











66 instruction in reading, language, mathematics, science and social  
67 studies and that the child shall be assessed annually in  
68 accordance with this subdivision. The person providing home  
69 instruction shall notify the county superintendent or county  
70 board upon termination of home instruction for a child who is of  
71 compulsory attendance age. Upon establishing residence in a  
72 new county, the person providing home instruction shall notify  
73 the previous county superintendent or county board and submit  
74 a new notice of intent to the superintendent or county board of  
75 the new county of residence.

76 ~~(B) The person or persons providing home instruction shall~~  
77 ~~submit satisfactory evidence of a high school diploma or~~  
78 ~~equivalent;~~

79 ~~(C) The person or persons providing home instruction shall~~  
80 ~~outline a plan of instruction for the ensuing school year; and~~

81 ~~(D) (B) On or before June 30 annually; Annually,~~ the person  
82 or persons providing home instruction shall obtain an academic  
83 assessment of the child for the previous school year ~~and submit~~  
84 ~~the results to the county superintendent. When the academic~~  
85 ~~assessment takes place outside of a public school, the parent or~~

86 ~~legal guardian shall pay the cost. The requirement of an~~  
87 ~~academic assessment is satisfied~~ in one of the following ways:

88 (i) The child receiving home instruction takes a nationally  
89 normed standardized achievement test normed not more than ten  
90 years from the date of administration and to be administered  
91 under ~~standardized~~ the conditions ~~as set forth by~~ in the published  
92 instructions of the selected test and by a person qualified in  
93 accordance with the test's published guidelines in the subjects of  
94 reading, language, mathematics, science and social studies. ~~The~~  
95 ~~child's parent or legal guardian may not administer the test in~~  
96 ~~any event. The publication date of the chosen test may not be~~  
97 ~~more than ten years from the date the test is administered. The~~  
98 child is considered to have made acceptable progress when the  
99 mean of the child's test results in the required subject areas for  
100 any single year ~~meets or exceeds the fiftieth percentile or, if~~  
101 ~~below the fiftieth percentile,~~ is within or above the average range  
102 for that test or, if below that range, shows improvement from the  
103 previous year's results;

104 (ii) The child participates in the testing program currently in  
105 use in the state's public schools. The test shall be administered

106 to the child at a public school in the county of residence.  
107 Determination of acceptable progress shall be based on current  
108 guidelines of the state testing program;

109 ~~(iii) The county superintendent is provided with a written~~  
110 ~~narrative indicating that a~~ A certified teacher reviews a portfolio  
111 ~~of samples of the child's work has been reviewed and~~ determines  
112 ~~that the child's academic progress for the year is in accordance~~  
113 ~~with the child's abilities. If the narrative indicates that the child's~~  
114 ~~academic progress for the year is in accordance with the child's~~  
115 ~~abilities, the child is considered to have made acceptable~~  
116 ~~progress. This narrative shall be prepared by a certified teacher~~  
117 ~~whose certification number shall be provided. The narrative shall~~  
118 ~~include a statement~~ The teacher shall provide a written narrative  
119 ~~about the child's progress in the areas of reading, language,~~  
120 ~~mathematics, science and social studies and shall note any areas~~  
121 ~~which, in the professional opinion of the reviewer, show need for~~  
122 ~~improvement or remediation; or~~

123 (iv) The child completes an alternative academic assessment  
124 of proficiency that is mutually agreed upon by the parent or legal



125 guardian and the county superintendent. ~~Criteria for acceptable~~  
126 ~~progress shall be mutually agreed upon by the same parties; and~~  
127 ~~(E)~~ (C) When the annual assessment fails to show acceptable  
128 progress as defined under the appropriate assessment option set  
129 forth in paragraph ~~(D)~~ (B) of this subdivision, the person or  
130 persons providing home instruction shall initiate a remedial  
131 program to foster acceptable progress. A parent or legal guardian  
132 shall maintain copies of each student's academic assessment for  
133 three years. A student that fails to make acceptable progress for  
134 two consecutive years shall be evaluated for learning disabilities.  
135 The county board shall notify the parents or legal guardian of the  
136 child, in writing, of the services available to assist in the  
137 assessment of the child's eligibility for special education  
138 services. Identification of a disability does not preclude the  
139 continuation of home schooling. In the event that the child does  
140 not achieve acceptable progress as defined under the appropriate  
141 assessment option set forth in paragraph ~~(D)~~ (B) of this  
142 subdivision for a second consecutive year, the person or persons  
143 providing instruction shall submit to the county superintendent

144 additional evidence that appropriate instruction is being  
145 provided.

146 (3) This subdivision applies to both home instruction  
147 exemptions set forth in subdivisions (1) and (2) of this  
148 subsection. The county superintendent or a designee shall offer  
149 such assistance, including textbooks, other teaching materials  
150 and available resources, all subject to availability, as may assist  
151 the person or persons providing home instruction. Any child  
152 receiving home instruction may upon approval of the county  
153 board exercise the option to attend any class offered by the  
154 county board as the person or persons providing home  
155 instruction may consider appropriate subject to normal  
156 registration and attendance requirements.

157 (d) Exemption C. Physical or mental incapacity. — A child  
158 is exempt from the compulsory school attendance requirement  
159 set forth in section one-a of this article if the requirements of this  
160 subsection, relating to physical or mental incapacity, are met.  
161 Physical or mental incapacity consists of incapacity for school  
162 attendance and the performance of school work. In all cases of  
163 prolonged absence from school due to incapacity of the child to

164 attend, the written statement of a licensed physician or  
165 authorized school nurse is required. Incapacity shall be narrowly  
166 defined and in any case the provisions of this article may not  
167 allow for the exclusion of the mentally, physically, emotionally  
168 or behaviorally handicapped child otherwise entitled to a free  
169 appropriate education.

170 (e) Exemption D. – Repealed.

171 (f) Exemption E. Hazardous conditions. — A child is exempt  
172 from the compulsory school attendance requirement set forth in  
173 section one-a of this article if conditions rendering school  
174 attendance impossible or hazardous to the life, health or safety  
175 of the child exist.

176 (f) (g) Exemption F. High school graduation. — A child is  
177 exempt from the compulsory school attendance requirement set  
178 forth in section one-a of this article upon regular graduation from  
179 a standard senior high school or alternate secondary program  
180 completion as determined by the state board.

181 (g) (h) Exemption G. Granting work permits. — A child is  
182 exempt from the compulsory school attendance requirement set  
183 forth in section one-a of this article if the child is granted a work

184 permit pursuant to the subsection. After due investigation the  
185 county superintendent may grant work permits to youths under  
186 the termination age designated in section one-a of this article,  
187 subject to state and federal labor laws and regulations. A work  
188 permit may not be granted on behalf of any youth who has not  
189 completed the eighth grade of school.

190       (†) (i) Exemption H. Serious illness or death in the  
191 immediately family of the child. — A child is exempt from the  
192 compulsory school attendance requirement set forth in section  
193 one-a of this article if a serious illness or death in the immediate  
194 family of the child has occurred. It is expected that the county  
195 attendance director will ascertain the facts in all cases of such  
196 absences about which information is inadequate and report the  
197 facts to the county superintendent.

198       (†) (j) Exemption I. Destitution in the home. — A child is  
199 exempt from the compulsory school attendance requirement set  
200 forth in section one-a of this article if the requirements of this  
201 subsection, relating to destitution in the home, are met.  
202 Exemption based on a condition of extreme destitution in the  
203 home may be granted only upon the written recommendation of

204 the county attendance director to the county superintendent  
205 following careful investigation of the case. A copy of the report  
206 confirming the condition and school exemption shall be placed  
207 with the county director of public assistance. This enactment  
208 contemplates every reasonable effort that may properly be taken  
209 on the part of both school and public assistance authorities for  
210 the relief of home conditions officially recognized as being so  
211 destitute as to deprive children of the privilege of school  
212 attendance. Exemption for this cause is not allowed when the  
213 destitution is relieved through public or private means.

214       (†) (k) Exemption J. Church ordinances; observances of  
215 regular church ordinances. — A child is exempt from the  
216 compulsory school attendance requirement set forth in section  
217 one-a of this article if the requirements of this subsection,  
218 relating to church ordinances and observances of regular church  
219 ordinances, are met. The county board may approve exemption  
220 for religious instruction upon written request of the person  
221 having legal or actual charge of a child or children. This  
222 exemption is subject to the rules prescribed by the county  
223 superintendent and approved by the county board.

224        ~~(k)~~ (l) Exemption K. Alternative private, parochial, church  
225        or religious school instruction. — A child is exempt from the  
226        compulsory school attendance requirement set forth in section  
227        one-a of this article if the requirements of this subsection,  
228        relating to alternative private, parochial, church or religious  
229        school instruction, are met. Exemption shall be made for any  
230        child attending any private school, parochial school, church  
231        school, school operated by a religious order or other nonpublic  
232        school which elects to comply with the provisions of article  
233        twenty-eight of this chapter.

234        ~~(k)~~ (m) Completion of the eighth grade does not exempt any  
235        child under the termination age designated in section one-a of  
236        this article from the compulsory attendance provision of this  
237        article.

NOTE: The purpose of this bill is to clarify that parents and guardians of exempt children may not be prosecuted under §18-8-2; to clarify that exempt children are not status offenders; to restore historical nomenclature relating to exemptions; to require superintendents to obtain leave of court and show probable cause before seeking orders denying home schooling; to provide for notices to county superintendents or county boards; to require assurances regarding the schooling to be provided; to remove a waiting period for parents who wish to withdraw their children from public schools; to remove requirements for instructor qualifications and instruction plan outlines; to remove requirements that assessment results be submitted to the county superintendent and that parents pay the cost of any assessment that occurs outside of a public school; to change requirements regarding assessments and their administration; to change the

standard of acceptable progress on assessment tests from the mean to the average range; to remove a requirement that parents and county superintendents agree on the standard of acceptable progress when alternative assessments are used; to require parents to retain copies of academic assessments for three years; and to require that children be evaluated for learning disabilities if they fail to make satisfactory progress for two consecutive years.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

