

Senate BILL NO. 330
 INTRODUCED BY *Collegy Norman Sisko*

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 69-5604, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30) LICENSE FEE FOR TOURIST CAMPGROUNDS AND TRAILER COURTS AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 69-5606, R.C.M. 1947, BY PROVIDING THE PROCEDURE FOR CANCELLATION OR DENIAL OF A TOURIST CAMPGROUND OR TRAILER COURT LICENSE; AMENDING SECTION 69-5607, R.C.M. 1947, BY PROVIDING FOR INCREASED PENALTIES ON SECOND AND THIRD CONVICTIONS; ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 69-5604, R.C.M. 1947, is amended to read as follows:

"69-5604. Application for license--form and contents--license fee--duration of license. (1) Application for a license is made to the department on forms, and containing information, required by the department. Each application shall be accompanied by a fee of ~~ten-dollars~~ thirty dollars (\$30). Licenses expire on December 31 of the year in which they are issued. Fees collected by the

department shall be deposited in the state general fund.
 (2) Before June 30 of each year, the department shall pay to a local board of health as established under section 69-4504, 69-4506, or 69-4507, a payment of twenty dollars (\$20) for each establishment that is licensed in the jurisdiction of that local board of health; provided, however, that there is a functioning local board of health, and that the local board of health, local health officers, and sanitarians assist in the enforcement of the provisions of this chapter and the rules adopted under it.

(3) Before June 1 of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction which are licensed under this section. The funds received by the local board of health shall be deposited with the appropriate local fiscal authority and shall be in addition to the funds appropriated under section 69-4508."

Section 2. Section 69-5606, R.C.M. 1947, is amended to read as follows:

"69-5606. ~~Bental-of-application-for-err--revocation--of license--request--for--hearing--before-the-board,-notice. If the department--denies--an--application--for--a--license--or revokes--a--license--that--has--been--issued, an--applicant--or licensee--is--entitled--to--a--hearing--before--the--board--of--health and--environmental--sciences--to--shew--cause--why--the--action~~

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 2 or-licensee-shall-notify-the-board--in--writing--before--the
 3 tenth--day--after--notice--of--the--denial--or--revocation--is
 4 received:

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 6 procedure. (1) The department may cancel a license if it
 7 finds, after proper investigation, that the licensee has
 8 violated this chapter or a rule effective under this
 9 chapter, and the licensee has failed or refused to remedy or
 10 correct the violation. Submission to the department of an
 11 acceptable plan of correction within ten (10) days after
 12 receipt from the department of written notice of violation,
 13 and execution of an acceptable plan within the time
 14 prescribed in the written notice of approval of the plan by
 15 the department shall be a bar to prosecution for violation.

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 20 answer at a hearing before the department to show cause, if
 21 any, why the license should not be denied or cancelled. In
 22 this case, the licensee must make a written request to the
 23 department for a hearing within ten (10) days after notice
 24 of the grounds or charges has been received.

25 (3) When the department furnishes evidence to the

1 county attorney of a county in this state, the county
 2 attorney shall prosecute any person, firm, or corporation
 3 violating this chapter, or a rule effective under this
 4 chapter."

5 Section 3. Section 69-5607, R.C.M. 1947, is amended to
 6 read as follows:

7 "69-5607. Violations and penalty--disposition of
 8 fines. A--person--violating--provisions--of--this--act,--or--rules
 9 adopted--by--the--department,--is--guilty--of--a--misdemeanor;--On
 10 conviction--he--shall--be--fined--not--less--than--twenty--five
 11 dollars--(\$25)--nor--more--than--one--hundred--dollars--(\$100);--
 12 Any person violating any provision of this chapter or
 13 regulation made under it shall be guilty of a misdemeanor,
 14 and, upon conviction, shall be fined not less than fifty
 15 dollars (\$50) nor more than one hundred dollars (\$100) for
 16 the first offense, and not less than seventy-five dollars
 17 (\$75) nor more than two hundred dollars (\$200) for the
 18 second offense; and for the third and subsequent offenses,
 19 by a fine of not less than two hundred dollars (\$200) and
 20 imprisonment in the county jail not to exceed ninety (90)
 21 days. Fines shall be paid to the county treasurer of the
 22 county in which the tourist campground or trailer court is
 23 located. The county treasurer shall send all fines collected
 24 to the state treasurer for deposit in the state general
 25 fund."

1 Section 4. There is a new R.C.M. section numbered
2 69-5606.1 that reads as follows:

3 69-5606.1. Emergency enforcement remedy. (1) The
4 department, local, county, or district health officer,
5 sanitarian, or other authorized representative, if he finds
6 after proper investigation of a tourist campground or
7 trailer court subject to the provisions of this chapter that
8 the public health, safety, or welfare imperatively requires
9 emergency action, may close the tourist campground or
10 trailer court for a period not to exceed seventy-two (72)
11 hours.

12 (2) When a local, county, or district health officer
13 or sanitarian closes a tourist campground or trailer court
14 under this section, he shall immediately notify the
15 department and recommend further action that may be taken
16 under the provisions of this chapter.

17 (3) A tourist campground or trailer court closed under
18 the provisions of this section shall remain closed until
19 such time as the department, local, county, or district
20 health officer or sanitarian determines that emergency
21 action is no longer necessary, but in no event may the
22 closure exceed seventy-two (72) hours except when other
23 appropriate enforcement action has been initiated.

24 Section 5. There is a new R.C.M. section numbered
25 69-5606.2 that reads as follows:

1 69-5606.2. Injunctions. Notwithstanding any other
2 provision of this chapter, the department, local, county, or
3 district health officer or sanitarian may bring an action
4 for an injunction against the continuation of an alleged
5 violation which has been the basis for denial or
6 cancellation of a license by the department or against a
7 person who fails to comply with an emergency order.

8 Section 6. This act is effective January 1, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 186-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 1975, there is hereby submitted a Fiscal Note for Senate Bill 330 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:

Senate Bill 330 increases the license fee for tourist campgrounds and trailer courts from the current \$10 to \$30, the addition to accrue to local boards of health; provides procedures for cancellation or denial of a tourist campground or trailer court license; provides for increased penalties on second and third connections; adopts an emergency enforcement remedy; provides for injunction procedures; and provides an effective date of January 1, 1976.

ASSUMPTIONS:

1. Historical license data for 1968-1974 serves as the basis for estimating the number of FY 76 and FY 77 tourist campgrounds and trailer courts.
2. Administration of the county grant system will require additional state personal services costs of \$1200 per year. All personal service costs will increase 10% per year.

FISCAL IMPACT:

	FY 76	FY 77
I. Revenue		
Estimated revenue under current law	<u>\$12,620</u>	<u>\$13,380</u>
Estimated revenue under proposed law	<u>37,860</u>	<u>40,140</u>
Estimated increase in revenue	<u>\$25,240</u>	<u>\$26,760</u>
II. Expenditures		
Estimated expenditures by category under current law		
Personal Services	<u>\$22,537</u>	<u>\$24,792</u>
Operating Expenses	<u>4,648</u>	<u>5,113</u>
		<u>\$29,905</u>
Estimated expenditures by category under proposed law		
Personal Services	<u>22,912</u>	<u>25,203</u>
Operating Expenses	<u>4,648</u>	<u>5,113</u>
Grants	<u>25,240</u>	<u>57,076</u>
Estimated increase in expenditures	<u>\$25,615</u>	<u>\$27,171</u>
III. Estimated net effect (Revenue - Expenditures)	<u>\$ 375</u>	<u>\$ 411</u>

LOCAL IMPACT:

Increased license fees distributed to the counties should total \$109,876 during the biennium. The increased local revenue will help defray the cost of licensing inspections at the local level.

CONCLUSION:

Enactment of Senate Bill 330 would increase net expenditures by an estimated \$786 during the biennium.

Michael B. Pallings
BUDGET DIRECTOR

Office of Budget and Program Planning
Date: February 13, 1975

Approved by Committee
on Public Health, Welfare
& Safety

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2 INTRODUCED BY COLBERG, NORMAN, SEIBEL

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-End-

March 15, 1975

COMMITTEE ON STATE ADMINISTRATION AMENDMENTS TO SENATE BILL 330

1. Amend title, page 1, line 5.
Following: "A"
Strike: "THIRTY"
Insert: "TWENTY"
2. Amend title, page 1, line 5.
Following: "DOLLAR"
Strike: "(\$30)"
Insert: "(\$20)"
3. Amend title, page 1, lines 6 & 7.
Following: "COURTS"
Strike: "AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH"
4. Amend title, page 1, lines 12 & 13.
Following: "CONVICTIONS;"
Strike: "ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION;"
5. Amend page 1, section 1, line 24.
Following: "({\$10})"
Strike: "thirty"
Insert: "twenty"
6. Amend page 1, section 1, line 24.
Following: "dollars"
Strike: "(\$30)"
Insert: "(\$20)"
7. Amend page 2, section 1, subsection (2), lines 2 through 17.
Strike: subsections (2) and (3) in their entirety.
8. Amend page 4, section 3, lines 5 through 25 page 5, lines 1 through 25 and page 6, lines 1 through 9.
Strike: sections 3, 4, & 5 in their entirety.

AS SO AMENDED
BE CONCURRED IN

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INTRODUCED BY COLBERG, NORMAN, SEIBEL

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6 under--section--69-4508."~~

27 Section 2. Section 69-5606, R.C.M. 1947, is amended to
28 read as follows:

29 "69-5606. Denial-of-application-for-or--revocation--of
30 license--request--for--hearing--before--the--board,--notice,--if
31 the--department--denies--an--application--for--a--license--or
32 revokes--a--license--that--has--been--issued,--an--applicant--or
33 licensee--is--entitled--to--a--hearing--before--the--board--of--health

1 and environmental sciences to show cause why the action
 2 should not be taken. If a hearing is desired, the applicant
 3 or licensee shall notify the board in writing before the
 4 tenth day after notice of the denial or revocation is
 5 received.

6 Cancellation or denial of license --
 7 procedure. (1) The department may cancel a license if it
 8 finds, after proper investigation, that the licensee has
 9 violated this chapter or a rule effective under this
 10 chapter, and the licensee has failed or refused to remedy or
 11 correct the violation. Submission to the department of an
 12 acceptable plan of correction within ten (10) days after
 13 receipt from the department of written notice of violation,
 14 and execution of an acceptable plan within the time
 15 prescribed in the written notice of approval of the plan by
 16 the department shall be a bar to prosecution for violation.

17 (2) A license may not be denied or cancelled by the
 18 department without delivery to the applicant or licensee of
 19 a written statement of the grounds for denial or
 20 cancellation or the charge involved and an opportunity to
 21 answer at a hearing before the department to show cause, if
 22 any, why the license should not be denied or cancelled. In
 23 this case, the licensee must make a written request to the
 24 department for a hearing within ten (10) days after notice
 25 of the grounds or charges has been received.

1 (3) When the department furnishes evidence to the
 2 county attorney of a county in this state, the county
 3 attorney shall prosecute any person, firm, or corporation
 4 violating this chapter, or a rule effective under this
 5 chapter."

6 Section 3 -- Section 69-5607, R.R.M. 1947, is amended to
 7 read as follows:

8 69-5607 -- Violations -- and -- penalty -- disposition -- of
 9 fines -- A person violating provisions of this act, or rules
 10 adopted by the department, is guilty of a misdemeanor -- On
 11 conviction -- he shall be fined not less than twenty-five
 12 dollars -- \$25 -- nor more than one hundred dollars -- \$100 -- Any
 13 person violating any provision of this chapter or regulation
 14 made under it shall be guilty of a misdemeanor, and, upon
 15 conviction, shall be fined not less than fifty dollars -- \$50 --
 16 nor more than one hundred dollars -- \$100 -- for the first
 17 offense, and not less than seventy-five dollars -- \$75 -- nor
 18 more than two hundred dollars -- \$200 -- for the second offense,
 19 and for the third and subsequent offenses, by a fine of not
 20 less than two hundred dollars -- \$200 -- and imprisonment in the
 21 county jail not to exceed ninety (90) days. Fines shall be
 22 paid to the county treasurer of the county in which the
 23 tourist campground or trailer court is located. The county
 24 treasurer shall send all fines collected to the state
 25 treasurer for deposit in the state general fund.

1 Section 4.---There is a new R.C.M. section numbered
 2 69-5606.1 that reads as follows:
 3 69-5606.1.---Emergency enforcement remedy.----(1)---The
 4 department,--local,--county,--or--district--health--officer,
 5 sanitarian,--or--other--authorized--representative,--if--he--finds
 6 after--proper--investigation--of--a--tourist--campground--or
 7 trailer--court--subject--to--the--provisions--of--this--chapter--that
 8 the--public--health,--safety,--or--welfare--imperatively--requires
 9 emergency--action,--may--close--the--tourist--campground--or
 10 trailer--court--for--a--period--not--to--exceed--seventy--two--(72)
 11 hours.

12 (2)---When--a--local,--county,--or--district--health--officer
 13 or--sanitarian--closes--a--tourist--campground--or--trailer--court
 14 under--this--section,--he--shall--immediately--notify--the
 15 department--and--recommend--further--action--that--may--be--taken
 16 under--the--provisions--of--this--chapter.

17 (3)---A--tourist--campground--or--trailer--court--closed--under
 18 the--provisions--of--this--section--shall--remain--closed--until
 19 such--time--as--the--department,--local,--county,--or--district
 20 health--officer--or--sanitarian--determines--that--emergency
 21 action--is--no--longer--necessary,--but--in--no--event--may--the
 22 closure--exceed--seventy--two--(72)--hours--except--when--other
 23 appropriate--enforcement--action--has--been--initiated. AN
 24 EMERGENCY CLOSING MAY BE CONSIDERED A "CONTESTED CASE" NUMBER
 25 THE MONTANA ADMINISTRATIVE PROCEDURE ACT AND THE LICENSE IS

1 ENTITLED TO A HEARING UNDER THAT ACT.
 2 Section 5.---There is a new R.C.M. section numbered
 3 69-5606.2 that reads as follows:
 4 69-5606.2.---Injunctions.----Notwithstanding--any--other
 5 provision--of--this--chapter,--the--department,--local,--county,--or
 6 district--health--officer--or--sanitarian--may--bring--an--action
 7 for--an--injunction--against--the--continuation--of--an--alleged
 8 violation--which--has--been--the--basis--for--denial--or
 9 cancellation--of--a--license--by--the--department--or--against--a
 10 person--who--fails--to--comply--with--an--emergency--order.

11 Section 3. This act is effective January 1, 1976.

-End-