECONDARY SCHOOL; OR

(C) A PRESCHOOL."

**Section 2.** Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- grace-period-for transfers RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

(1) The governing authority of any school OTHER THAN A POSTSECONDARY SCHOOL may not allow any person to commence attendance as a pupil unless the person:

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

(b) qualifies for conditional attendance; OR

(c) files for an exemption;--or

{d}--is---a--pupil--transferring--from--another--school district;--in--which--case--the--provisions--of--subsection--{2} apply;--

{2}--A--person--who--transfers--from--one--school--district--to another---has---30---calendar--days--after--commencement--of attendance--at--the--school--to--which--he--or--she--transfers--to either--complete--immunization--as--specified--in--subsection {1}{a};--commence--immunization--in--the--manner--required--by 20-5-404;--or--file--for--an--exemption;--If--none--of--the--foregoing actions--is--taken--within--30--days;--the--transfer--pupil--is prohibited--from--further--attendance--until--such an action--is taken.

{2} {A} THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A PUPIL UNLESS THE PERSON:

{I} HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED BY THE DEPARTMENT; OR

{II} FILES FOR AN EXEMPTION.

{B} THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY [THIS ACT].

{3} A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION

OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

**Section 3.** Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional attendance. The governing authority of a school OTHER THAN A POSTSECONDARY SCHOOL may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older."

**Section 4.** Section 20-5-405, MCA, is amended to read:

"20-5-405. ~~Personal, religious, or medical~~ Medical OR RELIGIOUS exemption. ~~{1} When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written 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 to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records.~~

(1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY, PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT TO THE PENALTY FOR PERJURY FALSE SWEARING PROVIDED IN 45-7-201 45-7-202.

~~{2}{1}~~ (2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada stating that the physical condition of the person seeking to

1 attend school or medical circumstances relating to him  
 2 indicate that some or all of the required immunizations are  
 3 not considered safe and indicating the specific nature and  
 4 probable duration of the medical condition or circumstances  
 5 which contraindicate immunization, he is exempt from the  
 6 requirements of this part to the extent indicated by the  
 7 physician's statement. The statement must be maintained as  
 8 part of the person's immunization records.

9 ~~(3)~~<sup>(2)</sup>~~(3)~~ Whenever there is good cause to believe that  
 10 a person for whom an exemption has been filed under this  
 11 section has a disease or has been exposed to a disease  
 12 listed in 20-5-403 or will as the result of school  
 13 attendance be exposed to such disease, the person may be  
 14 excluded from the school by the local health officer or the  
 15 local health department until the excluding authority is  
 16 satisfied that the person no longer risks contracting or  
 17 transmitting that disease. ~~The--exclusion--period--may--not~~  
 18 ~~exceed--30--calendar--days--"~~

19 **SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:**

20 **"20-5-408. Enforcement.** (1) The governing authority of  
 21 any school other than a postsecondary school shall prohibit  
 22 from further attendance any pupil allowed to attend  
 23 conditionally who has failed to obtain the immunizations  
 24 required by 20-5-403(1) within time periods established by  
 25 the department until that pupil has been immunized as

1 required by the department or unless that pupil has been  
 2 exempted under 20-5-405.

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

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

11 **NEW SECTION. Section 6. Extension of authority.** Any  
 12 existing authority to make rules on the subject of the  
 13 provisions of [this act] is extended to the provisions of  
 14 [this act].

15 **NEW SECTION. Section 7. Severability.** If a part of  
 16 [this act] is invalid, all valid parts that are severable  
 17 from the invalid part remain in effect. If a part of [this  
 18 act] is invalid in one or more of its applications, the part  
 19 remains in effect in all valid applications that are  
 20 severable from the invalid applications.

21 **NEW SECTION. Section 8. Effective date.** [This act] is  
 22 effective July 1, 1989.

-End-

GOVERNOR'S AMENDMENT  
TO HOUSE BILL 364  
(REFERENCE COPY)  
April 12, 1989

1. Page 7, line 14.  
Strike: "local health"

-END-



## 1 HOUSE BILL NO. 364

2 INTRODUCED BY R. NELSON, CONNELLY,

3 SQUIRES, B. BROWN, HARP

4 BY REQUEST OF THE DEPARTMENT OF HEALTH

5 AND ENVIRONMENTAL SCIENCES

6  
 7 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION  
 8 OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL  
 9 CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN  
 10 THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A  
 11 STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY  
 12 SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT  
 13 FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO  
 14 REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY  
 15 AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY FALSE SWEARING;  
 16 TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY  
 17 BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE  
 18 STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE  
 19 THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A  
 20 SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING  
 21 PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND  
 22 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Section 20-5-402, MCA, is amended to read:

1 "20-5-402. Definitions. For the purposes of this part,  
 2 the following definitions apply:

3 (1) "Department" means the department of health and  
 4 environmental sciences provided for in Title 2, chapter 15,  
 5 part 21.

6 (2) "Governing authority" means the board of trustees  
 7 of a school district or the administrator of a private  
 8 school, preschool, vocational-technical-center, college, or  
 9 university OR POSTSECONDARY SCHOOL.

10 (3) "Immunization" means induction of a state of  
 11 resistance to a disease through administration of an  
 12 immunizing agent.

13 (4) "Local health officer or-department" means a city,  
 14 city-county, county, or district health officer or  
 15 department.

16 (5) "Local health department" means a city,  
 17 city-county, county, or district health department.

18 (6) "POSTSECONDARY SCHOOL" MEANS A  
 19 VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF  
 20 THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR  
 21 COLLEGE.

22 (6)(7) "Preschool" means a place or facility that  
 23 provides, on a regular basis and as its primary purpose,  
 24 educational instruction designed for children 5 years of age  
 25 or younger and that:

(a) serves no child under 5 years of age for more than 3 hours a day; and

(b) serves no child 5 years of age for more than 6 hours a day.

~~(5)(7)(8)~~ "School" means an a place or institution for the teaching of individuals, including--a--preschool--any establishment the curriculum of which is comprised of the work of;

(A) any combination of kindergarten through grade 12, a--vocational--technical--center,--a--college,--or--a--university;

(B) A POSTSECONDARY SCHOOL; OR

(C) A PRESCHOOL."

**Section 2.** Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required -- grace-period-for transfers RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

(1) The governing authority of any school OTHER THAN A POSTSECONDARY SCHOOL may not allow any person to commence attendance as a pupil unless the person:

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

(b) qualifies for conditional attendance; OR

(c) files for an exemption;--or

~~(d)--is--a--pupil--transferring--from--another--school district,--in--which--case--the--provisions--of--subsection--(2) apply;~~

~~(2)--A--person--who--transfers--from--one--school--district--to another--has--30--calendar--days--after--commencement--of attendance--at--the--school--to--which--he--or--she--transfers--to either--complete--immunization--as--specified--in--subsection (1)(a),--commence--immunization--in--the--manner--required--by 20-5-404,--or--file--for--an--exemption--if--none--of--the--foregoing actions--is--taken--within--30--days,--the--transfer--pupil--is prohibited--from--further--attendance--until--such--an--action--is taken.~~

(2) (A) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A PUPIL UNLESS THE PERSON:

(I) HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED BY THE DEPARTMENT; OR

(II) FILES FOR AN EXEMPTION.

(B) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY [THIS ACT].

(3) A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION

1 OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A  
 2 PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF  
 3 IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL  
 4 CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL  
 5 SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE  
 6 SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

7 **Section 3.** Section 20-5-404, MCA, is amended to read:

8 "20-5-404. Conditional attendance. The governing  
 9 authority of a school OTHER THAN A POSTSECONDARY SCHOOL may  
 10 allow the commencement of attendance in school by a person  
 11 who has not been immunized against each disease listed in  
 12 20-5-403 if that person has received one or more doses of  
 13 polio, measles (rubeola), mumps, rubella, diphtheria,  
 14 pertussis, and tetanus vaccine, except that pertussis  
 15 vaccine is not required for a person 7 years of age or  
 16 older."

17 **Section 4.** Section 20-5-405, MCA, is amended to read:

18 "20-5-405. ~~Personal; religious; or medical~~ Medical OR  
 19 RELIGIOUS exemption. ~~{1} When a parent, guardian, or adult~~  
 20 ~~who has the responsibility for the care and custody of a~~  
 21 ~~minor seeking to attend school, or the person seeking to~~  
 22 ~~attend school, if an adult, signs and files with the~~  
 23 ~~governing authority a written statement on a form prescribed~~  
 24 ~~by the department stating that immunization is contrary to~~  
 25 ~~the personal or religious beliefs of the signer,~~

1 ~~immunization of the person seeking to attend school may not~~  
 2 ~~be required prior to commencement of attendance in any~~  
 3 ~~school; The statement must be maintained as part of the~~  
 4 ~~person's immunization records.~~

5 (1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE  
 6 RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING  
 7 TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF  
 8 AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY,  
 9 PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A  
 10 NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT  
 11 STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS  
 12 TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE  
 13 PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED  
 14 PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE  
 15 MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A  
 16 PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT  
 17 TO THE PENALTY FOR PERJURY FALSE SWEARING PROVIDED IN  
 18 45-7-201 45-7-202.

19 {2}{1}{2} When a parent, guardian, or adult who has  
 20 the responsibility for the care and custody of a minor  
 21 seeking to attend school, or the person seeking to attend  
 22 school, if an adult, files with the governing authority a  
 23 written statement signed by a physician licensed to practice  
 24 medicine in any jurisdiction of the United States or Canada  
 25 stating that the physical condition of the person seeking to

attend school or medical circumstances relating to him indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, he is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

~~(3)~~<sup>(2)</sup>(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 20-5-403 or will as the result of school attendance be exposed to such disease, the person may be excluded from the school by the local health officer or the ~~local health~~ 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--days--~~

**SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:**

**"20-5-408. Enforcement.** (1) The governing authority of any school other than a postsecondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as

required by the department or unless that pupil has been exempted under 20-5-405.

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

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

**NEW SECTION. Section 6. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1989.

-End-