

1 H BILL NO. 294
2 INTRODUCED BY Durrell (By Request)

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 AMEND THE LAWS RELATING TO LOCAL PUBLIC HEALTH; AMENDING
6 SECTIONS 27-613, 34-303, 69-4110, 69-4514, 69-5604, 69-5701,
7 AND 75-5934, R.C.M. 1947; AND REPEALING SECTION 69-4110,
8 R.C.M. 1947, AND CHAPTER 45 OF TITLE 69, R.C.M. 1947, IN ITS
9 ENTIRETY."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Definitions. As used in this chapter, the
13 following definitions apply:

14 (1) "Board" means a local board of health which is
15 either a county board or a district board comprised of
16 membership from two or more contiguous counties.

17 (2) "Department" means the department of health and
18 environmental sciences.

19 (3) "Environmental health services" means those
20 services provided by a public agency by means of sanitation
21 services that are directed toward promoting sanitation,
22 controlling or eradicating environmental pollution, and
23 maintaining a healthful environment for the general public.

24 (4) "Individual sewage treatment installer" means a
25 person who places, constructs, or alters all or any part of

1 an individual sewage treatment system.

2 (5) "Individual sewage treatment system" means a
3 sewage treatment system which serves a public or private
4 structure not connected to a public or municipal sewage
5 treatment system.

6 (6) "Local health officer" means a physician or
7 nonphysician county or district health officer.

8 (7) "Local health department" means the department of
9 county government which is administered by the local board
10 of health and which provides the local public health
11 program defined in [section 2] and any additional public
12 health programs and services provided according to local
13 needs and priorities.

14 (8) "Noncategorical federal moneys" means any moneys
15 provided to the department of health and environmental
16 sciences by the federal government and not designated for
17 specific programs.

18 (9) "Personal health services" means those services
19 provided by a public agency by means of public health
20 nursing and other professional and ancillary services that
21 are directed toward promoting and maintaining optimum health
22 and preventing illness among the general public.

23 (10) "Public health personnel" means all employees
24 whose services have been obtained by the local board of
25 health to provide the local public health program, including

1 the local health officer.

2 Section 2. Local public health program. There shall be
3 a local public health program provided by each county which
4 may include but not necessarily be limited to the following:

- 5 (1) the services of a local health officer;
- 6 (2) community health nursing, including home health
7 nursing;
- 8 (3) school nursing;
- 9 (4) sanitarian services;
- 10 (5) health and nutrition education; and
- 11 (6) dental health education and services.

12 Section 3. Structure. (1) There shall be a local board
13 of health in each county which shall administer the local
14 health department.

15 (2) A local board of health may be either:

- 16 (a) a county board of health; or
- 17 (b) a district board of health with at least one
18 member appointed by each participating county.

19 (3) Board membership shall include the following
20 individuals:

- 21 (a) no more than one county commissioner from each
22 participating county;
- 23 (b) at least one member to represent the interests of
24 the municipalities within the county;
- 25 (c) a physician licensed to practice medicine in

1 Montana, if one is available in the county and if he wishes
2 to serve; or, if not, some other health professional;

3 (d) at least one representative of the schools within
4 the county; and

5 (e) additional members to be selected to represent a
6 reasonable cross section of the community.

7 (4) No public health personnel employed by the local
8 health department may be designated as members of the board
9 for that department.

10 (5) If a district board of health is formed, the
11 governing bodies of all participating counties shall
12 mutually agree on which county shall appoint each of the
13 individuals in subsection (3) of this section.

14 (6) Members of boards shall serve at the pleasure of
15 the county commissioners.

16 (7) Terms of members shall be staggered and shall be
17 for 3 years each.

18 (8) The county governing body shall establish the
19 staggered order of terms and all regulations necessary to
20 establish and maintain the board.

21 Section 4. Administrative provisions. (1) Each board
22 shall meet at least quarterly.

23 (2) Each board shall at a minimum obtain the services
24 of:

- 25 (a) a local health officer;

1 (b) a nurse licensed under 66-1228 and preferably one
2 with public health education or experience; and

3 (c) a sanitarian licensed under Title 69, chapter 34.

4 (3) The local health officer shall be either a
5 physician licensed to practice medicine in Montana, an
6 individual with a master's degree in public health, or an
7 individual with appropriate public health experience as
8 determined by the department.

9 (4) If a nonphysician health officer is appointed, all
10 components of the public health program requiring the
11 services of a physician shall either be obtained from a
12 physician employee of the department or contracted from
13 another physician licensed to practice medicine in Montana.

14 (5) Except in counties in which the school districts
15 themselves provide school nursing services in accordance
16 with 75-5934, school nursing services shall be provided by
17 the local health department. A school district may also
18 contract with a board for the provision of school nursing
19 services.

20 (6) The local health officer shall report:

21 (a) communicable diseases to the department each week;

22 (b) sanitary conditions within the jurisdiction of the
23 board to the board and to the department each quarter; and

24 (c) general public health conditions and activities in
25 the areas of personal and environmental health services

1 conducted within the jurisdiction of the board to the board
2 and to the department each quarter.

3 (7) Reports shall be submitted on forms provided by
4 the department and contain information required by the
5 department.

6 (8) Each county shall provide adequate office space
7 for local public health personnel.

8 Section 5. Functions, powers, and duties of local
9 boards of health. (1) A board shall:

10 (a) provide for a program of public health services
11 which may include those services defined in [section 2];

12 (b) employ the minimum qualified staff necessary to
13 conduct the public health program in accordance with the
14 provisions of [section 4(2)]; and

15 (c) provide annually to the department a budget and a
16 detailed program plan for the local health department.

17 (2) A local board may:

18 (a) hire personnel in addition to those required in
19 [section 4(2)] to assist with the provision of the public
20 health program;

21 (b) initiate and implement programs and measures other
22 than those defined in [section 2] to enhance the general
23 public health within the jurisdiction of the board;

24 (c) solicit and accept funds from the federal
25 government or from any other agency or individual for the

1 purpose of conducting public health programs;

2 (d) contract with another county or agency to perform

3 all or portions of the public health program;

4 (e) adopt rules, fees, and permit systems for:

5 (i) the control and disposal of sewage from private

6 and public buildings not currently connected to any

7 municipal system;

8 (ii) the certification of individual sewage treatment

9 installers;

10 (iii) the regulation and control of sanitary conditions

11 in establishments licensed by the state under Title 27,

12 chapter 6; Title 34, chapter 3; and Title 69, chapter 56;

13 (iv) local subdivision review responsibilities in

14 accordance with Title 69, chapter 50;

15 (f) adopt other rules which do not conflict with and

16 which are at least as stringent as the rules promulgated by

17 the department or the state board of health and

18 environmental sciences but which are necessary to the

19 provision of the public health program and to the

20 implementation of state laws and rules relating to public

21 health. These rules may include but are not limited to:

22 (i) the control of communicable diseases;

23 (ii) sanitation, heating, ventilation, water supply,

24 and waste disposal in public buildings and public

25 accommodations; and

1 (iii) other environmental and personal health services;

2 (g) take any action, including legal action, necessary

3 to meet an emergency endangering the public health or to

4 restrain the violation of public health laws, ordinances, or

5 rules being violated within the jurisdiction of the board.

6 (3) The local health officer, with the concurrence of

7 the board and the assistance of other local public health

8 personnel, shall:

9 (a) keep the department informed of changes in the

10 membership of the board and changes in personnel employed by

11 the board;

12 (b) make inspections and otherwise insure sanitary

13 conditions in the jurisdiction of the board. Establishments

14 to be inspected shall include but are not necessarily

15 limited to the following:

16 (i) food service establishments;

17 (ii) lodging establishments;

18 (iii) tourist campgrounds and trailer courts;

19 (iv) schoolhouses;

20 (v) churches;

21 (vi) theaters;

22 (vii) jails; and

23 (viii) other buildings or facilities where persons

24 assemble.

25 (c) guard against the introduction and spread of

1 communicable diseases;

2 (d) conduct other environmental and personal health
3 programs as required by law and rules of the department;

4 (e) cooperate with the department in the provision of
5 statewide programs; and

6 (f) submit reports in accordance with [section 4(6)].

7 (4) The local health officer, with the concurrence of
8 the board and the assistance of other local public health
9 personnel, may:

10 (a) establish and maintain quarantines and take other
11 measures to guard against the spread of communicable
12 diseases;

13 (b) isolate persons, animals, and objects which are
14 infected or suspected of being infected with a communicable
15 disease which is a threat to human health;

16 (c) disinfect places when a period of quarantine ends;

17 (d) forbid persons to assemble if the assembly
18 endangers the public health;

19 (e) validate state licenses issued by the department
20 in accordance with 27-613, 34-303, and 69-5604;

21 (f) abate nuisances affecting the public health and
22 safety;

23 (g) make full use of the consultative services,
24 technical assistance, and continuing education services
25 available from the department;

1 (h) issue a written order to close for up to 72 hours
2 an establishment licensed under Title 27, chapter 6; Title
3 34, chapter 3; and Title 69, chapter 56, the sanitary
4 conditions of which, in the opinion of the health officer,
5 are an imperative threat to the public health and require
6 emergency action. The proprietor of the establishment may
7 submit a plan for correction of the conditions which caused
8 the closure. If the plan is acceptable and the violations
9 are corrected, the order for closure may be rescinded within
10 the 72-hour period, but in no event may such closure exceed
11 72 hours unless there has been no significant effort to
12 correct the violations.

13 (i) collect fees; and

14 (j) request a law enforcement officer or another
15 public official to assist in carrying out the provisions of
16 this chapter. The official shall render the services as
17 requested.

18 Section 6. Role of department. (1) The department
19 shall develop manuals and handbooks for use by boards, local
20 health officers, and other local public health personnel.
21 The manuals and handbooks shall include but not necessarily
22 be limited to the following:

23 (a) an appropriate local public health program which
24 may include but not necessarily be limited to those services
25 defined in [section 2] and which takes into account both the

1 rural and urban characteristics of local health departments
 2 in Montana and available manpower and financial resources as
 3 well as available private medical and health services and
 4 facilities throughout the state;

5 (b) the format and content of budgets and program
 6 plans required as a condition of receiving state and federal
 7 revenues for public health services and programs;

8 (c) the content of training and continuing education
 9 programs which the department shall conduct for local public
 10 health personnel; and

11 (d) the content of standard reporting forms required
 12 periodically of local health departments by the department.

13 (2) In developing the content of the manuals or
 14 handbooks or any rules affecting local health departments,
 15 the department shall solicit formal comment and suggestions
 16 from local health officers, boards, and other local public
 17 health personnel.

18 (3) The department shall annually evaluate the staff
 19 of and services and programs provided by local health
 20 departments and by school districts which provide their own
 21 school nursing services. Public health programs and services
 22 provided by other agencies shall also be evaluated by the
 23 department if local funds in any proportion are utilized to
 24 provide the services. The report on the evaluation shall be
 25 made available to the local health officer, board, and

1 county governing body.

2 (4) In order to fulfill its responsibility of
 3 providing supportive services to local health departments,
 4 the department shall:

5 (a) provide consultative and legal services and
 6 technical assistance in the formation and ongoing operation
 7 and administration of and budgeting for local health
 8 departments;

9 (b) coordinate between all bureaus of the department
 10 all contacts with and visits and communications to boards,
 11 local health officers, and other public health personnel;
 12 and

13 (c) actively and continuously solicit funds available
 14 from federal and other agencies for use by boards.

15 (5) The department may:

16 (a) when practicable and particularly in emergency
 17 public health situations, provide department employees on a
 18 temporary loan basis as supplemental staff to local health
 19 departments;

20 (b) request any necessary reports of local health
 21 officers and other local public health personnel in addition
 22 to those required in [section 4(6)]. The department should,
 23 however, give adequate notice about the due date and
 24 adequate explanation of the need for any reports it intends
 25 to request.

1 (c) develop a recommended minimum fee schedule for
 2 personal health services, basing the schedule on actual
 3 costs and providing for a sliding scale based on income.

4 (6) If, in the opinion of the department, the services
 5 of the minimum required staff have not been obtained by a
 6 board, the department shall, after adequate notice has been
 7 given to the affected board or school district, provide the
 8 staff services itself. The department may then submit an
 9 itemized billing to the appropriate board or school district
 10 for an equitable amount of the board or school district
 11 share to cover the costs of providing the services.

12 Section 7. Financing. (1) Rather than providing direct
 13 public health services itself, the department shall offer
 14 any available financial resources to boards to provide
 15 public health programs which are authorized or mandated by
 16 state or federal law and whose purposes are to provide
 17 services directly to the citizens of the state. Exceptions
 18 to this provision are the following programs:

- 19 (a) air quality programs;
- 20 (b) central recording of vital statistic documents;
- 21 (c) departmental consulting and reference services
 22 available to local health departments and boards;
- 23 (d) family planning programs;
- 24 (e) hospital and medical facilities licensing and
 25 certification;

- 1 (f) specialized medical and diagnostic services;
- 2 (g) statewide health planning; and
- 3 (h) water quality programs.

4 (2) If the boards do not wish to provide or are
 5 incapable of providing any program offered by the
 6 department, the department may provide the program.

7 (3) Nothing in subsections (1) and (2) above shall be
 8 construed to mean that the department is prohibited from
 9 offering the above direct service programs to local health
 10 departments and boards if it so desires.

11 (4) Noncategorical federal moneys which are
 12 appropriated to the state for distribution to local health
 13 departments, including those appropriated under Public Law
 14 94-63, shall be allocated by the department to boards at the
 15 rate of at least 45 cents per capita of state population a
 16 year for as long as the program continues. This amount may
 17 be adjusted if the total federal allocations to Montana
 18 increase or decrease under any federal programs, but not
 19 less than 70% of the total amount received from the federal
 20 government under Public Law 94-63 shall be allocated to
 21 boards. The minimum amount allocated to any board shall be
 22 at least \$800 per year.

23 (5) County contributions toward the budgets for public
 24 health programs of local health departments shall be
 25 financed by either:

1 (a) an appropriation from the county general fund
 2 after approval of a budget in the manner provided for other
 3 county offices and departments under Title 16, chapter 19;
 4 or

5 (b) a levy of not more than 5 mills may be made on the
 6 taxable valuation of all property in the county in addition
 7 to all other levies authorized by law.

8 (6) State and federal moneys allocated to boards for
 9 noncategorical public health programs may not be utilized to
 10 supplant county revenues which are contributed to the
 11 budgets of local health departments.

12 (7) Except for school districts which provide the
 13 required school nursing services themselves in accordance
 14 with 75-5934, each elementary and secondary school district
 15 shall appropriate to the board an amount to be agreed upon
 16 by the school district and the board for the purpose of
 17 providing school nursing services and other services of the
 18 local health department which will benefit the schools and
 19 school children.

20 (8) As a condition of receiving state revenues or
 21 federal revenues allocated to the state for public health
 22 programs and services, the board shall submit an annual
 23 budget and a detailed program plan to the department
 24 annually. No conditions other than the provisions contained
 25 in this chapter and federal merit system requirements may be

1 imposed on boards as requirements for eligibility to receive
 2 noncategorical state and federal funds.

3 (9) All fees collected by the local health department
 4 shall be deposited in an account to be used only to defray
 5 the expenses of providing the program of the local health
 6 department.

7 (10) All fees available to the department for licenses,
 8 permits, or other programs shall be shared with boards if
 9 the local health department has assisted with the
 10 administration of the program from which the fee resulted.
 11 The department shall share an appropriate percentage of the
 12 fee commensurate with the local health department's effort.

13 Section 8. Section 27-613, R.C.M. 1947, is amended to
 14 read as follows:

15 "27-613. Licenses required -- limited to premises --
 16 local health officer validation -- publicly owned
 17 establishments exempt -- right to license. (1) A person
 18 operating an establishment shall procure an annual license
 19 from the department.

20 (2) A separate license is required for each
 21 establishment, but if more than one ~~(4)~~ type of
 22 establishment is operated on the same premises and under the
 23 same management, only one ~~(4)~~ license is required.

24 (3) Only one ~~(4)~~ license is required for a person
 25 owning and operating one ~~(4)~~ or more vending machines.

~~(5)~~ Each license issued under this chapter is not valid until countersigned by the local health officer having jurisdiction in each county in which the business will be conducted. The department shall refer all licenses to the local health officer for his signature prior to the issuance of a license by the department. The initial license and subsequent renewals are invalid until the validation signature is affixed. The validation signature may be affixed only after the local health officer is satisfied that the establishment has met sanitary conditions required by rules of the department.

~~(4)~~(5) Licenses expire on December 31 following the date of issue unless canceled for cause.

~~(5)~~(6) Licenses are not transferable nor applicable to any premises other than that for which the license was issued.

~~(6)~~(7) Establishments owned or operated by the state, or a political subdivision of the state, are exempt from licensure but must comply with the requirements of this chapter and rules adopted by the department under this chapter.

~~(7)~~(8) Licenses shall be granted as a matter of right unless grounds for denial or cancellation exist."

Section 9. Section 34-303, R.C.M. 1947, is amended to read as follows:

"34-303. License required. (1) Each year, every person engaged in the business of conducting or operating a hotel, motel, tourist home, retirement home or rooming house, shall procure a license issued by the department. A separate license is required for each establishment; however, where more than one of each type of establishment is operated on the same premises and under the same management, only one license is required which shall enumerate on the certificate thereof the types of establishments licensed.

(2) Applications for a license shall be made in writing to the department on such forms and with such pertinent information as it considers necessary.

~~(3)~~ Each license issued under this chapter is not valid until countersigned by the local health officer having jurisdiction in each county in which the business will be conducted. The department shall refer all licenses to the local health officer for his signature prior to the issuance of a license by the department. The initial license and subsequent renewals are invalid until the validation signature is affixed. The validation signature may be affixed only after the local health officer is satisfied that the establishment has met sanitary conditions required by rules of the department.

(4) Existing licenses shall be renewed as a matter of right, unless conditions exist which are grounds for a

1 cancellation or denial of a license.

2 ~~[5]~~ If determination is made to deny an initial
3 application for a license, or if a renewal application is
4 denied and a license canceled, the denial or cancellation
5 shall be preceded by written notice of the grounds therefor
6 and the opportunity to request a hearing before the board to
7 show cause why the license should be denied."

8 Section 10. Section 69-4514, R.C.M. 1947, is
9 renumbered 66-1015.1 and is amended to read as follows:

10 "~~69-4514~~66-1015.1. Cases of communicable disease --
11 reports by practitioners of the healing arts. If a physician
12 or other practitioner of the healing arts examines or treats
13 a person whom he believes has a communicable disease, or a
14 disease declared reportable by the department of health and
15 environmental sciences, he shall immediately report the case
16 to the local health officer. The report shall be in the
17 form, and contain information, prescribed by the department
18 of health and environmental sciences."

19 Section 11. Section 69-4110, R.C.M. 1947, is amended
20 to read as follows:

21 "69-4110. Functions, powers, and duties of department.
22 The department shall:

23 (1) ~~Study~~ study conditions affecting the citizens of
24 the state by making use of birth, death, and sickness
25 records;

1 (2) ~~Make~~ make investigations, disseminate information,
2 and make recommendations for control of diseases and
3 improvement of public health to persons, groups, or the
4 public;

5 (3) ~~At~~ at the request of the governor, administer any
6 federal health program for which responsibilities are
7 delegated to states;

8 (4) ~~inspect~~ inspect and work in conjunction with
9 custodial institutions and Montana university system units
10 periodically as necessary, and at other times on request of
11 the governor;

12 (5) ~~After~~ after each inspection made under subsection
13 (4) of this section, submit a written report on sanitary
14 conditions to the governor and to the director of
15 institutions or executive secretary of the Montana
16 university system and include recommendations for
17 improvement in conditions, if necessary;

18 (6) ~~Advise~~ advise state agencies on location,
19 drainage, water supply, disposal of excreta, heating,
20 plumbing, sewer systems, and ventilation of public
21 buildings;

22 (7) ~~organize~~ organize laboratory services and provide
23 equipment and personnel for those services;

24 (8) ~~Develop~~ develop and administer activities for the
25 protection and improvement of dental health and supervise

1 dentists employed by the state, ~~local boards of health,~~ or
2 schools;

3 (9) ~~Develop~~ develop and administer a program to
4 protect the health of mothers and children;

5 (10) ~~Conduct~~ conduct health education programs;

6 ~~(11) Supervise school and local public health nurses in~~
7 ~~the performance of their duties;~~

8 ~~(12) [11] Consult~~ consult with the superintendent of
9 public instruction on health measures for schools;

10 ~~(13) [12] Develop~~ develop and administer a program for
11 services to handicapped children including diagnosis,
12 medical, surgical and corrective treatment, and after-care
13 and related services;

14 ~~(14) Supervise local boards of health;~~

15 ~~(15) [13] Bring~~ bring actions in court for the
16 enforcement of the health laws and defend actions brought
17 against the board or department; and

18 [14] evaluate programs and services provided by local
19 health departments;

20 ~~(16) [15] Accept~~ accept and expend federal funds
21 available for public health services; and

22 ~~(17) [16] Have~~ have the power to use personnel of local
23 departments of health to assist in the administration of
24 laws relating to public health. If such personnel are
25 utilized for these purposes, however, local health

1 departments shall be reimbursed for the costs involved out
2 of moneys from any sources available to the department."

3 Section 12. Section 69-5604, R.C.M. 1947, is amended
4 to read as follows:

5 "69-5604. Application for license -- form and contents
6 -- license fee -- local health officer validation --
7 duration of license. (1) Application for a license is made
8 to the department on forms, and containing information,
9 required by the department.

10 (2) Each application shall be accompanied by a fee of
11 twenty dollars (\$20). Licenses expire on December 31 of the
12 year in which they are issued. Fees collected by the
13 department shall be deposited in the state general fund.

14 (3) Each license issued under this chapter is not
15 valid until countersigned by the local health officer having
16 jurisdiction in each county in which the business will be
17 conducted. The department shall refer all licenses to the
18 local health officer for his signature prior to the issuance
19 of a license by the department. The initial license and
20 subsequent renewals are invalid until the validation
21 signature is affixed. The validation signature may be
22 affixed only after the local health officer is satisfied
23 that the establishment has met sanitary conditions required
24 by rules of the department.

25 (4) Licenses expire on December 31 of the year in

1 which they are issued.

2 ~~(2)~~ (5) Before June 30 of each year, the department
3 shall pay to a local ~~board of~~ health ~~department~~ as
4 established under ~~section 69-4504, 69-4506, or 69-4507,~~
5 [sections 4, 6, and 7 of this act] an amount from any
6 general fund appropriation to the department which is for
7 the purpose of inspecting establishments licensed under this
8 act; provided, however, that ~~there is a functioning local~~
9 ~~board of health, and that~~ the local ~~board of~~ health
10 ~~department~~, local health officers, and sanitarians assist in
11 the enforcement of the provisions of this chapter and the
12 rules adopted under it.

13 ~~(2)~~ (6) Before June 1 of each year, the local ~~board of~~
14 health ~~department~~ shall submit to the department a list of
15 the establishments in each jurisdiction which are licensed
16 under this section. The funds received by the local ~~board~~
17 ~~of health department~~ shall be deposited with the ~~appropriate~~
18 ~~local fiscal authority county treasurer~~ and shall be in
19 addition to the funds appropriated under ~~section 69-4508~~
20 [section 7 of this act]."

21 Section 13. Section 69-5701, F.C.M. 1947, is amended
22 to read as follows:

23 "69-5701. Violations of public health laws or rules of
24 ~~board of department.~~ (1) If a person refuses or neglects to
25 comply with a written order of a state or local health

1 officer, or other local public health personnel acting in
2 the performance of their duties, within a reasonable time
3 specified in the order, the state or local health officer
4 may:

5 (a) obtain a court order enforcing compliance with the
6 order; or

7 (b) if the conditions indicate an imperative threat to
8 public health, take whatever action is necessary to
9 alleviate the conditions which prompted the order.

10 (2) The state or local health officer may initiate an
11 action to recover any expenses incurred from the person who
12 refused or neglected to comply with the order. The action to
13 recover expenses shall be brought in the name of the county
14 involved.

15 (3) No person may remove or deface any placard or
16 notice posted by the local health officer or other local
17 public health personnel acting in the performance of their
18 duties or violate a quarantine regulation.

19 (4) Anyone who knowingly violates a public health law
20 or rule adopted by the board of health and environmental
21 sciences; or the department of health and environmental
22 sciences; or a local health department, for which no
23 penalty is specified, is guilty of a misdemeanor.

24 (5) Each day of violation constitutes a separate
25 offense. Fines shall be paid to the county treasurer of the

1 county in which the violation occurs."

2 Section 14. Section 75-5934, R.C.M. 1947, is amended
3 to read as follows:

4 "75-5934. Other powers and duties. The trustees of any
5 district shall have the power and it shall be its duty:

6 (1) to employ and dismiss administrative personnel,
7 clerks, secretaries, teacher aides, custodians, maintenance
8 personnel, school bus drivers, food service personnel,
9 ~~nurses~~, and any other personnel deemed necessary to carry
10 out the various services of the district;

11 (2) to make such reports from time to time as the
12 county superintendent, superintendent of public instruction
13 and board of education may require;

14 (3) to retain, when deemed advisable, a physician ~~ex~~
15 ~~registered nurse~~ to inspect ~~the sanitary conditions of the~~
16 ~~school or~~ the general health conditions of each pupil, and
17 upon request make available to any parent or guardian any
18 medical reports or health records maintained by the district
19 pertaining to his child;

20 (4) to obtain the services of a registered
21 professional nurse to provide a program of school nursing
22 services. If school nursing services are provided by the
23 local health department, this provision does not apply.

24 ~~(4) (5)~~ for each member of the trustees, to visit each
25 school of the district not less than once each school fiscal

1 year to examine its management, conditions and needs; and

2 ~~(5) (6)~~ procure and display outside daily in suitable
3 weather at each school of the district an American flag
4 which shall be not less than ~~four (4)~~ feet by ~~six (6)~~ feet."

5 Section 15. There is a new R.C.M. section numbered
6 69-4003.1 that reads as follows:

7 69-4003.1. Dead animals -- unlawful disposition. (1)
8 It is unlawful to:

9 (a) place all or any part of a dead animal in any
10 lake, river, creek, pond, reservoir, road, street, alley,
11 lot, or field;

12 (b) place all or any part of a dead animal within 1
13 mile of the residence of any person unless the dead animal
14 is burned or buried at least 2 feet underground; or

15 (c) being the owner, permit all or any part of a dead
16 animal to remain in the places specified in subsections
17 (1) (a) and (1) (b) of this section except as provided in
18 subsection (1) (b) of this section.

19 (2) Every 24 hours that a dead animal or part of a
20 dead animal remains in the places specified in subsections
21 (1) (a) and (1) (b) of this section except as provided in
22 subsection (1) (b) of this section is a separate violation.

23 Section 16. Repealer. Section 69-4118, R.C.M. 1947,
24 and chapter 45 of Title 69, R.C.M. 1947, in its entirety,
25 are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 161-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for House Bill 294 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise and amend laws relating to local public health.

ASSUMPTIONS:

1. The population of Montana will be 763,000 in 1978 and 770,000 in 1979.
2. 4.50 FTE will be added to the Department of Health and Environmental Sciences to administer the act.
3. Grants to local governments will be based on 45 cents per capita.
4. The proposed \$105,000 grant each year of the 1978-79 biennium will be eliminated.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Personal services	\$ 80,275	\$ 85,897	\$166,172
Operating expenses	12,180	13,465	25,645
Equipment	2,250	150	2,400
Grants to local government	<u>238,350</u>	<u>241,500</u>	<u>479,850</u>
Increased cost of proposed legislation	<u>\$333,055</u>	<u>\$341,012</u>	<u>\$674,067</u>

Richard L. Grayson
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-77

STATE OF MONTANA

REQUEST NO. 161-77

FISCAL NOTE

REVISED

Form BD-15

In compliance with a written request received March 3, 1977, there is hereby submitted a Fiscal Note for House Bill 294 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS FISCAL NOTE REVISES THE ORIGINAL FISCAL NOTE ON HOUSE BILL 294.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise and amend laws relating to local public health.

ASSUMPTIONS:

1. The population of Montana will be 758,000 in 1978 and 765,000 in 1979
2. No additional state staff would be provided to work with local health departments in the establishment of new programs or achieving betterments in on-going programs.
3. Grants to local governments will be based on 45 cents per capita.
4. The existing grant of \$105,000 each year of the 78-79 biennium will be eliminated.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Grants to local health departments under proposed legislation	\$341,100	\$344,250	\$685,350
Less: Grants under present set-up	<u>105,000</u>	<u>105,000</u>	<u>210,000</u>
Net effect of proposed legislation (Increase)	<u>\$236,100</u>	<u>\$239,250</u>	<u>\$475,350</u>

Richard L. Dwyer

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 161-77

FISCAL NOTE

Revised
Form BD-15

In compliance with a written request received April 5, 19 77, there is hereby submitted a Fiscal Note for HB 294 as AMENDED pursuant to Chapter 53, Laws of Montana, 1955 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS FISCAL NOTE AMENDS THE ORIGINAL FISCAL NOTE ON HOUSE BILL 294.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise and amend laws relating to local public health.

ASSUMPTIONS:

1. The population of Montana will be 758,000 in 1978 and 765,000 in 1979.
2. No additional state staff will be provided to work with local health departments in the establishment of new programs or achieving betterments in on-going programs.
3. Grants to local governments will be based on 10 cents per capita.
4. There are five boards employing full-time health officers and fifty-one other local boards.

FISCAL IMPACT:

	<u>FY78</u>	<u>FY79</u>	<u>Total</u>
Grants to local health departments under proposed legislation on basis of population	\$ 75,800	\$ 76,500	\$152,300
Grants to boards with full-time health officers	25,000	25,000	50,000
Grants to remaining boards	25,500	25,500	51,000
Total grants under proposed law	126,300	127,000	253,300
Less grants under present practice	130,000 *	130,000 *	260,000 *
Decrease in grants under proposed legislation *	<u>(\$ 3,700)</u>	<u>(\$ 3,000)</u>	<u>(\$ 6,700)</u>

* At present the Department contributes \$105,000 of Federal funds plus \$25,000 from the General Fund for this program. The decrease under the proposed law will result \$6,700 savings to the General Fund for the biennium.

TECHNICAL NOTE:

Per the Department of Health and Environmental Sciences, the federal funds to be used can only be granted under standards insuring beneficial, efficient, and effective use. The bill appears to require the grants without regard to appropriateness of the use of funds.

Richard L. Drury
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-6-77

Approved by Comm.
on Local Government

HOUSE BILL NO. 294

INTRODUCED BY DRISCOLL (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND AMEND THE LAWS RELATING TO LOCAL PUBLIC HEALTH; AMENDING SECTIONS 27-613, 34-303, 69-4110, 69-4514, 69-5604, 69-5701, AND 75-5934, R.C.M. 1947; AND REPEALING SECTION 69-4118, R.C.M. 1947, AND CHAPTER 45 OF TITLE 69, R.C.M. 1947, IN ITS ENTIRETY."

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

Section 1. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means a local board of health which is either a county board or a district board comprised of membership from two or more contiguous counties.

(2) "Department" means the department of health and environmental sciences.

(3) "Environmental health services" means those services PROGRAMS provided by a public agency ~~by means of~~ sanitarian--services that are directed toward promoting sanitation, controlling or eradicating environmental pollution, and maintaining a healthful environment for the general public.

(4) "Individual sewage treatment installer" means a

person who places, constructs, or alters all or any part of an individual sewage treatment system.

(5) "Individual sewage treatment system" means a sewage treatment system which serves a public or private structure not connected to a public or municipal sewage treatment system.

(6) "Local health officer" means a physician or nonphysician county or district health officer.

(7) "Local health department" means the department of county government which is administered by the local board of health and which provides the local public health program defined in [section 2] and any additional public health programs and services provided according to local needs and priorities.

(8) "~~Noncategorical federal moneys~~" means ~~any moneys provided to the department of health and environmental sciences by the federal government and~~ not designated for A specific programs PROGRAM OR SERVICE.

(9) "Personal health services PROGRAMS" means those services PROGRAMS provided by a public agency ~~by means of~~ public--health--nursing--and--other--professional--and--ancillary services that are directed toward promoting and maintaining optimum health and preventing illness among the general public.

(10) "Public health personnel" means all employees

1 whose services have been obtained by the local board of
 2 health to provide the local public health program, including
 3 the local health officer.

4 Section 2. Local public health program. There shall be
 5 a local public health program provided by each county which
 6 may include but not necessarily be limited to the following:

- 7 (1) the services of a local health officer;
- 8 (2) community health nursing, including home health
 9 nursing;
- 10 (3) school nursing;
- 11 (4) sanitarian services;
- 12 (5) health and nutrition education; and
- 13 (6) dental health education and services.

14 Section 3. Structure. (1) There shall be a local board
 15 of health in each county which shall administer the local
 16 health department.

- 17 (2) A local board of health may be either:
 - 18 (a) a county board of health; or
 - 19 (b) a district board of health with at least one
 20 member appointed by each participating county.
- 21 (3) Board membership shall include the following
 22 individuals:
 - 23 (a) no more than one county commissioner from each
 24 participating county;
 - 25 (b) at least one member to represent the interests of

1 the municipalities within the county;

2 (c) a physician licensed to practice medicine in
 3 Montana, if one is available in the county and if he wishes
 4 to serve; or, if not, some other health professional;

5 (d) at least one representative of the schools within
 6 the county; and

7 (e) additional members to be selected to represent a
 8 reasonable cross section of the community.

9 (4) No public health personnel employed by the local
 10 health department may be designated as members of the board
 11 for that department.

12 (5) If a district board of health is formed, the
 13 governing bodies of all participating counties shall
 14 mutually agree on which county shall appoint each of the
 15 individuals in subsection (3) of this section.

16 (6) Members of boards shall serve at the pleasure of
 17 the county commissioners.

18 (7) Terms of members shall be staggered and shall be
 19 for 3 years each.

20 (8) The county governing body shall establish the
 21 staggered order of terms and all regulations necessary to
 22 establish and maintain the board.

23 Section 4. Administrative provisions. (1) Each board
 24 shall meet at least quarterly.

25 (2) Each board shall at a minimum obtain the services

1 of:

- 2 (a) a local health officer;
- 3 (b) a nurse licensed under 66-1228 and preferably one
- 4 with public health education or experience; and
- 5 (c) a sanitarian licensed under Title 69, chapter 34.
- 6 (3) The local health officer shall be either a
- 7 physician licensed to practice medicine in Montana, an
- 8 individual with a master's degree in public health, or an
- 9 individual with appropriate public health experience as
- 10 determined by the department.
- 11 (4) If a nonphysician health officer is appointed, all
- 12 components of the public health program requiring the
- 13 services of a physician shall ~~either be obtained from a~~
- 14 ~~physician employee of the department or~~ BE contracted from
- 15 another A physician licensed to practice medicine in Montana
- 16 AND MAY BE OBTAINED FROM A PHYSICIAN EMPLOYEE OF THE
- 17 DEPARTMENT.
- 18 (5) Except in counties in which the school districts
- 19 themselves provide school nursing services in accordance
- 20 with 75-5934, school nursing services shall be provided by
- 21 the local health department. A school district may also
- 22 contract with a board for the provision of school nursing
- 23 services.
- 24 (6) The local health officer shall report:
- 25 (a) communicable diseases DESIGNATED REPORTABLE BY THE

1 DEPARTMENT to the department each week;

- 2 (b) sanitary conditions within the jurisdiction of the
- 3 board to the board and to the department each quarter; and
- 4 (c) general public health conditions and activities in
- 5 the areas of personal and environmental health services
- 6 conducted within the jurisdiction of the board to the board
- 7 and to the department each quarter.
- 8 (7) Reports shall be submitted on forms provided by
- 9 the department and contain information required by the
- 10 department.
- 11 (8) Each county shall provide adequate office space
- 12 for local public health personnel.
- 13 Section 5. Functions, powers, and duties of local
- 14 boards of health. (1) A board shall:
- 15 (a) provide for a program of public health services
- 16 which may include those services defined in [section 2];
- 17 (b) employ the minimum qualified staff necessary to
- 18 conduct the public health program in accordance with the
- 19 provisions of [section 4(2)]; and
- 20 (c) provide annually to the department a budget and a
- 21 detailed program plan for the local health department.
- 22 (2) A local board may:
- 23 (a) hire personnel in addition to those required in
- 24 [section 4(2)] to assist with the provision of the public
- 25 health program;

1 (b) initiate and implement programs and measures other
 2 than those defined in [section 2] to enhance the general
 3 public health within the jurisdiction of the board;
 4 (c) solicit and accept funds from the federal
 5 government or from any other agency or individual for the
 6 purpose of conducting public health programs;
 7 (d) contract with another county or agency to perform
 8 all or portions of the public health program;
 9 (e) adopt rules, fees, and permit systems for:
 10 (i) the control and disposal of sewage from private
 11 and public buildings not currently connected to any
 12 municipal system;
 13 (ii) the certification of individual sewage treatment
 14 installers;
 15 (iii) the regulation and control of sanitary conditions
 16 in establishments licensed by the state under Title 27,
 17 chapter 6; Title 34, chapter 3; and Title 69, chapter 56;
 18 (iv) local subdivision review responsibilities in
 19 accordance with Title 69, chapter 50;
 20 (f) adopt other rules which do not conflict with and
 21 which are at least as stringent as the rules promulgated by
 22 the department or the state board of health and
 23 environmental sciences but which are necessary to the
 24 provision of the public health program and to the
 25 implementation of state laws and rules relating to public

1 health. These rules may include but are not limited to:
 2 (i) the control of communicable diseases;
 3 (ii) sanitation, heating, ventilation, water supply,
 4 and waste disposal in public buildings and public
 5 accommodations; and
 6 (iii) other environmental and personal health services;
 7 (g) take any action, including legal action, necessary
 8 to meet an emergency endangering the public health or to
 9 restrain the violation of public health laws, ordinances, or
 10 rules being violated within the jurisdiction of the board.
 11 (3) The local health officer, with the concurrence of
 12 the board and the assistance of other local public health
 13 personnel, shall:
 14 (a) keep the department informed of changes in the
 15 membership of the board and changes in personnel employed by
 16 the board;
 17 (b) make inspections and otherwise insure sanitary
 18 conditions in the jurisdiction of the board. Establishments
 19 to be inspected shall include but are not necessarily
 20 limited to the following:
 21 (i) food service establishments;
 22 (ii) lodging establishments;
 23 (iii) tourist campgrounds and trailer courts;
 24 (iv) schoolhouses;
 25 (v) churches;

1 (vi) theaters;
 2 (vii) jails; and
 3 (viii) other buildings or facilities where persons
 4 assemble.
 5 (c) guard against the introduction and spread of
 6 communicable diseases;
 7 (d) conduct other environmental and personal health
 8 programs as required by law and rules of the department;
 9 (e) cooperate with the department in the provision of
 10 statewide programs; and
 11 (f) submit reports in accordance with [section 4(6)].
 12 (4) The local health officer, with the concurrence of
 13 the board and the assistance of other local public health
 14 personnel, may:
 15 (a) establish and maintain quarantines and take other
 16 measures to guard against the spread of communicable
 17 diseases;
 18 (b) isolate persons, animals, and objects which are
 19 infected or suspected of being infected with a communicable
 20 disease which is a threat to human health;
 21 (c) disinfect places when a period of quarantine ends;
 22 (d) forbid persons to assemble if the assembly
 23 endangers the public health;
 24 (e) validate state licenses issued by the department
 25 in accordance with 27-613, 34-303, and 69-5604;

1 (f) abate nuisances affecting the public health and
 2 safety;
 3 (g) make full use of the consultative services,
 4 technical assistance, and continuing education services
 5 available from the department;
 6 (h) issue a written order to close for up to 72 hours
 7 an establishment licensed under Title 27, chapter 6; Title
 8 34, chapter 3; and Title 69, chapter 56, the sanitary
 9 conditions of which, in the opinion of the health officer,
 10 are an imperative threat to the public health and require
 11 emergency action. The proprietor of the establishment may
 12 submit a plan for correction of the conditions which caused
 13 the closure. If the plan is acceptable and the violations
 14 are corrected, the order for closure may be rescinded within
 15 the 72-hour period, but in no event may such closure exceed
 16 72 hours unless there has been no significant effort to
 17 correct the violations.
 18 (i) collect fees; and
 19 (j) request a law enforcement officer or another
 20 public official to assist in carrying out the provisions of
 21 this chapter. The official shall render the services as
 22 requested.
 23 Section 6. Role of department. (1) The department
 24 shall develop ~~manuals and handbooks~~ REFERENCE MATERIALS for
 25 use by boards, local health officers, and other local public

1 health personnel. The ~~manuals--and--handbooks~~ REFERENCE
 2 MATERIALS shall include but not necessarily be limited to
 3 the following:

4 (a) ~~an--appropriate--local--public--health--program~~ A
 5 DESCRIPTION OF THE OPTIMAL PRACTICES FOR EACH PROGRAM OR
 6 SERVICE THE LOCAL HEALTH DEPARTMENT WISHES TO PROVIDE, which
 7 may include but not necessarily be limited to those services
 8 defined in [section 2] and which takes into account both the
 9 rural and urban characteristics of local health departments
 10 in Montana and available ~~manpower~~ and financial resources as
 11 well as available private medical and health services and
 12 facilities throughout the state. THIS DESCRIPTION SHALL
 13 PROVIDE THE BASIS UPON WHICH EVALUATIONS REQUIRED IN
 14 SUBSECTION (3) SHALL BE CONDUCTED;

15 (b) the format and content of budgets and program
 16 plans required as a condition of receiving NONCATEGORICAL
 17 state and federal revenues for public health services and
 18 programs;

19 (c) the content AND AVAILABILITY of training and
 20 continuing education programs ~~which--the--department--shall~~
 21 CONDUCTED for local public health personnel; and

22 (d) the content of standard reporting forms required
 23 periodically of local health departments by the department.

24 (2) In developing the content of the ~~manuals--or~~
 25 ~~handbooks~~ REFERENCE MATERIALS or any rules PROPOSED RULE

1 POTENTIALLY affecting local health departments, the
 2 department OR BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
 3 shall solicit formal comment and suggestions from local
 4 health officers, boards, and other local public health
 5 personnel.

6 (3) The department shall, WITHIN THE LIMITS OF
 7 AVAILABLE RESOURCES, annually evaluate the staff of and
 8 services and programs provided by local health departments
 9 and by school districts which provide their own school
 10 nursing services. Public health programs and services
 11 provided by other NONGOVERNMENTAL agencies shall also be
 12 evaluated by the department if local funds in any proportion
 13 are utilized to provide the services. The report on the
 14 evaluation shall be made available to the local health
 15 officer, board, and county governing body AND TO THE PUBLIC
 16 UPON REQUEST.

17 (4) In order to fulfill its responsibility of
 18 providing supportive services to local health departments,
 19 the department shall, WITHIN THE LIMITS OF AVAILABLE
 20 RESOURCES:

21 (a) provide consultative ~~and--legal~~ services and
 22 technical assistance in the formation and ongoing operation
 23 and administration of and budgeting for local health
 24 departments;

25 (b) ~~coordinate--between--all--bureaus--of--the--department~~

1 ~~all contacts with and~~ PROVIDE ADEQUATE ADVANCE NOTICE OF
2 visits and communications to COUNTIES, boards, local health
3 officers, and other public health personnel; and

4 (c) ~~actively and continuously~~ solicit funds available
5 from federal and other agencies for use by boards.

6 (5) The department may:

7 (a) when practicable and particularly in emergency
8 public health situations, provide department employees on a
9 temporary loan basis as supplemental staff to local health
10 departments;

11 (b) request any necessary reports of local health
12 officers and other local public health personnel in addition
13 to those required in [section 4(6)]. ~~The department should,~~
14 ~~however, give adequate notice about the due date and~~
15 ~~adequate explanation of the need for any reports it intends~~
16 ~~to request;~~

17 (c) ~~develop a recommended minimum fee schedule for~~
18 ~~personal health services, basing the schedule on actual~~
19 ~~costs and providing for a sliding scale based on income;~~

20 (6) If, in the opinion of the department, the services
21 of the minimum required staff have not been obtained by a
22 board, the department shall, after adequate notice has been
23 given to the affected board ~~or school district,~~ provide the
24 staff services itself. The department may then submit an
25 itemized bitting BILL to the appropriate board ~~or school~~

1 ~~district~~ for an equitable amount of the board ~~or school~~
2 ~~district~~ share to cover the costs of providing the services.
3 THE BOARD SHALL PAY THE BILL RECEIVED FROM THE DEPARTMENT.

4 Section 7. Financing. (1) Rather than providing direct
5 public health services itself, the department shall offer
6 any available financial resources to boards to provide
7 public health programs which are authorized or mandated by
8 state or federal law and whose purposes are to provide
9 services directly to the citizens of the state. Exceptions
10 to this provision are the following programs:

- 11 (a) air quality programs;
- 12 (b) central recording of vital statistic documents;
- 13 (c) departmental consulting and reference services
- 14 available to local health departments and boards;
- 15 (d) family planning programs;
- 16 (e) hospital and medical facilities licensing and
- 17 certification;

18 (F) INSPECTION OF STATE INSTITUTIONS FOR SANITARY
19 CONDITIONS;

- 20 (G) OCCUPATIONAL HEALTH PROGRAMS;
- 21 (H) RADIOLOGICAL HEALTH PROGRAMS;
- 22 ~~(I)~~ (I) specialized medical and diagnostic services;
- 23 (J) STATE LEVEL SUBDIVISION PLAN APPROVAL;
- 24 ~~(K)~~ (K) statewide health planning; and
- 25 ~~(L)~~ (L) water quality programs.

1 (2) If the boards do not wish to provide or are
2 incapable of providing any program offered by the
3 department, the department may provide the program.

4 (3) Nothing in subsections (1) and (2) above shall be
5 construed to mean that the department is prohibited from
6 offering the above direct service programs to local health
7 departments and boards if it so desires.

8 (4) Noncategorical federal moneys which are
9 appropriated to the state for distribution to local health
10 departments, including those appropriated under Public Law
11 94-63, shall be allocated by the department to boards at the
12 rate of at least 45 cents per capita of state population a
13 year, USING THE LATEST OFFICIAL POPULATION ESTIMATE, for as
14 long as the program continues. This amount may be adjusted
15 if the total federal allocations to Montana increase or
16 decrease under any federal programs, but not less than 70%
17 of the total amount received from the federal government
18 under Public Law 94-63 shall be allocated to boards. The
19 minimum amount allocated to any board shall be at least \$800
20 per year.

21 (5) County contributions toward the budgets for public
22 health programs of local health departments shall be
23 financed by either:

24 (a) an appropriation from the county general fund
25 after approval of a budget in the manner provided for other

1 county offices and departments under Title 16, chapter 19;
2 or

3 (b) a levy of not more than 5 mills may be made on the
4 taxable valuation of all property in the county in addition
5 to all other levies authorized by law.

6 (6) State and federal moneys allocated to boards for
7 noncategorical public health programs may not be utilized to
8 supplant county revenues which are contributed to the
9 budgets of local health departments.

10 (7) Except for school districts which provide the
11 required school nursing services themselves in accordance
12 with 75-5934, each elementary and secondary school district
13 shall appropriate to the board an amount to be agreed upon
14 by the school district and the board for the purpose of
15 providing school nursing services and other services of the
16 local health department which will benefit the schools and
17 school children.

18 (8) As a condition of receiving state revenues or
19 federal revenues allocated to the state for NONCATEGORICAL
20 public health programs and services, the board shall submit
21 an annual budget and a detailed program plan to the
22 department annually. No conditions other than the provisions
23 contained in this chapter and federal merit system
24 requirements may be imposed on boards as requirements for
25 eligibility to receive noncategorical state and federal

1 funds. COMBINED STATE AND FEDERAL NONCATEGORICAL REVENUES
 2 DISBURSED BY THE DEPARTMENT SHALL NOT CONSTITUTE MORE THAN
 3 50% OF THE TOTAL ANNUAL BUDGET OF A LOCAL HEALTH DEPARTMENT.

4 (9) All fees collected by the local health department
 5 shall be deposited in an account to be used only to defray
 6 the expenses of providing the program of the local health
 7 department.

8 (10) All fees available to the department for licenses,
 9 permits, or other programs shall be shared with boards if
 10 the local health department has assisted with the
 11 administration of the program from which the fee resulted.
 12 The department shall share an appropriate percentage of the
 13 fee commensurate with the local health department's effort.

14 Section B. Section 27-613, R.C.M. 1947, is amended to
 15 read as follows:

16 "27-613. Licenses required -- limited to premises --
 17 local health officer validation -- publicly owned
 18 establishments exempt -- right to license. (1) A person
 19 operating an establishment shall procure an annual license
 20 from the department.

21 (2) A separate license is required for each
 22 establishment, but if more than one ~~(1)~~ type of
 23 establishment is operated on the same premises and under the
 24 same management, only one ~~(1)~~ license is required.

25 (3) Only one ~~(1)~~ license is required for a person

1 owning and operating one ~~(1)~~ or more vending machines.

2 (4) Each license issued under this chapter is not
 3 valid until countersigned by the local health officer having
 4 jurisdiction in each county in which the business will be
 5 conducted. The department shall refer all licenses to the
 6 local health officer for his signature prior to the issuance
 7 of a license by the department. The initial license and
 8 subsequent renewals are invalid until the validation
 9 signature is affixed. The validation signature may be
 10 affixed only after the local health officer is satisfied
 11 that the establishment has met sanitary conditions required
 12 by rules of the department. THE LOCAL HEALTH OFFICER SHALL,
 13 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO
 14 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 15 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 16 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 17 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 18 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE
 19 STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30
 20 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 21 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 22 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 23 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 24 PROCEDURE ACT.

25 ~~(1)~~ Licenses expire on December 31 following the

1 date of issue unless canceled for cause.

2 ~~(5)(6)~~ Licenses are not transferable nor applicable to
3 any premises other than that for which the license was
4 issued.

5 ~~(6)(7)~~ Establishments owned or operated by the state,
6 or a political subdivision of the state, are exempt from
7 licensure but must comply with the requirements of this
8 chapter and rules adopted by the department under this
9 chapter.

10 ~~(7)(8)~~ Licenses shall be granted as a matter of right
11 unless grounds for denial or cancellation exist."

12 Section 9. Section 34-303, R.C.M. 1947, is amended to
13 read as follows:

14 "34-303. License required. 11 Each year, every person
15 engaged in the business of conducting or operating a hotel,
16 motel, tourist home, retirement home or rooming house, shall
17 procure a license issued by the department. A separate
18 license is required for each establishment; however, where
19 more than one of each type of establishment is operated on
20 the same premises and under the same management, only one
21 license is required which shall enumerate on the certificate
22 thereof the types of establishments licensed.

23 12 Applications for a license shall be made in
24 writing to the department on such forms and with such
25 pertinent information as it considers necessary.

1 ~~(3) Each license issued under this chapter is not~~
2 ~~valid until countersigned by the local health officer having~~
3 ~~jurisdiction in each county in which the business will be~~
4 ~~conducted. The department shall refer all licenses to the~~
5 ~~local health officer for his signature prior to the issuance~~
6 ~~of a license by the department. The initial license and~~
7 ~~subsequent renewals are invalid until the validation~~
8 ~~signature is affixed. The validation signature may be~~
9 ~~affixed only after the local health officer is satisfied~~
10 ~~that the establishment has met sanitary conditions required~~
11 ~~by rules of the department. THE LOCAL HEALTH OFFICER SHALL,~~
12 ~~WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO~~
13 ~~ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON~~
14 ~~WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH~~
15 ~~OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE~~
16 ~~APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON~~
17 ~~IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE~~
18 ~~STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30~~
19 ~~DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH~~
20 ~~OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF~~
21 ~~HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO~~
22 ~~THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE~~
23 ~~PROCEDURE ACT.~~

24 14 Existing licenses shall be renewed as a matter of
25 right, unless conditions exist which are grounds for a

1 cancellation or denial of a license.

2 (2) If determination is made to deny an initial
3 application for a license, or if a renewal application is
4 denied and a license canceled, the denial or cancellation
5 shall be preceded by written notice of the grounds therefor
6 and the opportunity to request a hearing before the board to
7 show cause why the license should be denied."

8 Section 10. Section 69-4514, R.C.M. 1947, is
9 renumbered 66-1015.1 and is amended to read as follows:

10 "~~69-4514-66-1015.1~~. Cases of communicable disease --
11 reports by practitioners of the healing arts. If a physician
12 or other practitioner of the healing arts examines or treats
13 a person whom he believes has a communicable disease, or a
14 disease declared reportable by the department of health and
15 environmental sciences, he shall immediately report the case
16 to the local health officer. The report shall be in the
17 form, and contain information, prescribed by the department
18 of health and environmental sciences."

19 Section 11. Section 69-4110, R.C.M. 1947, is amended
20 to read as follows:

21 *69-4110. Functions, powers, and duties of department.
22 The department shall:

23 (1) ~~Study~~ study conditions affecting the citizens of
24 the state by making use of birth, death, and sickness
25 records;

1 (2) ~~Make~~ make investigations, disseminate information,
2 and make recommendations for control of diseases and
3 improvement of public health to persons, groups, or the
4 public;

5 (3) ~~At~~ at the request of the governor, administer any
6 federal health program for which responsibilities are
7 delegated to states;

8 (4) ~~inspect~~ inspect and work in conjunction with
9 custodial institutions and Montana university system units
10 periodically as necessary, and at other times on request of
11 the governor;

12 (5) ~~After~~ after each inspection made under subsection
13 (4) of this section, submit a written report on sanitary
14 conditions to the governor and to the director of
15 institutions or executive secretary of the Montana
16 university system and include recommendations for
17 improvement in conditions, if necessary;

18 (6) ~~Advise~~ advise state agencies on location,
19 drainage, water supply, disposal of excreta, heating,
20 plumbing, sewer systems, and ventilation of public
21 buildings;

22 (7) ~~Organize~~ organize laboratory services and provide
23 equipment and personnel for those services;

24 (8) ~~Develop~~ develop and administer activities for the
25 protection and improvement of dental health and supervise

1 dentists employed by the state ~~local boards of health~~ or
 2 schools;

3 (9) ~~Develop~~ develop and administer a program to
 4 protect the health of mothers and children;

5 (10) ~~Conduct~~ conduct health education programs;

6 ~~(11) Supervise school and local public health nurses in~~
 7 ~~the performance of their duties;~~

8 ~~(12)~~ (11) ~~Consult~~ consult with the superintendent of
 9 public instruction on health measures for schools;

10 ~~(13)~~ (12) ~~Develop~~ develop and administer a program for
 11 services to handicapped children including diagnosis,
 12 medical, surgical and corrective treatment, and after-care
 13 and related services;

14 ~~(14) Supervise local boards of health;~~

15 ~~(15)~~ (13) ~~Bring~~ bring actions in court for the
 16 enforcement of the health laws and defend actions brought
 17 against the board or department; and

18 (14) evaluate programs and services provided by local
 19 health departments;

20 ~~(16)~~ (15) ~~Accept~~ accept and expend federal funds
 21 available for public health services; and

22 ~~(17)~~ (16) ~~Have~~ have the power to use personnel of local
 23 departments of health to assist in the administration of
 24 laws relating to public health. If such personnel are
 25 utilized for these purposes, however, local health

1 departments shall be reimbursed for the costs involved out
 2 of moneys from any sources available to the department."

3 Section 12. Section 69-5604, R.C.M. 1947, is amended
 4 to read as follows:

5 "69-5604. Application for license -- form and contents
 6 -- license fee -- local health officer validation --
 7 duration of license. (1) Application for a license is made
 8 to the department on forms, and containing information,
 9 required by the department.

10 (2) Each application shall be accompanied by a fee of
 11 ~~twenty dollars (\$20)~~. Licenses ~~expire on December 31 of the~~
 12 ~~year in which they are issued~~. Fees collected by the
 13 department shall be deposited in the state general fund.

14 (3) Each license issued under this chapter is not
 15 valid until countersigned by the local health officer having
 16 jurisdiction in each county in which the business will be
 17 conducted. The department shall refer all licenses to the
 18 local health officer for his signature prior to the issuance
 19 of a license by the department. The initial license and
 20 subsequent renewals are invalid until the validation
 21 signature is affixed. The validation signature may be
 22 affixed only after the local health officer is satisfied
 23 that the establishment has met sanitary conditions required
 24 by rules of the department. THE LOCAL HEALTH OFFICER SHALL,
 25 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO

1 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 2 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 3 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 4 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 5 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE
 6 STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30
 7 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 8 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 9 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 10 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 11 PROCEDURE ACT.

12 (4) Licenses expire on December 31 of the year in
 13 which they are issued.

14 (2)(5) Before June 30 of each year, the department
 15 shall pay to a local board--of health department as
 16 established under section--69-4504,--69-4506,--or--69-4507,
 17 [sections 4, 6, and 7 of this act] an amount from any
 18 general fund appropriation to the department which is for
 19 the purpose of inspecting establishments licensed under this
 20 act; provided, however, that there-is-a-functioning-local
 21 board--of--health--and--that the local board--of health
 22 department, local health officers, and sanitarians assist in
 23 the enforcement of the provisions of this chapter and the
 24 rules adopted under it.

25 (3)(6) Before June 1 of each year, the local board--of

1 health department shall submit to the department a list of
 2 the establishments in each jurisdiction which are licensed
 3 under this section. The funds received by the local board
 4 of health department shall be deposited with the appropriate
 5 local-fiscal-authority county treasurer and shall be in
 6 addition to the funds appropriated under section--69-4500
 7 [section 7 of this act]."

8 Section 13. Section 69-5701, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-5701. Violations of public health laws or rules of
 11 board--or-department. (1) If a person refuses or neglects to
 12 comply with a written order of a state or local health
 13 officer, or other local public health personnel acting in
 14 the performance of their duties, within a reasonable time
 15 specified in the order, the state or local health officer
 16 may:

17 (a) obtain a court order enforcing compliance with the
 18 order; or

19 (b) if the conditions indicate an imperative threat to
 20 public health, take whatever action is necessary to
 21 alleviate the conditions which prompted the order.

22 (2) The state or local health officer may initiate an
 23 action to recover any expenses incurred from the person who
 24 refused or neglected to comply with the order. The action to
 25 recover expenses shall be brought in the name of the county

1 involved.

2 (3) No person may remove or deface any placard or
 3 notice posted by the local health officer or other local
 4 public health personnel acting in the performance of their
 5 duties or violate a quarantine regulation.

6 (4) Anyone who knowingly violates a public health law
 7 or rule adopted by the board of health and environmental
 8 sciences; or the department of health and environmental
 9 sciences; or a local health department, for which no
 10 penalty is specified, is guilty of a misdemeanor.

11 (5) Each day of violation constitutes a separate
 12 offense. Fines shall be paid to the county treasurer of the
 13 county in which the violation occurs."

14 Section 14. Section 75-5934, R.C.M. 1947, is amended
 15 to read as follows:

16 "75-5934. Other powers and duties. The trustees of any
 17 district shall have the power and it shall be its duty:

18 (1) to employ and dismiss administrative personnel,
 19 clerks, secretaries, teacher aides, custodians, maintenance
 20 personnel, school bus drivers, food service personnel,
 21 nurses, and any other personnel deemed necessary to carry
 22 out the various services of the district;

23 (2) to make such reports from time to time as the
 24 county superintendent, superintendent of public instruction
 25 and board of education may require;

1 (3) to retain, when deemed advisable, a physician or
 2 registered--nurse to inspect the--sanitary--conditions--of--the
 3 school--or the general health conditions of each pupil, and
 4 upon request make available to any parent or guardian any
 5 medical reports or health records maintained by the district
 6 pertaining to his child;

7 (4) to obtain the services of a registered
 8 professional nurse to provide a program of school nursing
 9 services. If school nursing services are provided by the
 10 local health department, this provision does not apply.

11 ~~(4)~~(5) for each member of the trustees, to visit each
 12 school of the district not less than once each school fiscal
 13 year to examine its management, conditions and needs; and

14 ~~(5)~~(6) procure and display outside daily in suitable
 15 weather at each school of the district an American flag
 16 which shall be not less than four-~~(4)~~ feet by six-~~(6)~~ feet."

17 Section 15. There is a new R.C.M. section numbered
 18 69-4003.1 that reads as follows:

19 69-4003.1. Dead animals -- unlawful disposition. (1)
 20 It is unlawful to:

21 (a) place all or any part of a dead animal in any
 22 lake, river, creek, pond, reservoir, road, street, alley,
 23 lot, or field;

24 (b) place all or any part of a dead animal within 1
 25 mile of the residence of any person unless the dead animal

1 is burned or buried at least 2 feet underground; or

2 (c) being the owner, permit all or any part of a dead
3 animal to remain in the places specified in subsections
4 (1)(a) and (1)(b) of this section except as provided in
5 subsection (1)(b) of this section.

6 (2) Every 24 hours that a dead animal or part of a
7 dead animal remains in the places specified in subsections
8 (1)(a) and (1)(b) of this section except as provided in
9 subsection (1)(b) of this section is a separate violation.

10 Section 16. Repealer. Section 69-4118, R.C.M. 1947,
11 and chapter 45 of Title 69, R.C.M. 1947, in its entirety,
12 are repealed.

-End-

Objection Raised to
Adverse Committee Report

1 HOUSE BILL NO. 294
 2 INTRODUCED BY DRISCOLL (BY REQUEST)
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 AMEND THE LAWS RELATING TO LOCAL PUBLIC HEALTH; AMENDING
 6 SECTIONS 27-613, 34-303, 69-4110, 69-4514, 69-5604, 69-5701,
 7 AND 75-5934, R.C.M. 1947; AND REPEALING SECTIION 69-4118,
 8 R.C.M. 1947, AND CHAPTER 45 OF TITLE 69, R.C.M. 1947, IN ITS
 9 ENTIRETY."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Definitions. As used in this chapter, the
 13 following definitions apply:
 14 (1) "Board" means a local board of health which is
 15 either a county board or a district board comprised of
 16 membership from two or more contiguous counties.
 17 (2) "Department" means the department of health and
 18 environmental sciences.
 19 (3) "Environmental health services" means those
 20 services PROGRAMS provided by a public agency ~~by means of~~
 21 ~~sanitarian services~~ that are directed toward promoting
 22 sanitation, controlling or eradicating environmental
 23 pollution, and maintaining a healthful environment for the
 24 general public.
 25 (4) "Individual sewage treatment installer" means a

1 person who places, constructs, or alters all or any part of
 2 an individual sewage treatment system.
 3 (5) "Individual sewage treatment system" means a
 4 sewage treatment system which serves a public or private
 5 structure not connected to a public or municipal sewage
 6 treatment system.
 7 (6) "Local health officer" means a physician or
 8 nonphysician county or district health officer.
 9 (7) "Local health department" means the department of
 10 county government which is administered by the local board
 11 of health and which provides the local public health
 12 program defined in [section 2] and any additional public
 13 health programs and services provided according to local
 14 needs and priorities.
 15 (8) "~~Noncategorical federal moneys~~" means ~~any moneys~~
 16 ~~provided to the department of health and environmental~~
 17 ~~sciences by the federal government and~~ not designated for ~~a~~
 18 specific programs PROGRAM OR SERVICE.
 19 (9) "Personal health services PROGRAMS" means those
 20 services PROGRAMS provided by a public agency ~~by means of~~
 21 ~~public health nursing and other professional and ancillary~~
 22 services that are directed toward promoting and maintaining
 23 optimum health and preventing illness among the general
 24 public.
 25 (10) "Public health personnel" means all employees

SECOND READING
Second Printing

1 whose services have been obtained by the local board of
 2 health to provide the local public health program, including
 3 the local health officer.

4 Section 2. Local public health program. There shall be
 5 a local public health program provided by each county which
 6 may include but not necessarily be limited to the following:

- 7 (1) the services of a local health officer;
- 8 (2) community health nursing, including home health
- 9 nursing;
- 10 (3) school nursing;
- 11 (4) sanitarian services;
- 12 (5) health and nutrition education; and
- 13 (6) dental health education and services.

14 Section 3. Structure. (1) There shall be a local board
 15 of health in each county which shall administer the local
 16 health department.

- 17 (2) A local board of health may be either:
- 18 (a) a county board of health; or
- 19 (b) a district board of health with at least one
- 20 member appointed by each participating county.
- 21 (3) Board membership shall include the following
- 22 individuals:
- 23 (a) no more than one county commissioner from each
- 24 participating county;
- 25 (b) at least one member to represent the interests of

1 the municipalities within the county;

2 (c) a physician licensed to practice medicine in
 3 Montana, if one is available in the county and if he wishes
 4 to serve; or, if not, some other health professional;

5 (d) at least one representative of the schools within
 6 the county; and

7 (e) additional members to be selected to represent a
 8 reasonable cross section of the community.

9 (4) No public health personnel employed by the local
 10 health department may be designated as members of the board
 11 for that department.

12 (5) If a district board of health is formed, the
 13 governing bodies of all participating counties shall
 14 mutually agree on which county shall appoint each of the
 15 individuals in subsection (3) of this section.

16 (6) Members of boards shall serve at the pleasure of
 17 the county commissioners.

18 (7) Terms of members shall be staggered and shall be
 19 for 3 years each.

20 (8) The county governing body shall establish the
 21 staggered order of terms and all regulations necessary to
 22 establish and maintain the board.

23 Section 4. Administrative provisions. (1) Each board
 24 shall meet at least quarterly.

25 (2) Each board shall at a minimum obtain the services

1 of:

- 2 (a) a local health officer;
 - 3 (b) a nurse licensed under 66-1228 and preferably one
 - 4 with public health education or experience; and
 - 5 (c) a sanitarian licensed under Title 69, chapter 34.
- 6 (3) The local health officer shall be either a
- 7 physician licensed to practice medicine in Montana, an
- 8 individual with a master's degree in public health, or an
- 9 individual with appropriate public health experience as
- 10 determined by the department.
- 11 (4) If a nonphysician health officer is appointed, all
- 12 components of the public health program requiring the
- 13 services of a physician shall ~~either be obtained from a~~
- 14 ~~physician employee of the department or be~~ contracted from
- 15 another A physician licensed to practice medicine in Montana
- 16 ~~AND MAY BE OBTAINED FROM A PHYSICIAN EMPLOYEE OF THE~~
- 17 ~~DEPARTMENT.~~
- 18 (5) Except in counties in which the school districts
- 19 themselves provide school nursing services in accordance
- 20 with 75-5934, school nursing services shall be provided by
- 21 the local health department. A school district may also
- 22 contract with a board for the provision of school nursing
- 23 services.
- 24 (6) The local health officer shall report:
- 25 (a) communicable diseases DESIGNATED REPORTABLE BY THE

1 DEPARTMENT to the department each week;

- 2 (b) sanitary conditions within the jurisdiction of the
 - 3 board to the board and to the department each quarter; and
 - 4 (c) general public health conditions and activities in
 - 5 the areas of personal and environmental health services
 - 6 conducted within the jurisdiction of the board to the board
 - 7 and to the department each quarter.
- 8 (7) Reports shall be submitted on forms provided by
- 9 the department and contain information required by the
- 10 department.
- 11 (8) Each county shall provide adequate office space
- 12 for local public health personnel.
- 13 Section 5. Functions, powers, and duties of local
- 14 boards of health. (1) A board shall:
- 15 (a) provide for a program of public health services
 - 16 which may include those services defined in [section 2];
 - 17 (b) employ the minimum qualified staff necessary to
 - 18 conduct the public health program in accordance with the
 - 19 provisions of [section 4(2)]; and
 - 20 (c) provide annually to the department a budget and a
 - 21 detailed program plan for the local health department.
- 22 (2) A local board may:
- 23 (a) hire personnel in addition to those required in
 - 24 [section 4(2)] to assist with the provision of the public
 - 25 health program;

1 (b) initiate and implement programs and measures other
 2 than those defined in [section 2] to enhance the general
 3 public health within the jurisdiction of the board;
 4 (c) solicit and accept funds from the federal
 5 government or from any other agency or individual for the
 6 purpose of conducting public health programs;
 7 (d) contract with another county or agency to perform
 8 all or portions of the public health program;
 9 (e) adopt rules, fees, and permit systems for:
 10 (i) the control and disposal of sewage from private
 11 and public buildings not currently connected to any
 12 municipal system;
 13 (ii) the certification of individual sewage treatment
 14 installers;
 15 (iii) the regulation and control of sanitary conditions
 16 in establishments licensed by the state under Title 27,
 17 chapter 6; Title 34, chapter 3; and Title 69, chapter 50;
 18 (iv) local subdivision review responsibilities in
 19 accordance with Title 69, chapter 50;
 20 (f) adopt other rules which do not conflict with and
 21 which are at least as stringent as the rules promulgated by
 22 the department or the state board of health and
 23 environmental sciences but which are necessary to the
 24 provision of the public health program and to the
 25 implementation of state laws and rules relating to public

1 health. These rules may include but are not limited to:
 2 (i) the control of communicable diseases;
 3 (ii) sanitation, heating, ventilation, water supply,
 4 and waste disposal in public buildings and public
 5 accommodations; and
 6 (iii) other environmental and personal health services;
 7 (g) take any action, including legal action, necessary
 8 to meet an emergency endangering the public health or to
 9 restrain the violation of public health laws, ordinances, or
 10 rules being violated within the jurisdiction of the board.
 11 (3) The local health officer, with the concurrence of
 12 the board and the assistance of other local public health
 13 personnel, shall:
 14 (a) keep the department informed of changes in the
 15 membership of the board and changes in personnel employed by
 16 the board;
 17 (b) make inspections and otherwise insure sanitary
 18 conditions in the jurisdiction of the board. Establishments
 19 to be inspected shall include but are not necessarily
 20 limited to the following:
 21 (i) food service establishments;
 22 (ii) lodging establishments;
 23 (iii) tourist campgrounds and trailer courts;
 24 (iv) schoolhouses;
 25 (v) churches;

1 (vi) theaters;

2 (vii) jails; and

3 (viii) other buildings or facilities where persons
4 assemble.

5 (c) guard against the introduction and spread of
6 communicable diseases;

7 (d) conduct other environmental and personal health
8 programs as required by law and rules of the department;

9 (e) cooperate with the department in the provision of
10 statewide programs; and

11 (f) submit reports in accordance with [section 4(6)].

12 (4) The local health officer, with the concurrence of
13 the board and the assistance of other local public health
14 personnel, may:

15 (a) establish and maintain quarantines and take other
16 measures to guard against the spread of communicable
17 diseases;

18 (b) isolate persons, animals, and objects which are
19 infected or suspected of being infected with a communicable
20 disease which is a threat to human health;

21 (c) disinfect places when a period of quarantine ends;

22 (d) forbid persons to assemble if the assembly
23 endangers the public health;

24 (e) validate state licenses issued by the department
25 in accordance with 27-613, 34-303, and 69-5604;

1 (f) abate nuisances affecting the public health and
2 safety;

3 (g) make full use of the consultative services,
4 technical assistance, and continuing education services
5 available from the department;

6 (h) issue a written order to close for up to 72 hours
7 an establishment licensed under Title 27, chapter 6; Title
8 34, chapter 3; and Title 69, chapter 56, the sanitary
9 conditions of which, in the opinion of the health officer,
10 are an imperative threat to the public health and require
11 emergency action. The proprietor of the establishment may
12 submit a plan for correction of the conditions which caused
13 the closure. If the plan is acceptable and the violations
14 are corrected, the order for closure may be rescinded within
15 the 72-hour period, but in no event may such closure exceed
16 72 hours unless there has been no significant effort to
17 correct the violations.

18 (i) collect fees; and

19 (j) request a law enforcement officer or another
20 public official to assist in carrying out the provisions of
21 this chapter. The official shall render the services as
22 requested.

23 Section 6. Role of department. (1) The department
24 shall develop ~~monitors-and-handbooks~~ REFERENCE MATERIALS for
25 use by boards, local health officers, and other local public

1 health personnel. The ~~manuals--and--handbooks~~ REFERENCE
 2 MATERIALS shall include but not necessarily be limited to
 3 the following:

4 (a) ~~an--appropriate--local--public--health--program~~ A
 5 DESCRIPTION OF THE OPTIMAL PRACTICES FOR EACH PROGRAM OR
 6 SERVICE THE LOCAL HEALTH DEPARTMENT WISHES TO PROVIDE, which
 7 may include but not necessarily be limited to those services
 8 defined in [section 2] and which takes into account both the
 9 rural and urban characteristics of local health departments
 10 in Montana and available manpower and financial resources as
 11 well as available private medical and health services and
 12 facilities throughout the state. THIS DESCRIPTION SHALL
 13 PROVIDE THE BASIS UPON WHICH EVALUATIONS REQUIRED IN
 14 SUBSECTION (3) SHALL BE CONDUCTED;

15 (b) the format and content of budgets and program
 16 plans required as a condition of receiving NONCATEGORICAL
 17 state and federal revenues for public health services and
 18 programs;

19 (c) the content AND AVAILABILITY of training and
 20 continuing education programs ~~which--the--department--shall~~
 21 ~~conduct~~ CONDUCTED for local public health personnel; and

22 (d) the content of standard reporting forms required
 23 periodically of local health departments by the department.

24 (2) In developing the content of the ~~manuals--or~~
 25 ~~handbooks~~ REFERENCE MATERIALS or any rules PROPOSED RULE

1 POTENTIALLY affecting local health departments, the
 2 department OR BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
 3 shall solicit formal comment and suggestions from local
 4 health officers, boards, and other local public health
 5 personnel.

6 (3) The department shall, WITHIN THE LIMITS OF
 7 AVAILABLE RESOURCES, annually evaluate the staff of and
 8 services and programs provided by local health departments
 9 and by school districts which provide their own school
 10 nursing services. Public health programs and services
 11 provided by other NONGOVERNMENTAL agencies shall also be
 12 evaluated by the department if local funds in any proportion
 13 are utilized to provide the services. The report on the
 14 evaluation shall be made available to the local health
 15 officer, board, and county governing body AND TO THE PUBLIC
 16 UPON REQUEST.

17 (4) In order to fulfill its responsibility of
 18 providing supportive services to local health departments,
 19 the department shall, WITHIN THE LIMITS OF AVAILABLE
 20 RESOURCES:

21 (a) provide consultative ~~and--tegn~~ services and
 22 technical assistance in the formation and ongoing operation
 23 and administration of and budgeting for local health
 24 departments;

25 (b) ~~coordinate--between--all--bureaus--of--the--department~~

1 ~~all contacts with and~~ PROVIDE ADEQUATE ADVANCE NOTICE OF
 2 ~~visits and communications to~~ COUNTIES, boards, local health
 3 ~~officers, and other public health personnel; and~~

4 (c) ~~actively and continuously~~ solicit funds available
 5 from federal and other agencies for use by boards.

6 (5) The department may:

7 (a) when practicable and particularly in emergency
 8 public health situations, provide department employees on a
 9 temporary loan basis as supplemental staff to local health
 10 departments;

11 (b) request any necessary reports of local health
 12 officers and other local public health personnel in addition
 13 to those required in [section 4(6)]. ~~The department should,~~
 14 ~~however, give adequate notice about the due date and~~
 15 ~~adequate explanation of the need for any reports it intends~~
 16 ~~to request~~

17 ~~(c) develop a recommended minimum fee schedule for~~
 18 ~~personal health services, basing the schedule on actual~~
 19 ~~costs and providing for a sliding scale based on income~~

20 (c) If, in the opinion of the department, the services
 21 of the minimum required staff have not been obtained by a
 22 board, the department shall, after adequate notice has been
 23 given to the affected board ~~or school district~~, provide the
 24 staff services itself. The department may then submit an
 25 itemized ~~bill~~ BILL to the appropriate board ~~or school~~

1 ~~district~~ for an equitable amount of the board ~~or school~~
 2 ~~district~~ share to cover the costs of providing the services.
 3 THE BOARD SHALL PAY THE BILL RECEIVED FROM THE DEPARTMENT.

4 Section 7. Financing. (1) Rather than providing direct
 5 public health services itself, the department shall offer
 6 any available financial resources to boards to provide
 7 public health programs which are authorized or mandated by
 8 state or federal law and whose purposes are to provide
 9 services directly to the citizens of the state. Exceptions
 10 to this provision are the following programs:

- 11 (a) air quality programs;
- 12 (b) central recording of vital statistic documents;
- 13 (c) departmental consulting and reference services
- 14 available to local health departments and boards;
- 15 (d) family planning programs;
- 16 (e) hospital and medical facilities licensing and
- 17 certification;

18 (F) INSPECTION OF STATE INSTITUTIONS FOR SANITARY
 19 CONDITIONS;

- 20 (G) OCCUPATIONAL HEALTH PROGRAMS;
- 21 (H) RADIOLOGICAL HEALTH PROGRAMS;
- 22 ~~(I)~~ specialized medical and diagnostic services;
- 23 (J) STATE LEVEL SUBDIVISION PLAN APPROVAL;
- 24 ~~(K)~~ statewide health planning; and
- 25 ~~(L)~~ water quality programs.

1 (2) If the boards do not wish to provide or are
2 incapable of providing any program offered by the
3 department, the department may provide the program.

4 (3) Nothing in subsections (1) and (2) above shall be
5 construed to mean that the department is prohibited from
6 offering the above direct service programs to local health
7 departments and boards if it so desires.

8 (4) Noncategorical federal moneys which are
9 appropriated to the state for distribution to local health
10 departments, including those appropriated under Public Law
11 94-63, shall be allocated by the department to boards at the
12 rate of at least 45 10 cents per capita of state population
13 a year, USING THE LATEST OFFICIAL POPULATION ESTIMATE, PLUS
14 \$5,000 A YEAR FOR BOARDS EMPLOYING FULL-TIME HEALTH OFFICERS
15 AND \$500 FOR ALL OTHER BOARDS, for as long as the program
16 continues. This amount may be adjusted if the total federal
17 allocations to Montana increase or decrease under any
18 federal programs, ~~but not less than 70% of the total amount~~
19 ~~received from the federal government under Public Law 94-63~~
20 ~~shall be allocated to boards. The minimum amount allocated~~
21 ~~to any board shall be at least \$800 per year.~~

22 (5) County contributions toward the budgets for public
23 health programs of local health departments shall be
24 financed by either:

25 (a) an appropriation from the county general fund

1 after approval of a budget in the manner provided for other
2 county offices and departments under Title 16, chapter 19;
3 or

4 (b) a levy of not more than 5 mills may be made on the
5 taxable valuation of all property in the county in addition
6 to all other levies authorized by law.

7 (6) State and federal moneys allocated to boards for
8 noncategorical public health programs may not be utilized to
9 supplant county revenues which are contributed to the
10 budgets of local health departments.

11 (7) Except for school districts which provide the
12 required school nursing services themselves in accordance
13 with 75-5934, each elementary and secondary school district
14 shall appropriate to the board an amount to be agreed upon
15 by the school district and the board for the purpose of
16 providing school nursing services and other services of the
17 local health department which will benefit the schools and
18 school children.

19 (8) As a condition of receiving state revenues or
20 federal revenues allocated to the state for NONCATEGORICAL
21 public health programs and services, the board shall submit
22 an annual budget and a detailed program plan to the
23 department annually. No conditions other than the provisions
24 contained in this chapter and federal merit system
25 requirements may be imposed on boards as requirements for

1 eligibility to receive noncategorical state and federal
 2 funds. COMBINED STATE AND FEDERAL NONCATEGORICAL REVENUES
 3 DISBURSED BY THE DEPARTMENT SHALL NOT CONSTITUTE MORE THAN
 4 50% OF THE TOTAL ANNUAL BUDGET OF A LOCAL HEALTH DEPARTMENT.

5 (9) All fees collected by the local health department
 6 shall be deposited in an account to be used only to defray
 7 the expenses of providing the program of the local health
 8 department.

9 (10) All fees available to the department for licenses,
 10 permits, or other programs shall be shared with boards if
 11 the local health department has assisted with the
 12 administration of the program from which the fee resulted.
 13 The department shall share an appropriate percentage of the
 14 fee commensurate with the local health department's effort.

15 Section 8. Section 27-613, R.C.M. 1947, is amended to
 16 read as follows:

17 "27-613. Licenses required -- limited to premises --
 18 local health officer validation -- publicly owned
 19 establishments exempt -- right to license. (1) A person
 20 operating an establishment shall procure an annual license
 21 from the department.

22 (2) A separate license is required for each
 23 establishment, but if more than one ~~††~~ type of
 24 establishment is operated on the same premises and under the
 25 same management, only one ~~††~~ license is required.

1 (3) Only one ~~††~~ license is required for a person
 2 owning and operating one ~~††~~ or more vending machines.

3 (4) Each license issued under this chapter is not
 4 valid until countersigned by the local health officer having
 5 jurisdiction in each county in which the business will be
 6 conducted. The department shall refer all licenses to the
 7 local health officer for his signature prior to the issuance
 8 of a license by the department. The initial license and
 9 subsequent renewals are invalid until the validation
 10 signature is affixed. The validation signature may be
 11 affixed only after the local health officer is satisfied
 12 that the establishment has met sanitary conditions required
 13 by rules of the department. THE LOCAL HEALTH OFFICER SHALL,
 14 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO
 15 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 16 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 17 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 18 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 19 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE
 20 STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30
 21 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 22 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 23 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 24 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 25 PROCEDURE ACT.

1 ~~(4)~~(5) Licenses expire on December 31 following the
2 date of issue unless canceled for cause.

3 ~~(5)~~(6) Licenses are not transferable nor applicable to
4 any premises other than that for which the license was
5 issued.

6 ~~(6)~~(7) Establishments owned or operated by the state,
7 or a political subdivision of the state, are exempt from
8 licensure but must comply with the requirements of this
9 chapter and rules adopted by the department under this
10 chapter.

11 ~~(7)~~(8) Licenses shall be granted as a matter of right
12 unless grounds for denial or cancellation exist."

13 Section 9. Section 34-303, R.C.M. 1947, is amended to
14 read as follows:

15 "34-303. License required. (1) Each year, every person
16 engaged in the business of conducting or operating a hotel,
17 motel, tourist home, retirement home or rooming house, shall
18 procure a license issued by the department. A separate
19 license is required for each establishment; however, where
20 more than one of each type of establishment is operated on
21 the same premises and under the same management, only one
22 license is required which shall enumerate on the certificate
23 thereof the types of establishments licensed.

24 (2) Applications for a license shall be made in
25 writing to the department on such forms and with such

1 pertinent information as it considers necessary.

2 ~~(3) Each license issued under this chapter is not~~
3 ~~valid until countersigned by the local health officer having~~
4 ~~jurisdiction in each county in which the business will be~~
5 ~~conducted. The department shall refer all licenses to the~~
6 ~~local health officer for his signature prior to the issuance~~
7 ~~of a license by the department. The initial license and~~
8 ~~subsequent renewals are invalid until the validation~~
9 ~~signature is affixed. The validation signature may be~~
10 ~~affixed only after the local health officer is satisfied~~
11 ~~that the establishment has met sanitary conditions required~~
12 ~~by rules of the department. THE LOCAL HEALTH OFFICER SHALL,~~
13 ~~WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO~~
14 ~~ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON~~
15 ~~WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH~~
16 ~~OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE~~
17 ~~APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON~~
18 ~~IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE~~
19 ~~STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30~~
20 ~~DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH~~
21 ~~OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF~~
22 ~~HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO~~
23 ~~THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE~~
24 ~~PROCEDURE ACT.~~

25 (4) Existing licenses shall be renewed as a matter of

1 right, unless conditions exist which are grounds for a
2 cancellation or denial of a license.

3 ~~(5)~~ If determination is made to deny an initial
4 application for a license, or if a renewal application is
5 denied and a license canceled, the denial or cancellation
6 shall be preceded by written notice of the grounds therefor
7 and the opportunity to request a hearing before the board to
8 show cause why the license should be denied."

9 Section 10. Section 69-4514, R.C.M. 1947, is
10 renumbered 66-1015.1 and is amended to read as follows:

11 "~~69-4514~~~~66-1015.1~~. Cases of communicable disease --
12 reports by practitioners of the healing arts. If a physician
13 or other practitioner of the healing arts examines or treats
14 a person whom he believes has a communicable disease, or a
15 disease declared reportable by the department of health and
16 environmental sciences, he shall immediately report the case
17 to the local health officer. The report shall be in the
18 form, and contain information, prescribed by the department
19 of health and environmental sciences."

20 Section 11. Section 69-4110, R.C.M. 1947, is amended
21 to read as follows:

22 "69-4110. Functions, powers, and duties of department.
23 The department shall:

24 (1) ~~Study~~ study conditions affecting the citizens of
25 the state by ~~making~~ use of birth, death, and sickness

1 records;

2 (2) ~~Make~~ ~~make~~ investigations, disseminate information,
3 and make recommendations for control of diseases and
4 improvement of public health to persons, groups, or the
5 public;

6 (3) ~~At~~ ~~at~~ the request of the governor, administer any
7 federal health program for which responsibilities are
8 delegated to states;

9 (4) ~~Inspect~~ ~~inspect~~ and work in conjunction with
10 custodial institutions and Montana university system units
11 periodically as necessary, and at other times on request of
12 the governor;

13 (5) ~~After~~ ~~after~~ each inspection made under subsection
14 (4) of this section, submit a written report on sanitary
15 conditions to the governor and to the director of
16 institutions or executive secretary of the Montana
17 university system and include recommendations for
18 improvement in conditions, if necessary;

19 (6) ~~Advise~~ ~~advise~~ state agencies on location,
20 drainage, water supply, disposal of excreta, heating,
21 plumbing, sewer systems, and ventilation of public
22 buildings;

23 (7) ~~Organize~~ ~~organize~~ laboratory services and provide
24 equipment and personnel for those services;

25 (8) ~~Develop~~ ~~develop~~ and administer activities for the

1 protection and improvement of dental health and supervise
2 dentists employed by the state; ~~local boards of health~~ or
3 schools;

4 (9) ~~Develop~~ develop and administer a program to
5 protect the health of mothers and children;

6 (10) ~~Conduct~~ conduct health education programs;

7 ~~(11) Supervise school and local public health nurses in~~
8 ~~the performance of their duties;~~

9 ~~(12)(11)~~ Consult consult with the superintendent of
10 public instruction on health measures for schools;

11 ~~(13)(12)~~ Develop develop and administer a program for
12 services to handicapped children including diagnosis,
13 medical, surgical and corrective treatment, and after-care
14 and related services;

15 ~~(14) Supervise local boards of health;~~

16 ~~(15)(13)~~ Bring bring actions in court for the
17 enforcement of the health laws and defend actions brought
18 against the board or department; and

19 (14) evaluate programs and services provided by local
20 health departments;

21 ~~(16)(15)~~ Accept accept and expend federal funds
22 available for public health services; and

23 ~~(17)(16)~~ Have have the power to use personnel of local
24 departments of health to assist in the administration of
25 laws relating to public health. If such personnel are

1 utilized for these purposes, however, local health
2 departments shall be reimbursed for the costs involved out
3 of moneys from any sources available to the department."

4 Section 12. Section 69-5604, R.C.M. 1947, is amended
5 to read as follows:

6 "69-5604. Application for license -- form and contents
7 -- license fee -- local health officer validation --
8 duration of license. (1) Application for a license is made
9 to the department on forms, and containing information,
10 required by the department.

11 (2) Each application shall be accompanied by a fee of
12 ~~twenty dollars (\$20)~~. ~~Licenses expire on December 31 of the~~
13 ~~year in which they are issued.~~ Fees collected by the
14 department shall be deposited in the state general fund.

15 (3) Each license issued under this chapter is not
16 valid until countersigned by the local health officer having
17 jurisdiction in each county in which the business will be
18 conducted. The department shall refer all licenses to the
19 local health officer for his signature prior to the issuance
20 of a license by the department. The initial license and
21 subsequent renewals are invalid until the validation
22 signature is affixed. The validation signature may be
23 affixed only after the local health officer is satisfied
24 that the establishment has met sanitary conditions required
25 by rules of the department. THE LOCAL HEALTH OFFICER SHALL

1 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO
 2 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 3 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 4 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 5 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 6 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE
 7 STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30
 8 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 9 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 10 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 11 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 12 PROCEDURE ACT.

13 (4) Licenses expire on December 31 of the year in
 14 which they are issued.

15 (2)(5) Before June 30 of each year, the department
 16 shall pay to a local board--of health department as
 17 established under section--69-4504--69-4506--or-69-4507,
 18 [sections 4, 6, and 7 of this act] an amount from any
 19 general fund appropriation to the department which is for
 20 the purpose of inspecting establishments licensed under this
 21 act; provided, however, that there--is--a--functioning--local
 22 board--of--health--and--that the local board--of health
 23 department, local health officers, and sanitarians assist in
 24 the enforcement of the provisions of this chapter and the
 25 rules adopted under it.

1 (3)(b) Before June 1 of each year, the local board-of
 2 health department shall submit to the department a list of
 3 the establishments in each jurisdiction which are licensed
 4 under this section. The funds received by the local board
 5 of health department shall be deposited with the appropriate
 6 local--fiscal--authority county treasurer and shall be in
 7 addition to the funds appropriated under section--69-4500
 8 [section 7 of this act]."

9 Section 13. Section 69-5701, R.C.M. 1947, is amended
 10 to read as follows:

11 "69-5701. Violations of public health laws or rules of
 12 board-or-department. (1) If a person refuses or neglects to
 13 comply with a written order of a state or local health
 14 officer, or other local public health personnel acting in
 15 the performance of their duties, within a reasonable time
 16 specified in the order, the state or local health officer
 17 may:

18 (a) obtain a court order enforcing compliance with the
 19 order; or

20 (b) if the conditions indicate an imperative threat to
 21 public health, take whatever action is necessary to
 22 alleviate the conditions which prompted the order.

23 (2) The state or local health officer may initiate an
 24 action to recover any expenses incurred from the person who
 25 refused or neglected to comply with the order. The action to

1 recover expenses shall be brought in the name of the county
2 involved.

3 (3) No person may remove or deface any placard or
4 notice posted by the local health officer or other local
5 public health personnel acting in the performance of their
6 duties or violate a quarantine regulation.

7 (4) Anyone who knowingly violates a public health law
8 or rule adopted by the board of health and environmental
9 sciences; or the department of health and environmental
10 sciences; or a local health department; for which no
11 penalty is specified, is guilty of a misdemeanor.

12 (5) Each day of violation constitutes a separate
13 offense. Fines shall be paid to the county treasurer of the
14 county in which the violation occurs."

15 Section 14. Section 75-5934, R.C.M. 1947, is amended
16 to read as follows:

17 "75-5934. Other powers and duties. The trustees of any
18 district shall have the power and it shall be its duty:

19 (1) to employ and dismiss administrative personnel,
20 clerks, secretaries, teacher aides, custodians, maintenance
21 personnel, school bus drivers, food service personnel,
22 nurses, and any other personnel deemed necessary to carry
23 out the various services of the district;

24 (2) to make such reports from time to time as the
25 county superintendent, superintendent of public instruction

1 and board of education may require;

2 (3) to retain, when deemed advisable, a physician or
3 registered-nurse to inspect the ~~sanitary conditions of the~~
4 ~~school--or~~ the general health conditions of each pupil, and
5 upon request make available to any parent or guardian any
6 medical reports or health records maintained by the district
7 pertaining to his child;

8 (4) to obtain the services of a registered
9 professional nurse to provide a program of school nursing
10 services. If school nursing services are provided by the
11 local health department, this provision does not apply.

12 ~~(4)(5)~~ for each member of the trustees, to visit each
13 school of the district not less than once each school fiscal
14 year to examine its management, conditions and needs; and

15 ~~(5)(6)~~ procure and display outside daily in suitable
16 weather at each school of the district an American flag
17 which shall be not less than ~~four-(4)~~ feet by ~~six-(6)~~ feet."

18 Section 15. There is a new R.C.M. section numbered
19 69-4003.1 that reads as follows:

20 69-4003.1. Dead animals -- unlawful disposition. (1)
21 it is unlawful to:

22 (a) place all or any part of a dead animal in any
23 lake, river, creek, pond, reservoir, road, street, alley,
24 lot, or field;

25 (b) place all or any part of a dead animal within 1

1 mile of the residence of any person unless the dead animal
2 is burned or buried at least 2 feet underground; or

3 (c) being the owner, permit all or any part of a dead
4 animal to remain in the places specified in subsections
5 (1)(a) and (1)(b) of this section except as provided in
6 subsection (1)(b) of this section.

7 (2) Every 24 hours that a dead animal or part of a
8 dead animal remains in the places specified in subsections
9 (1)(a) and (1)(b) of this section except as provided in
10 subsection (1)(b) of this section is a separate violation.

11 Section 16. Repealer. Section 69-4118, R.C.M. 1947,
12 and chapter 45 of Title 69, R.C.M. 1947, in its entirety,
13 are repealed.

-End-

HOUSE BILL NO. 294

INTRODUCED BY DRISCOLL (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND AMEND THE LAWS RELATING TO LOCAL PUBLIC HEALTH; AMENDING SECTIONS 27-613, 34-303, 69-4110, 69-4514, 69-5604, 69-5701, AND 75-5934, R.C.M. 1947; AND REPEALING SECTION 69-4118, R.C.M. 1947, AND CHAPTER 45 OF TITLE 69, R.C.M. 1947, IN ITS ENTIRETY."

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

Section 1. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means a local board of health which is either a county board or a district board comprised of membership from two or more contiguous counties.

(2) "Department" means the department of health and environmental sciences.

(3) "Environmental health services" means those services PROGRAMS provided by a public agency ~~by means of sanitation services~~ that are directed toward promoting sanitation, controlling or eradicating environmental pollution, and maintaining a healthful environment for the general public.

(4) "Individual sewage treatment installer" means a

person who places, constructs, or alters all or any part of an individual sewage treatment system.

(5) "Individual sewage treatment system" means a sewage treatment system which serves a public or private structure not connected to a public or municipal sewage treatment system.

(6) "Local health officer" means a physician or nonphysician county or district health officer.

(7) "Local health department" means the department of county government which is administered by the local board of health and which provides the local public health program defined in [section 2] and any additional public health programs and services provided according to local needs and priorities.

(8) "~~Noncategorical federal moneys~~" means ~~any moneys provided to the department of health and environmental sciences by the federal government and~~ not designated for a specific PROGRAM OR SERVICE.

(9) "Personal health SERVICES PROGRAMS" means those SERVICES PROGRAMS provided by a public agency ~~by means of public health nursing and other professional and ancillary services~~ that are directed toward promoting and maintaining optimum health and preventing illness among the general public.

(10) "Public health personnel" means all employees

1 whose services have been obtained by the local board of
 2 health to provide the local public health program, including
 3 the local health officer.

4 Section 2. Local public health program. There shall be
 5 a local public health program provided by each county which
 6 may include but not necessarily be limited to the following:

- 7 (1) the services of a local health officer;
- 8 (2) community health nursing, including home health
 9 nursing;
- 10 (3) school nursing;
- 11 (4) sanitarian services;
- 12 (5) health and nutrition education; and
- 13 (6) dental health education and services.

14 Section 3. Structure. (1) There shall be a local board
 15 of health in each county which shall administer the local
 16 health department.

- 17 (2) A local board of health may be either:
 - 18 (a) a county board of health; or
 - 19 (b) a district board of health with at least one
 20 member appointed by each participating county.
- 21 (3) Board membership shall include the following
 22 individuals:
 - 23 (a) no more than one county commissioner from each
 24 participating county;
 - 25 (b) at least one member to represent the interests of

1 the municipalities within the county;

2 (c) a physician licensed to practice medicine in
 3 Montana, if one is available in the county and if he wishes
 4 to serve; or, if not, some other health professional;

5 (d) at least one representative of the schools within
 6 the county; and

7 (e) additional members to be selected to represent a
 8 reasonable cross section of the community.

9 (4) No public health personnel employed by the local
 10 health department may be designated as members of the board
 11 for that department.

12 (5) If a district board of health is formed, the
 13 governing bodies of all participating counties shall
 14 mutually agree on which county shall appoint each of the
 15 individuals in subsection (3) of this section.

16 (6) Members of boards shall serve at the pleasure of
 17 the county commissioners.

18 (7) Terms of members shall be staggered and shall be
 19 for 3 years each.

20 (8) The county governing body shall establish the
 21 staggered order of terms and all regulations necessary to
 22 establish and maintain the board.

23 Section 4. Administrative provisions. (1) Each board
 24 shall meet at least quarterly.

25 (2) Each board shall at a minimum obtain the services

1 of:

2 (a) a local health officer;

3 (b) a nurse licensed under 66-1228 and preferably one
4 with public health education or experience; and

5 (c) a sanitarian licensed under Title 69, chapter 34.

6 (3) The local health officer shall be either a
7 physician licensed to practice medicine in Montana, an
8 individual with a master's degree in public health, or an
9 individual with appropriate public health experience as
10 determined by the department.

11 (4) If a nonphysician health officer is appointed, all
12 components of the public health program requiring the
13 services of a physician shall ~~either be obtained from a~~
14 ~~physician employee of the department or BE~~ contracted from
15 another A physician licensed to practice medicine in Montana
16 AND MAY BE OBTAINED FROM A PHYSICIAN EMPLOYEE OF THE
17 DEPARTMENT.

18 (5) Except in counties in which the school districts
19 themselves provide school nursing services in accordance
20 with 75-5934, school nursing services shall be provided by
21 the local health department. A school district may also
22 contract with a board for the provision of school nursing
23 services.

24 (6) The local health officer shall report:

25 (a) communicable diseases DESIGNATED REPORTABLE BY THE

1 DEPARTMENT to the department each week;

2 (b) sanitary conditions within the jurisdiction of the
3 board to the board and to the department each quarter; and

4 (c) general public health conditions and activities in
5 the areas of personal and environmental health services
6 conducted within the jurisdiction of the board to the board
7 and to the department each quarter.

8 (7) Reports shall be submitted on forms provided by
9 the department and contain information required by the
10 department.

11 (8) Each county shall provide adequate office space
12 for local public health personnel.

13 Section 5. Functions, powers, and duties of local
14 boards of health. (1) A board shall:

15 (a) provide for a program of public health services
16 which may include those services defined in [section 2];

17 (b) employ the minimum qualified staff necessary to
18 conduct the public health program in accordance with the
19 provisions of [section 4(2)]; and

20 (c) provide annually to the department a budget and a
21 detailed program plan for the local health department.

22 (2) A local board may:

23 (a) hire personnel in addition to those required in
24 [section 4(2)] to assist with the provision of the public
25 health program;

1 (b) initiate and implement programs and measures other
 2 than those defined in [section 2] to enhance the general
 3 public health within the jurisdiction of the board;
 4 (c) solicit and accept funds from the federal
 5 government or from any other agency or individual for the
 6 purpose of conducting public health programs;
 7 (d) contract with another county or agency to perform
 8 all or portions of the public health program;
 9 (e) adopt rules, fees, and permit systems for:
 10 (i) the control and disposal of sewage from private
 11 and public buildings not currently connected to any
 12 municipal system;
 13 (ii) the certification of individual sewage treatment
 14 installers;
 15 (iii) the regulation and control of sanitary conditions
 16 in establishments licensed by the state under Title 27,
 17 chapter 6; Title 34, chapter 3; and Title 69, chapter 56;
 18 (iv) local subdivision review responsibilities in
 19 accordance with Title 69, chapter 50;
 20 (f) adopt other rules which do not conflict with and
 21 which are at least as stringent as the rules promulgated by
 22 the department or the state board of health and
 23 environmental sciences out which are necessary to the
 24 provision of the public health program and to the
 25 implementation of state laws and rules relating to public

1 health. These rules may include but are not limited to:
 2 (i) the control of communicable diseases;
 3 (ii) sanitation, heating, ventilation, water supply,
 4 and waste disposal in public buildings and public
 5 accommodations; and
 6 (iii) other environmental and personal health services;
 7 (g) take any action, including legal action, necessary
 8 to meet an emergency endangering the public health or to
 9 restrain the violation of public health laws, ordinances, or
 10 rules being violated within the jurisdiction of the board.
 11 (3) The local health officer, with the concurrence of
 12 the board and the assistance of other local public health
 13 personnel, shall:
 14 (a) keep the department informed of changes in the
 15 membership of the board and changes in personnel employed by
 16 the board;
 17 (b) make inspections and otherwise insure sanitary
 18 conditions in the jurisdiction of the board. Establishments
 19 to be inspected shall include but are not necessarily
 20 limited to the following:
 21 (i) food service establishments;
 22 (ii) lodging establishments;
 23 (iii) tourist campgrounds and trailer courts;
 24 (iv) schoolhouses;
 25 (v) churches;

- 1 (vi) theaters;
- 2 (vii) jails; and
- 3 (viii) other buildings or facilities where persons
- 4 assemble.
- 5 (c) guard against the introduction and spread of
- 6 communicable diseases;
- 7 (d) conduct other environmental and personal health
- 8 programs as required by law and rules of the department;
- 9 (e) cooperate with the department in the provision of
- 10 statewide programs; and
- 11 (f) submit reports in accordance with [section 4(6)].
- 12 (4) The local health officer, with the concurrence of
- 13 the board and the assistance of other local public health
- 14 personnel, may:
- 15 (a) establish and maintain quarantines and take other
- 16 measures to guard against the spread of communicable
- 17 diseases;
- 18 (b) isolate persons, animals, and objects which are
- 19 infected or suspected of being infected with a communicable
- 20 disease which is a threat to human health;
- 21 (c) disinfect places when a period of quarantine ends;
- 22 (d) forbid persons to assemble if the assembly
- 23 endangers the public health;
- 24 (e) validate state licenses issued by the department
- 25 in accordance with 27-613, 34-303, and 69-5604;

- 1 (f) abate nuisances affecting the public health and
- 2 safety;
- 3 (g) make full use of the consultative services,
- 4 technical assistance, and continuing education services
- 5 available from the department;
- 6 (h) issue a written order APPROVED BY THE LOCAL BOARD
- 7 OF HEALTH OR, IF NONE EXISTS, BY THE COUNTY GOVERNING BODY
- 8 to close for up to 72 hours an establishment licensed under
- 9 Title 27, chapter 6; Title 34, chapter 3; and Title 69,
- 10 chapter 56, the sanitary conditions of which, in the opinion
- 11 of the health officer, are an imperative threat to the
- 12 public health and require emergency action. ~~the proprietor~~
- 13 ~~of the establishment may submit a plan for correction of the~~
- 14 ~~conditions which caused the closure. If the plan is~~
- 15 ~~acceptable and the violations are corrected, the order for~~
- 16 ~~closure may be rescinded within the 72-hour period, but in~~
- 17 ~~no event may such closure exceed 72 hours unless there has~~
- 18 ~~been no significant effort to correct the violations.~~ THE
- 19 ~~PROPRIETOR OF THE ESTABLISHMENT MAY SUBMIT A PLAN FOR~~
- 20 ~~CORRECTING THE CONDITIONS TO WHICH THE LOCAL HEALTH OFFICER~~
- 21 ~~OBJECTED. IF THE PLAN IS ACCEPTABLE AND CORRECTION OF THE~~
- 22 ~~VIOLATION HAS BEEN INITIATED, NO ORDER FOR CLOSURE WILL BE~~
- 23 ~~ISSUED.~~
- 24 (i) collect fees; and
- 25 (j) request a law enforcement officer or another

1 public official to assist in carrying out the provisions of
2 this chapter. The official shall render the services as
3 requested.

4 Section 6. Role of department. (1) The department
5 shall develop ~~manuals and handbooks~~ REFERENCE MATERIALS for
6 use by boards, local health officers, and other local public
7 health personnel. The ~~manuals and handbooks~~ REFERENCE
8 MATERIALS shall include but not necessarily be limited to
9 the following:

10 (a) ~~an appropriate local public health program~~ A
11 DESCRIPTION OF THE OPTIMAL PRACTICES FOR EACH PROGRAM OR
12 SERVICE THE LOCAL HEALTH DEPARTMENT WISHES TO PROVIDE, which
13 may include but not necessarily be limited to those services
14 defined in [section 2] and which takes into account both the
15 rural and urban characteristics of local health departments
16 in Montana and available manpower and financial resources as
17 well as available private medical and health services and
18 facilities throughout the state. THIS DESCRIPTION SHALL
19 PROVIDE THE BASIS UPON WHICH EVALUATIONS REQUIRED IN
20 SUBSECTION (3) SHALL BE CONDUCTED;

21 (b) the format and content of budgets and program
22 plans required as a condition of receiving NONCATEGORICAL
23 state and federal revenues for public health services and
24 programs;

25 (c) the content AND AVAILABILITY of training and

1 continuing education programs ~~which the department shall~~
2 ~~conduct~~ CONDUCTED for local public health personnel; and

3 (d) the content of standard reporting forms required
4 periodically of local health departments by the department.

5 (2) In developing the content of the ~~manuals or~~
6 ~~handbooks~~ REFERENCE MATERIALS or any ~~rules~~ PROPOSED RULE
7 POTENTIALLY affecting local health departments, the
8 department OR BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
9 shall solicit formal comment and suggestions from local
10 health officers, boards, and other local public health
11 personnel.

12 (3) The department shall, WITHIN THE LIMITS OF
13 AVAILABLE RESOURCES, annually evaluate the staff of and
14 services and programs provided by local health departments
15 and by school districts which provide their own school
16 nursing services. Public health programs and services
17 provided by other NONGOVERNMENTAL agencies shall also be
18 evaluated by the department if local funds in any proportion
19 are utilized to provide the services. The report on the
20 evaluation shall be made available to the local health
21 officer, board, and county governing body AND TO THE PUBLIC
22 UPON REQUEST.

23 (4) In order to fulfill its responsibility of
24 providing supportive services to local health departments,
25 the department shall, WITHIN THE LIMITS OF AVAILABLE

1 RESOURCES:

2 (a) provide consultative ~~and legal~~ services and
3 technical assistance in the formation and ongoing operation
4 and administration of and budgeting for local health
5 departments;

6 (b) ~~coordinate between all bureaus of the department~~
7 ~~all contacts with and~~ PROVIDE ADEQUATE ADVANCE NOTICE OF
8 ~~visits and communications~~ to COUNTIES, boards, local health
9 officers, and other public health personnel; and

10 (c) ~~actively and continuously~~ solicit funds available
11 from federal and other agencies for use by boards.

12 (5) The department may:

13 (a) when practicable and particularly in emergency
14 public health situations, provide department employees on a
15 temporary loan basis as supplemental staff to local health
16 departments;

17 (b) request any necessary reports of local health
18 officers and other local public health personnel in addition
19 to those required in [section 4(6)]. ~~The department should~~
20 ~~however give adequate notice about the due date and~~
21 ~~adequate explanation of the need for any reports it intends~~
22 ~~to request~~

23 (c) ~~develop a recommended minimum fee schedule for~~
24 ~~personal health services basing the schedule on actual~~
25 ~~costs and providing for a sliding scale based on income~~

1 (6) If, in the opinion of the department, the services
2 of the minimum required staff have not been obtained by a
3 board, the department shall, after adequate notice has been
4 given to the affected board ~~or school district~~, provide the
5 staff services itself. The department may then submit an
6 itemized billing BILL to the appropriate board ~~or school~~
7 ~~district~~ for an equitable amount of the board ~~or school~~
8 ~~district~~ share to cover the costs of providing the services.
9 THE BOARD SHALL PAY THE BILL RECEIVED FROM THE DEPARTMENT.

10 Section 7. Financing. (1) Rather than providing direct
11 public health services itself, the department shall offer
12 any available financial resources to boards to provide
13 public health programs which are authorized or mandated by
14 state or federal law and whose purposes are to provide
15 services directly to the citizens of the state. Exceptions
16 to this provision are the following programs:

- 17 (a) air quality programs;
- 18 (b) central recording of vital statistic documents;
- 19 (c) departmental consulting and reference services
- 20 available to local health departments and boards;
- 21 (d) family planning programs;
- 22 (e) hospital and medical facilities licensing and
- 23 certification;

24 (F) INSPECTION OF STATE INSTITUTIONS FOR SANITARY
25 CONDITIONS;

1 ~~(G) OCCUPATIONAL HEALTH PROGRAMS;~~
 2 ~~(H) RADIOLOGICAL HEALTH PROGRAMS;~~
 3 ~~(I) specialized medical and diagnostic services;~~
 4 ~~(J) STATE LEVEL SUBDIVISION PLAN APPROVAL;~~
 5 ~~(K) statewide health planning; and~~
 6 ~~(L) water quality programs.~~
 7 (2) If the boards do not wish to provide or are
 8 incapable of providing any program offered by the
 9 department, the department may provide the program.
 10 (3) Nothing in subsections (1) and (2) above shall be
 11 construed to mean that the department is prohibited from
 12 offering the above direct service programs to local health
 13 departments and boards if it so desires.
 14 (4) Noncategorical federal moneys which are
 15 appropriated to the state for distribution to local health
 16 departments, including those appropriated under Public Law
 17 94-63, shall be allocated by the department to boards at the
 18 rate of at least 45 10 cents per capita of state population
 19 a year, USING THE LATEST OFFICIAL POPULATION ESTIMATE, PLUS
 20 \$5,000 A YEAR FOR BOARDS EMPLOYING FULL-TIME HEALTH OFFICERS
 21 AND \$500 FOR ALL OTHER BOARDS, for as long as the program
 22 continues. This amount may be adjusted if the total federal
 23 allocations to Montana increase or decrease under any
 24 federal programs, ~~but not less than 79% of the total amount~~
 25 ~~received from the federal government under Public Law 94-63~~

1 ~~shall be allocated to boards. The minimum amount allocated~~
 2 ~~to any board shall be at least \$800 per year.~~
 3 (5) County contributions toward the budgets for public
 4 health programs of local health departments shall be
 5 financed by either:
 6 (a) an appropriation from the county general fund
 7 after approval of a budget in the manner provided for other
 8 county offices and departments under Title 16, chapter 19;
 9 or
 10 (b) a levy of not more than 5 mills may be made on the
 11 taxable valuation of all property in the county in addition
 12 to all other levies authorized by law.
 13 (6) State and federal moneys allocated to boards for
 14 noncategorical public health programs may not be utilized to
 15 supplant county revenues which are contributed to the
 16 budgets of local health departments.
 17 (7) Except for school districts which provide the
 18 required school nursing services themselves in accordance
 19 with 75-5934, each elementary and secondary school district
 20 shall appropriate to the board an amount to be agreed upon
 21 by the school district and the board for the purpose of
 22 providing school nursing services and other services of the
 23 local health department which will benefit the schools and
 24 school children.
 25 (8) As a condition of receiving state revenues or

1 federal revenues allocated to the state for NONCATEGORICAL
 2 public health programs and services, the board shall submit
 3 an annual budget and a detailed program plan to the
 4 department annually. No conditions other than the provisions
 5 contained in this chapter and federal merit system
 6 requirements may be imposed on boards as requirements for
 7 eligibility to receive noncategorical state and federal
 8 funds. COMBINED STATE AND FEDERAL NONCATEGORICAL REVENUES
 9 DISBURSED BY THE DEPARTMENT SHALL NOT CONSTITUTE MORE THAN
 10 50% OF THE TOTAL ANNUAL BUDGET OF A LOCAL HEALTH DEPARTMENT.

11 (9) All fees collected by the local health department
 12 shall be deposited in an account to be used only to defray
 13 the expenses of providing the program of the local health
 14 department.

15 (10) All fees available to the department for licenses,
 16 permits, or other programs shall be shared with boards if
 17 the local health department has assisted with the
 18 administration of the program from which the fee resulted.
 19 The department shall share an appropriate percentage of the
 20 fee commensurate with the local health department's effort.

21 Section 8. Section 27-613, R.C.M. 1947, is amended to
 22 read as follows:

23 *27-613. Licenses required -- limited to premises --
 24 local health officer validation -- publicly owned
 25 establishments exempt -- right to license. (1) A person

1 operating an establishment shall procure an annual license
 2 from the department.

3 (2) A separate license is required for each
 4 establishment, but if more than one ~~(1)~~ type of
 5 establishment is operated on the same premises and under the
 6 same management, only one ~~(1)~~ license is required.

7 (3) Only one ~~(1)~~ license is required for a person
 8 owning and operating one ~~(1)~~ or more vending machines.

9 (4) Each license issued under this chapter is not
 10 valid until countersigned by the local health officer having
 11 jurisdiction in each county in which the business will be
 12 conducted. The department shall refer all licenses to the
 13 local health officer for his signature prior to the issuance
 14 of a license by the department. The initial license and
 15 subsequent renewals are invalid until the validation
 16 signature is affixed. The validation signature may be
 17 affixed only after the local health officer is satisfied
 18 that the establishment has met sanitary conditions required
 19 by rules of the department. THE LOCAL HEALTH OFFICER SHALL,
 20 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO
 21 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 22 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 23 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 24 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 25 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE

STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT.

~~(4)~~(5) Licenses expire on December 31 following the date of issue unless canceled for cause.

~~(5)~~(6) Licenses are not transferable nor applicable to any premises other than that for which the license was issued.

~~(6)~~(7) Establishments owned or operated by the state, or a political subdivision of the state, are exempt from licensure but must comply with the requirements of this chapter and rules adopted by the department under this chapter.

~~(7)~~(8) Licenses shall be granted as a matter of right unless grounds for denial or cancellation exist."

Section 9. Section 34-303, R.C.M. 1947, is amended to read as follows:

"34-303. License required. (1) Each year, every person engaged in the business of conducting or operating a hotel, motel, tourist home, retirement home or rooming house, shall procure a license issued by the department. A separate license is required for each establishment; however, where

more than one of each type of establishment is operated on the same premises and under the same management, only one license is required which shall enumerate on the certificate thereof the types of establishments licensed.

(2) Applications for a license shall be made in writing to the department on such forms and with such pertinent information as it considers necessary.

(3) Each license issued under this chapter is not valid until countersigned by the local health officer having jurisdiction in each county in which the business will be conducted. The department shall refer all licenses to the local health officer for his signature prior to the issuance of a license by the department. The initial license and subsequent renewals are invalid until the validation signature is affixed. The validation signature may be affixed only after the local health officer is satisfied that the establishment has met sanitary conditions required by rules of the department. THE LOCAL HEALTH OFFICER SHALL, WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30

1 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 2 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 3 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 4 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 5 PROCEDURE ACT.

6 (4) Existing licenses shall be renewed as a matter of
 7 right, unless conditions exist which are grounds for a
 8 cancellation or denial of a license.

9 (5) If determination is made to deny an initial
 10 application for a license, or if a renewal application is
 11 denied and a license canceled, the denial or cancellation
 12 shall be preceded by written notice of the grounds therefor
 13 and the opportunity to request a hearing before the board to
 14 show cause why the license should be denied."

15 Section 10. Section 69-4514, R.C.M. 1947, is
 16 renumbered 66-1015.1 and is amended to read as follows:

17 "~~69-4514~~66-1015.1. Cases of communicable disease --
 18 reports by practitioners of the healing arts. If a physician
 19 or other practitioner of the healing arts examines or treats
 20 a person whom he believes has a communicable disease, or a
 21 disease declared reportable by the department of health and
 22 environmental sciences, he shall immediately report the case
 23 to the local health officer. The report shall be in the
 24 form, and contain information, prescribed by the department
 25 of health and environmental sciences."

1 Section 11. Section 69-4110, R.C.M. 1947, is amended
 2 to read as follows:

3 "69-4110. Functions, powers, and duties of department.
 4 The department shall:

5 (1) ~~Study~~ study conditions affecting the citizens of
 6 the state by making use of birth, death, and sickness
 7 records;

8 (2) ~~Make~~ make investigations, disseminate information,
 9 and make recommendations for control of diseases and
 10 improvement of public health to persons, groups, or the
 11 public;

12 (3) ~~At~~ at the request of the governor, administer any
 13 federal health program for which responsibilities are
 14 delegated to states;

15 (4) ~~Inspect~~ inspect and work in conjunction with
 16 custodial institutions and Montana university system units
 17 periodically as necessary, and at other times on request of
 18 the governor;

19 (5) ~~After~~ after each inspection made under subsection
 20 (4) of this section, submit a written report on sanitary
 21 conditions to the governor and to the director of
 22 institutions or executive secretary of the Montana
 23 university system and include recommendations for
 24 improvement in conditions, if necessary;

25 (6) Advise advise state agencies on location,

1 drainage, water supply, disposal of excreta, heating,
2 plumbing, sewer systems, and ventilation of public
3 buildings;

4 (7) ~~Organize~~ organize laboratory services and provide
5 equipment and personnel for those services;

6 (8) ~~Develop~~ develop and administer activities for the
7 protection and improvement of dental health and supervise
8 dentists employed by the state; ~~local boards of health~~ or
9 schools;

10 (9) ~~Develop~~ develop and administer a program to
11 protect the health of mothers and children;

12 (10) ~~Conduct~~ conduct health education programs;

13 ~~(11) Supervise school and local public health nurses in~~
14 ~~the performance of their duties;~~

15 ~~(12)(11) Consult~~ consult with the superintendent of
16 public instruction on health measures for schools;

17 ~~(13)(12) Develop~~ develop and administer a program for
18 services to handicapped children including diagnosis,
19 medical, surgical and corrective treatment, and after-care
20 and related services;

21 ~~(14) Supervise local boards of health;~~

22 ~~(15)(13) Bring~~ bring actions in court for the
23 enforcement of the health laws and defend actions brought
24 against the board or department; and

25 (14) evaluate programs and services provided by local

1 health departments;

2 ~~(16)(15) Accept~~ accept and expend federal funds
3 available for public health services; and

4 ~~(17)(16) Have~~ have the power to use personnel of local
5 departments of health to assist in the administration of
6 laws relating to public health. If such personnel are
7 utilized for these purposes, however, local health
8 departments shall be reimbursed for the costs involved out
9 of moneys from any sources available to the department."

10 Section 12. Section 69-5604, R.C.M. 1947, is amended
11 to read as follows:

12 "69-5604. Application for license -- form and contents
13 -- license fee -- local health officer validation --
14 duration of license. (1) Application for a license is made
15 to the department on forms, and containing information,
16 required by the department.

17 (2) Each application shall be accompanied by a fee of
18 ~~twenty dollars (\$20). Licenses expire on December 31 of the~~
19 ~~year in which they are issued.~~ Fees collected by the
20 department shall be deposited in the state general fund.

21 (3) Each license issued under this chapter is not
22 valid until countersigned by the local health officer having
23 jurisdiction in each county in which the business will be
24 conducted. The department shall refer all licenses to the
25 local health officer for his signature prior to the issuance

1 of a license by the department. The initial license and
 2 subsequent renewals are invalid until the validation
 3 signature is affixed. The validation signature may be
 4 affixed only after the local health officer is satisfied
 5 that the establishment has met sanitary conditions required
 6 by rules of the department. THE LOCAL HEALTH OFFICER SHALL,
 7 WITHIN 30 DAYS AFTER THE DEPARTMENT HAS MADE A DECISION TO
 8 ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON
 9 WHETHER THE LICENSE WILL BE VALIDATED. IF THE LOCAL HEALTH
 10 OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 11 APPLICANT, THE DEPARTMENT, AND ANY OTHER INTERESTED PERSON
 12 IN WRITING. THE APPLICANT MAY APPEAL THE DECISION TO THE
 13 STATE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30
 14 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH
 15 OFFICER'S DECISION. THE HEARING BEFORE THE STATE BOARD OF
 16 HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO
 17 THE CONTESTED CASE PROCEDURES OF THE MONTANA ADMINISTRATIVE
 18 PROCEDURE ACT.

19 (4) Licenses expire on December 31 of the year in
 20 which they are issued.

21 (2)(5) Before June 30 of each year, the department
 22 shall pay to a local board of health department as
 23 established under section 69-4504, 69-4506, or 69-4507,
 24 [sections 4, 6, and 7 of this act] an amount from any
 25 general fund appropriation to the department which is for

1 the purpose of inspecting establishments licensed under this
 2 act; provided, however, that there is ~~a functioning local~~
 3 ~~board of health and that~~ the local board of health
 4 department, local health officers, and sanitarians assist in
 5 the enforcement of the provisions of this chapter and the
 6 rules adopted under it.

7 ~~(3)(6)~~ Before June 1 of each year, the local board of
 8 health department shall submit to the department a list of
 9 the establishments in each jurisdiction which are licensed
 10 under this section. The funds received by the local board
 11 of health department shall be deposited with the appropriate
 12 local fiscal authority county treasurer and shall be in
 13 addition to the funds appropriated under section ~~69-4500~~
 14 [section 7 of this act]."

15 Section 13. Section 69-5701, R.C.M. 1947, is amended
 16 to read as follows:

17 "69-5701. Violations of public health laws or rules of
 18 board or department. (1) If a person refuses or neglects to
 19 comply with a written order of a state or local health
 20 officer, or other local public health personnel acting in
 21 the performance of their duties, within a reasonable time
 22 specified in the order, the state or local health officer
 23 may:

24 (a) obtain a court order enforcing compliance with the
 25 order; or

1 (b) if the conditions indicate an imperative threat to
2 public health, take whatever action is necessary to
3 alleviate the conditions which prompted the order.

4 (2) The state or local health officer may initiate an
5 action to recover any expenses incurred from the person who
6 refused or neglected to comply with the order. The action to
7 recover expenses shall be brought in the name of the county
8 involved.

9 (3) No person may remove or deface any placard or
10 notice posted by the local health officer or other local
11 public health personnel acting in the performance of their
12 duties or violate a quarantine regulation.

13 (4) Anyone who knowingly violates a public health law
14 or rule adopted by the board of health and environmental
15 sciences; or the department of health and environmental
16 sciences; or a local health department, for which no
17 penalty is specified, is guilty of a misdemeanor.

18 (5) Each day of violation constitutes a separate
19 offense. Fines shall be paid to the county treasurer of the
20 county in which the violation occurs."

21 Section 14. Section 75-5934, R.C.M. 1947, is amended
22 to read as follows:

23 "75-5934. Other powers and duties. The trustees of any
24 district shall have the power and it shall be its duty:

25 (1) to employ and dismiss administrative personnel,

1 clerks, secretaries, teacher aides, custodians, maintenance
2 personnel, school bus drivers, food service personnel,
3 nurses, and any other personnel deemed necessary to carry
4 out the various services of the district;

5 (2) to make such reports from time to time as the
6 county superintendent, superintendent of public instruction
7 and board of education may require;

8 (3) to retain, when deemed advisable, a physician or
9 registered nurse to inspect the sanitary conditions of the
10 school or the general health conditions of each pupil, and
11 upon request make available to any parent or guardian any
12 medical reports or health records maintained by the district
13 pertaining to his child;

14 (4) to obtain the services of a registered
15 professional nurse to provide a program of school nursing
16 services. If school nursing services are provided by the
17 local health department, this provision does not apply.

18 ~~(4)~~(5) for each member of the trustees, to visit each
19 school of the district not less than once each school fiscal
20 year to examine its management, conditions and needs; and

21 ~~(5)~~(6) procure and display outside daily in suitable
22 weather at each school of the district an American flag
23 which shall be not less than four-~~(4)~~ feet by six-~~(6)~~ feet."

24 Section 15. There is a new R.C.M. section numbered
25 69-4003.1 that reads as follows:

1 69-4003.1. Dead animals -- unlawful disposition. (1)

2 It is unlawful to:

3 (a) place all or any part of a dead animal in any
4 lake, river, creek, pond, reservoir, road, street, alley,
5 lot, or field;

6 (b) place all or any part of a dead animal within 1
7 mile of the residence of any person unless the dead animal
8 is burned or buried at least 2 feet underground; or

9 (c) being the owner, permit all or any part of a dead
10 animal to remain in the places specified in subsections
11 (1)(a) and (1)(b) of this section except as provided in
12 subsection (1)(b) of this section.

13 (2) Every 24 hours that a dead animal or part of a
14 dead animal remains in the places specified in subsections
15 (1)(a) and (1)(b) of this section except as provided in
16 subsection (1)(b) of this section is a separate violation.

17 Section 16. Repealer. Section 69-4118, R.C.M. 1947,
18 and chapter 45 of Title 69, R.C.M. 1947, in its entirety,
19 are repealed.

-End-