

SENATE BILL 391

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on State Administration.
February 7, 1979	Fiscal note requested.
February 14, 1979	Fiscal note returned.
February 19, 1979	Committee recommend bill, do not pass.

1 *Spice* BILL NO. *391*  
 2 INTRODUCED BY *Lois Green Himmel*  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
 6 REGULATION OF THE PRACTICE OF PUBLIC ACCOUNTING BY A BOARD  
 7 OF PROFESSIONAL SERVICE REGULATION IN THE DEPARTMENT OF  
 8 BUSINESS REGULATION; TERMINATING THE OPERATION OF THE BOARD  
 9 OF PUBLIC ACCOUNTANTS ON JULY 1, 1979; ELIMINATING  
 10 REFERENCES TO THE BOARD OF PUBLIC ACCOUNTANTS; GENERALLY  
 11 REVISING THE LAWS RELATING TO THE REGULATION OF PUBLIC  
 12 ACCOUNTING; AMENDING SECTIONS 2-8-121, 37-50-101, 37-50-102,  
 13 37-50-203, 37-50-301 THROUGH 37-50-303, 37-50-305,  
 14 37-50-308, 37-50-309, 37-50-314, 37-50-315, 37-50-321, AND  
 15 37-50-331 THROUGH 37-50-335, MCA; AND REPEALING SECTIONS  
 16 2-15-1641, 37-50-201, 37-50-202, 37-50-304, 37-50-306,  
 17 37-50-307, AND 37-50-312, MCA."  
 18

19 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
 20 will terminate the board of public accountants and require a  
 21 performance evaluation of the board by the legislative audit  
 22 committee; and

23 WHEREAS, as a result of the performance evaluation, the  
 24 legislative audit committee recommends that the board of  
 25 public accountants be abolished and regulation of the field

1 of public accounting be transferred to the board of  
 2 professional service regulation in the department of  
 3 business regulation and that certain statutory provisions be  
 4 amended or repealed.

5  
 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. Section 2-8-121, MCA, is amended to read:

8 "2-8-121. Effect of termination. Upon Unless otherwise  
 9 provided, upon termination, each agency or unit shall  
 10 continue in existence until July 1 of the next succeeding  
 11 year for the purpose of winding up its affairs. During the  
 12 windup period, termination does not reduce or otherwise  
 13 limit the powers or authority of each respective agency  
 14 except that no action may be taken which would continue in  
 15 effect beyond the 1-year windup period. Upon the expiration  
 16 of the 1 year after termination, each agency not modified or  
 17 reestablished shall be abolished and all unexpended balances  
 18 of appropriations, allocations, or other funds shall revert  
 19 to the fund from which they were appropriated or, if that  
 20 fund is abolished, to the general fund."

21 Section 2. Section 37-50-101, MCA, is amended to read:

22 "37-50-101. Definitions. Unless the context requires  
 23 otherwise, in this chapter the following definitions apply:  
 24 (1) "Board" means the board of public--accountants  
 25 provided--for--in--2-15-1641 professional service regulation

1 provided for in [section 2 of Senate Bill 247].

2 (2) "Department" means the department of professional  
3 ~~and occupational licensing provided for in Title 2, chapter~~  
4 ~~15, part 16~~ business regulation provided for in Title 2,  
5 chapter 15, part 18."

6 Section 3. Section 37-50-102, MCA, is amended to read:

7 "37-50-102. Exemptions. ~~(1)~~ Nothing contained in this  
8 chapter shall prohibit any person not a certified public  
9 accountant or licensed public accountant from serving as an  
10 employee of or an assistant to a certified public accountant  
11 or a licensed public accountant holding a license to  
12 practice under 37-50-314 or a partnership or corporation  
13 composed of certified public accountants or licensed public  
14 accountants registered under this chapter or a foreign  
15 accountant registered under 37-50-313 provided that such  
16 employee or assistant shall not issue any accounting or  
17 financial statement over his name.

18 ~~(2) Nothing contained in this chapter shall prohibit a~~  
19 ~~certified public accountant or a licensed public accountant~~  
20 ~~of another state or any accountant who holds a certificate,~~  
21 ~~degree, or license in a foreign country constituting a~~  
22 ~~recognized qualification for the practice of public~~  
23 ~~accounting in such country from temporarily practicing in~~  
24 ~~this state on professional business incident to his regular~~  
25 ~~practice outside this state, provided that such temporary~~

1 ~~practice is conducted in conformity with the rules of~~  
2 ~~professional conduct promulgated by the board."~~

3 Section 4. Section 37-50-203, MCA, is amended to read:

4 "37-50-203. ~~Rules of professional conduct~~  
5 ~~solicitation of advisory comments~~ Rulemaking powers of the  
6 board. (1) The board may make rules of professional conduct  
7 appropriate to establish and maintain a high standard of  
8 integrity, dignity, and competency in the profession of  
9 public accountancy. The board shall prescribe and enforce  
10 such rules as are consistent with or required by the public  
11 welfare. The rules shall include:

12 (a) rules of procedure for governing the conduct of  
13 matters before the board;

14 (b) rules of professional standards, competency, and  
15 conduct to establish, maintain, and enforce a high standard  
16 of competence and integrity in the profession of public  
17 accountancy, including but not limited to competence in  
18 specific fields of public accountancy;

19 (c) rules governing educational requirements for  
20 issuance of the certificate of certified public accountants;

21 (d) rules prescribing continuing education  
22 requirements to be met from time to time by the holders of  
23 such certificates, in order to maintain their professional  
24 knowledge and competence, as a condition to continuing in  
25 the practice of public accountancy;

1 (e) rules governing partnerships and corporations  
 2 practicing public accounting, including but not limited to  
 3 rules concerning their style, name, title, and affiliation  
 4 with any other organization and establishing reasonable  
 5 standards with respect to professional liability insurance  
 6 and unimpaired capital and prescribing joint and several  
 7 liability for torts relating to professional services for  
 8 shareholders of any such corporation failing to comply with  
 9 such standards;

10 (f) rules setting forth the experience requirements,  
 11 not to exceed 2 years, for certification as a certified  
 12 public accountant and defining terms and areas of experience  
 13 required;

14 (g) any other rule which the board considers necessary  
 15 or appropriate in exercising its functions.

16 (2) At least 60 days prior to the adoption of a rule  
 17 or amendment, the department shall mail copies of the  
 18 proposed rule or amendment to each holder of a license  
 19 issued under 37-50-314, with a notice advising him of the  
 20 proposed effective date of the rule or amendment and  
 21 requesting that he submit his comments on it at least 15  
 22 days prior to the effective date. These comments are  
 23 advisory only. The department's certificate of mailing to  
 24 licensed accountants is conclusive proof thereof."

25 Section 5. Section 37-50-301, MCA, is amended to read:

1 "37-50-301. Illegal use of title. (1) No person may  
 2 assume or use the title or designation "certified public  
 3 accountant" or the abbreviation "CPA" or any other title,  
 4 designation, words, letters, abbreviation, sign, card, or  
 5 device tending to indicate that such person is a certified  
 6 public accountant unless such person has received a  
 7 certificate as a certified public accountant under  
 8 ~~37-50-302, holds a license issued under 37-50-314 which is~~  
 9 ~~not revoked or suspended in some state and is certified~~  
 10 ~~under 37-50-302, 37-50-310, or 37-50-311,~~ and all of such  
 11 person's offices in this state for the practice of public  
 12 accounting are maintained and registered as required under  
 13 37-50-335. However, a foreign accountant who has registered  
 14 under the provisions of 37-50-313 ~~and who holds a current~~  
 15 ~~license issued under 37-50-314~~ may use the title under which  
 16 he is generally known in his country, followed by the name  
 17 of the country from which he received his certificate,  
 18 license, or degree.

19 (2) No partnership or corporation shall assume or use  
 20 the title or designation "certified public accountant" or  
 21 the abbreviation "CPA" or any other title, designation,  
 22 words, letters, abbreviation, sign, card, or device tending  
 23 to indicate that such partnership or corporation is composed  
 24 of certified public accountants unless it is registered  
 25 under 37-50-331 or 37-50-332, whichever is applicable, and

1 all of its offices in this state for the practice of public  
2 accounting are maintained and registered as required under  
3 37-50-335.

4 (3) No person may assume or use the title or  
5 designation "licensed public accountant", "public  
6 accountant", or any other title, designation, words,  
7 letters, abbreviation, sign, card, or device tending to  
8 indicate that such person is a public accountant unless such  
9 person is ~~registered licensed~~ as a licensed public  
10 accountant under 37-50-303, holds a current license issued  
11 under 37-50-314, and all of such person's offices in this  
12 state for the practice of public accounting are maintained  
13 and registered as required under 37-50-335 or unless such  
14 person has received a certificate as a certified public  
15 accountant ~~under 37-50-302 in some state~~, holds a current  
16 license issued under 37-50-314, and all of such person's  
17 offices in this state for the practice of public accounting  
18 are maintained and registered as required under 37-50-335.

19 (4) No partnership or corporation may assume or use  
20 the title or designation "licensed public accountant",  
21 "public accountant", or any other title, designation, words,  
22 letters, abbreviation, sign, card, or device tending to  
23 indicate that such partnership or corporation is composed of  
24 public accountants unless it is registered under 37-50-331,  
25 37-50-332, 37-50-333, or 37-50-334, whichever is applicable.

1 and all of its offices in this state for the practice of  
2 public accounting are maintained and registered as required  
3 under 37-50-335.

4 (5) No person, corporation, or partnership may assume  
5 or use the title or designation "certified accountant",  
6 "chartered accountant", "enrolled accountant", "licensed  
7 accountant", "registered accountant", or any other title or  
8 designation likely to be confused with "certified public  
9 accountant", "licensed public accountant", "public  
10 accountant" or any of the abbreviations "CA", "EA", "LA", or  
11 "RA" or similar abbreviations likely to be confused with  
12 "CPA" ~~or "LPA"~~. However, ~~anyone who holds a current license~~  
13 ~~issued under 37-50-314 and all of whose offices in the state~~  
14 ~~for the practice of public accounting are maintained and~~  
15 ~~registered as required under 37-50-335 may hold himself out~~  
16 ~~to the public as an "accountant" or "auditor" as provided in~~  
17 ~~subsections (1), (2), (3), and (4)) and a foreign accountant~~  
18 ~~registered under 37-50-313 who holds a current license~~  
19 ~~issued under 37-50-314 and all of whose offices in this~~  
20 ~~state for the practice of public accounting are maintained~~  
21 ~~and registered as required under 37-50-335 may use the title~~  
22 under which he is generally known in this country, followed  
23 by the name of the country from which he received his  
24 certificate, license, or degree.

25 (6) No person may sign or affix his name or any trade

1 or assumed name used by him in his profession or business  
 2 with any wording indicating that he ~~is an accountant or~~  
 3 ~~auditor or with any wording indicating that he~~ has expert  
 4 knowledge in accounting or auditing to any accounting or  
 5 financial statement or to any opinion on, report on, or  
 6 certificate to any accounting or financial statement unless  
 7 he holds a current license issued under 37-50-314 and all of  
 8 his offices in this state for the practice of public  
 9 accounting are maintained and registered under 37-50-335.  
 10 However, the provisions of this subsection do not prohibit  
 11 any officer, employee, partner, or principal of any  
 12 organization from affixing his signature to any statement or  
 13 report in reference to the financial affairs of that  
 14 organization with any wording designating the position,  
 15 title, or office which he holds in that organization, nor do  
 16 the provisions of this subsection prohibit any act of a  
 17 public official or public employee in the performance of his  
 18 duties as such.

19 (7) No person may sign or affix a partnership or  
 20 corporation name with any wording indicating that it is a  
 21 partnership or corporation composed of accountants or  
 22 auditors or persons having expert knowledge in accounting or  
 23 auditing to any accounting or financial statement or to any  
 24 report on or certificate to any accounting or financial  
 25 statement unless the partnership or corporation is

1 registered under 37-50-331, 37-50-332, 37-50-333, or  
 2 37-50-334 and all of its offices in this state for the  
 3 practice of public accounting are maintained and registered  
 4 as required under 37-50-335.

5 (8) No person may assume or use the title or  
 6 designation "certified public accountant" or "public  
 7 accountant" in conjunction with names indicating or implying  
 8 that there is a partnership or corporation or in conjunction  
 9 with the designation "and company" or "and co." or a similar  
 10 designation if, in any such case, there is in fact no bona  
 11 fide partnership or corporation registered under 37-50-331,  
 12 37-50-332, 37-50-333, or 37-50-334. However, ~~a sole~~  
 13 ~~proprietor or partnership lawfully using such title or~~  
 14 ~~designation in conjunction with such name or designation on~~  
 15 ~~duty in 1969, may continue to do so if he or it otherwise~~  
 16 ~~complies with the provisions of this chapter, and further,~~  
 17 it is lawful for a sole proprietor to continue the use of  
 18 the deceased's name in connection with his business for a  
 19 reasonable period of time after the death of a former  
 20 partner."

21 Section 6. Section 37-50-302, MCA, is amended to read:  
 22 "37-50-302. Certified public accountants --  
 23 certification -- qualifications and requirements.  
 24 Certification as a certified public accountant is available  
 25 to any person who:

1 ~~(1) is a citizen of the United States or has declared~~  
2 ~~his intention of becoming a citizen~~

3 ~~(2) is a resident of this state or has a place of~~  
4 ~~business in this state or, as an employee, is regularly~~  
5 ~~employed in this state;~~

6 ~~(3)(1) is of good moral character;~~

7 ~~(4)(2) has successfully passed the certified public~~  
8 ~~accountants' examination; and~~

9 ~~(5)(3) meets the requirements of education and~~  
10 ~~experience in 37-50-305 and 37-50-306 set forth in this~~  
11 ~~chapter."~~

12 Section 7. Section 37-50-303, MCA, is amended to read:

13 "37-50-303. ~~Public accountants~~ ~~licensure~~  
14 ~~qualifications and requirements~~ Continued licensure of  
15 currently licensed public accountants. Licensure as a public  
16 accountant is available to any person who:

17 ~~(1) is a citizen of the United States or has declared~~  
18 ~~his intention of becoming a citizen~~

19 ~~(2) is a resident of this state or has a place of~~  
20 ~~business in this state or, as an employee, is regularly~~  
21 ~~employed in this state;~~

22 ~~(3) is of good moral character;~~

23 ~~(4) meets the requirements of education and experience~~  
24 ~~set forth in 37-50-305 and 37-50-306; and~~

25 ~~(5) complies with the qualifications and requirements~~

1 ~~in any one of the subsections of 37-50-304. Licensure as a~~  
2 ~~licensed public accountant is available to any person who is~~  
3 ~~licensed as such on July 1, 1979. In addition, persons~~  
4 ~~-serving in the armed forces of the United States on July 1,~~  
5 ~~1979, who immediately prior to entering this service held~~  
6 ~~themselves out to the public as licensed public accountants~~  
7 ~~and who were engaged as principals, in this state, in the~~  
8 ~~practice of public accounting as their principal occupation~~  
9 ~~prior to service in the armed forces, may register with the~~  
10 ~~department within 6 months after the date of their~~  
11 ~~separation from active service, and on registration and~~  
12 ~~payment of the license fee, be issued a license by the~~  
13 ~~department as a licensed public accountant. A principal is~~  
14 ~~either the owner of or a partner in an existing accounting~~  
15 ~~practice."~~

16 Section 8. Section 37-50-305, MCA, is amended to read:

17 "37-50-305. Education and experience requirements.  
18 ~~Education and experience requirements shall be as follows:~~

19 ~~(1) graduation from a college or university accredited~~  
20 ~~to offer a baccalaureate degree or an equivalent education~~  
21 ~~in the judgment of the board; and~~

22 ~~(2) one year of experience in public, private, or~~  
23 ~~governmental accounting of a nature and quality satisfactory~~  
24 ~~to the board. The education requirements for certification~~  
25 ~~as a certified public accountant shall be a baccalaureate~~

1 degree conferred by a college or university recognized by  
2 the board with:

3 (1) a concentration in accounting or what the board  
4 determines to be substantially the equivalent of the  
5 foregoing; or

6 (2) a nonaccounting concentration supplemented by what  
7 the board determines to be substantially the equivalent of  
8 an accounting concentration, including related courses in  
9 other areas of business administration."

10 Section 9. Section 37-50-308, MCA, is amended to read:

11 "37-50-308. Examination. Except as provided in  
12 37-1-101(4), the department shall hold and grade a written  
13 examination in accounting, auditing, and related subjects as  
14 the board determines appropriate. The grade determination of  
15 the department is final in each case. The department shall  
16 may use the examination and grading services of the American  
17 institute of certified public accountants. The examination  
18 shall be held at least annually and at such other times as  
19 applications warrant. The board may determine the time and  
20 place of examination and may adopt rules necessary for the  
21 orderly conduct of the examination."

22 Section 10. Section 37-50-309, MCA, is amended to  
23 read:

24 "37-50-309. Credit for examinations taken in other  
25 states. The board may by rule provide for granting credit to

1 a candidate for his satisfactory completion of a written  
2 examination in any one or more of the subjects of  
3 examination given by the licensing authority in another  
4 state if when he took the examination he was not a resident  
5 of this state. These rules shall include requirements the  
6 board determines appropriate in order that an examination  
7 approved as a basis for credit is, in the judgment of the  
8 board, at least as thorough as that included in the most  
9 recent examination given in this state at the time of  
10 granting the credit was originally granted by the other  
11 state."

12 Section 11. Section 37-50-314, MCA, is amended to  
13 read:

14 "37-50-314. ~~Annual renewal fee~~ Annual certification  
15 or licensure of individuals. (1) Annual licenses to engage  
16 in the practice of public accounting in this state shall be  
17 issued by the department to holders of the certificate of  
18 certified public accountant issued under 37-50-302 and to  
19 persons licensed under 37-50-303 if all offices, if any, of  
20 the certificate holder or licensed public accountant are  
21 maintained and registered under 37-50-335. There is an  
22 annual license fee in an amount to be determined by the  
23 board, not to exceed \$25 for a year or part thereof. Annual  
24 licenses expire on December 31 of each year and may be  
25 renewed for a period of 1 year by certificate holders and



1 ~~licensed public accountants in good standing on payment of~~  
2 ~~an annual renewal fee of not to exceed \$25.~~

3 ~~(2) Failure of a certificate holder or licensed public~~  
4 ~~accountant to apply for the annual license to practice~~  
5 ~~within 3 years from the expiration date of the annual~~  
6 ~~license to practice last obtained or renewed or 3 years from~~  
7 ~~the date on which the certificate holder or licensee was~~  
8 ~~granted his certificate or license deprives him of the right~~  
9 ~~to the annual license unless the board in its discretion~~  
10 ~~determines the failure to have been due to excusable~~  
11 ~~neglect.~~

12 ~~(3) A certificate holder or licensed public accountant~~  
13 ~~who is retiring from active practice or other employment~~  
14 ~~because of illness, age, marriage, or other justifiable~~  
15 ~~cause, in the opinion of the board, may be placed on an~~  
16 ~~inactive list without prejudicing his right to be issued an~~  
17 ~~annual license at a future date. A request for inactive~~  
18 ~~status must be sent to the department within the 3-year~~  
19 ~~period as outlined in this section. (1) Upon applications~~  
20 ~~annual certificates and licenses to engage in the practice~~  
21 ~~of public accounting in this state shall be issued by the~~  
22 ~~department to certified public accountants and to persons~~  
23 ~~licensed under the provisions of 37-50-303. There is an~~  
24 ~~annual certificate or license fee in an amount to be~~  
25 ~~determined by the board. Annual certificates or licenses~~

1 expire on December 31 of each year and may be renewed  
2 annually for a period of 1 year by certified public  
3 accountants and licensed public accountants in good standing  
4 on payment of an annual renewal fee in an amount to be  
5 determined by the board. Failure to renew a certificate or  
6 license shall cause the holder thereof to promptly surrender  
7 the certificate or license to the board upon request.

8 (2) After the expiration of the 3-year period  
9 immediately following the effective date of board rules  
10 establishing requirements of continuing education, every  
11 application for renewal of an annual certificate or license  
12 by any person who has held a certificate or license as a  
13 certified public accountant or a licensed public accountant  
14 for 3 years or more shall be accompanied or supported by  
15 such evidence as the board shall prescribe of satisfaction  
16 of such requirements during the last 3 years preceding the  
17 application. Failure by an applicant for renewal of an  
18 annual certificate or license to furnish such evidence  
19 constitutes ground for revocation, suspension, or refusal to  
20 renew such certificate or license in a proceeding under  
21 37-50-321, unless the board in its discretion determines  
22 such failure to have been due to reasonable cause or  
23 excusable neglect. The board, in its discretion, may renew  
24 an annual certificate or license to practice despite failure  
25 to furnish evidence of satisfaction of requirements of

1 continuing education upon condition that the applicant  
 2 follow a particular program or schedule of continuing  
 3 education.

4 (3) In issuing rules and individual orders in respect  
 5 of requirements of continuing education, the board in its  
 6 discretion may, among other things, use and rely upon  
 7 guidelines and pronouncements of recognized educational and  
 8 professional associations; may prescribe for content,  
 9 duration, and organization of courses; shall take into  
 10 account the accessibility to applicants of such continuing  
 11 education as it may require, and any impediments to  
 12 interstate practice of public accountancy which may result  
 13 from differences in such requirements on other states; and  
 14 may provide for relaxation or suspension of such  
 15 requirements in regard to applicants who certify that they  
 16 do not intend to engage in the practice of public  
 17 accountancy and for instances of individual hardship."

18 Section 12. Section 37-50-315, MCA, is amended to  
 19 read:

20 "37-50-315. Deposit of moneys collected. Fees and  
 21 other moneys collected by the department under this chapter  
 22 shall be deposited in the earmarked revenue fund for the use  
 23 of the board, ~~subject to 37-1-101(6).~~"

24 Section 13. Section 37-50-321, MCA, is amended to  
 25 read:

1 "37-50-321. Revocation, suspension, or refusal to  
 2 renew certificate or license. After notice and hearing as  
 3 provided in 37-50-341, the board may revoke or may suspend  
 4 any certificate issued under 37-50-302 or any registration  
 5 license granted under 37-50-303 or may revoke, suspend, or  
 6 refuse to renew any license issued under 37-50-314 or may  
 7 censure the holder of any such license for any one or any  
 8 combination of the following causes:

9 (1) fraud or deceit in obtaining a certificate as  
 10 certified public accountant or in obtaining a license to  
 11 practice public accounting under this chapter;

12 (2) dishonesty, fraud, or gross negligence in the  
 13 practice of public accounting;

14 (3) violation of any of the provisions of 37-50-301;

15 (4) violation of a rule of professional conduct  
 16 promulgated by the board under the authority granted by this  
 17 chapter;

18 (5) conviction of a felony under the laws of any state  
 19 or of the United States;

20 (6) conviction of any crime, an element of which is  
 21 dishonesty or fraud, under the laws of any state or of the  
 22 United States;

23 (7) cancellation, revocation, suspension, or refusal  
 24 to renew authority to practice as a certified public  
 25 accountant or a public accountant by any other state for any

1 cause other than failure to pay an annual registration fee  
2 in such other state;

3 (8) suspension or revocation of the right to practice  
4 before any state or federal agency;

5 ~~(9) failure of a certificate holder or licensed  
6 accountant to obtain an annual license under 37-50-314  
7 within either 3 years from the expiration date of the  
8 license to practice last obtained or renewed by said  
9 certificate holder or registrant or 3 years from the date  
10 upon which the certificate holder or licensed accountant was  
11 granted his certificate or registration unless such failure  
12 shall have been excused by the board pursuant to the  
13 provisions of 37-50-314.~~

14 Section 14. Section 37-50-331, MCA, is amended to  
15 read:

16 "37-50-331. Partnership Partnerships composed of  
17 certified public accountants -- registration. ~~(1) A~~  
18 ~~partnership engaged in this state in the practice of public~~  
19 ~~accounting may register with the department as a partnership~~  
20 ~~of certified public accountants provided it meets the~~  
21 ~~following requirements:~~

22 ~~(a) At least one general partner must be a certified~~  
23 ~~public accountant of this state in good standing and must~~  
24 ~~hold a license issued under 37-50-314 which is in effect;~~

25 ~~(b) Each partner personally engaged in this state in~~

1 ~~the practice of public accounting must be a certified public~~  
2 ~~accountant of this state in good standing and must hold a~~  
3 ~~license issued under 37-50-314 which is in effect;~~

4 ~~(c) Each partner must be a certified public accountant~~  
5 ~~of some state in good standing;~~

6 ~~(d) Each staff member who is employed in this state~~  
7 ~~and who is certified under 37-50-302 or registered under~~  
8 ~~37-50-303 must hold a license issued under 37-50-314 which~~  
9 ~~is in effect. (1) A partnership that engages in this state~~  
10 ~~in the practice of public accounting shall register with the~~  
11 ~~department as a partnership of certified public accountants~~  
12 ~~provided it meets the following requirements:~~

13 ~~(a) each partner or manager personally engaged in this~~  
14 ~~state in the practice of public accounting must be a~~  
15 ~~certified public accountant of some state in good standing~~  
16 ~~and must be certificated under the provisions of this~~  
17 ~~chapter;~~

18 ~~(b) each partner must be a certified public accountant~~  
19 ~~of some state in good standing.~~

20 (2) Application for registration must be made on the  
21 affidavit of a general partner of the partnership who is a  
22 certified public accountant of this state in good standing.  
23 The board shall in each case determine whether the applicant  
24 is eligible for registration. A partnership which is  
25 registered may use the words "certified public accountant"

1 or the abbreviation "CPAs" in connection with its  
2 partnership name. Notification shall be given the  
3 department within 1 month after the admission to or  
4 withdrawal of a partner from a partnership so registered."

5 Section 15. Section 37-50-332, MCA, is amended to  
6 read:

7 "37-50-332. Corporation composed of certified public  
8 accountants -- registration. (1) A professional service  
9 corporation organized for the practice of public accounting  
10 may shall register with the board as a corporation of  
11 certified public accountants provided it meets the following  
12 requirements:

13 (a) The sole purpose and business of the corporation  
14 must be to furnish to the public services not inconsistent  
15 with this chapter or the rules of the board, but the  
16 corporation may invest its funds in a manner not  
17 incompatible with the practice of public accounting.

18 ~~(b) At least one shareholder thereof must be a~~  
19 ~~certified public accountant of this state in good standing~~  
20 ~~and must hold a license issued under 37-50-314 which is in~~  
21 ~~effect.~~

22 ~~(c)(b)~~ Each shareholder of the corporation must be a  
23 certified public accountant of some state in good standing  
24 and must be principally employed by the corporation or  
25 actively engaged in its business. No other person may have

1 any interest in the stock of the corporation. The principal  
2 of the corporation and any officer or director having  
3 authority over the practice of public accounting by the  
4 corporation must be certified public accountants of some  
5 state in good standing.

6 ~~(d)(c)~~ Each shareholder, officer, or manager of the  
7 corporation personally engaged within this state in the  
8 practice of public accounting as a member thereof must be a  
9 certified public accountant of this some state in good  
10 standing and must hold ~~a license issued under 37-50-314~~  
11 ~~which is in effect~~ be certified under the provisions of this  
12 chapter.

13 ~~(e) Each staff member who is employed within this~~  
14 ~~state and who is certified under 37-50-302 or registered~~  
15 ~~under 37-50-303 must also hold a license issued under~~  
16 ~~37-50-314 which is in effect.~~

17 ~~(f) In order to facilitate compliance with the~~  
18 ~~provisions of this section relating to the ownership of~~  
19 ~~stock, there must be a written agreement binding the~~  
20 ~~corporation or the qualified shareholders to purchase any~~  
21 ~~shares offered for sale by or not under the ownership or~~  
22 ~~effective control of a qualified shareholder and binding any~~  
23 ~~shareholder not a qualified shareholder to sell such shares~~  
24 ~~to the corporation or the qualified shareholders. The~~  
25 ~~agreement must be noticed on each certificate of corporate~~

1 ~~stocks~~

2 (2) Application for such registration must be made  
3 upon the affidavit of a shareholder who holds a permit to  
4 practice in this state as a certified public accountant. The  
5 board shall determine whether the applicant is eligible for  
6 registration. A corporation which is so registered may use  
7 the words "certified public accountant" or the abbreviation  
8 "CPA" in connection with its corporation name. Notification  
9 shall be given the board within 1 month after the admission  
10 or withdrawal of a shareholder of a corporation so  
11 registered."

12 Section 16. Section 37-50-333, MCA, is amended to  
13 read:

14 "37-50-333. Partnership composed of public accountants  
15 -- registration. (1) A partnership engaged in this state in  
16 the practice of public accounting may shall register with  
17 the department as a partnership of licensed public  
18 accountants provided it meets the following requirements:

19 (a) At least one general partner must be a certified  
20 public accountant or a licensed public accountant of this  
21 state in good standing and a holder of a license issued  
22 under 37-50-314 which is in effect.

23 (b) Each partner personally engaged in this state in  
24 the practice of public accounting must be a certified public  
25 accountant or a licensed public accountant of this state in

1 good standing and a holder of a license issued under  
2 37-50-314 which is in effect.

3 (c) Each local manager in charge of an office or a  
4 firm in this state must be a certified public accountant or  
5 a licensed public accountant of this state in good standing  
6 and a holder of a license issued under 37-50-314 which is in  
7 effect.

8 ~~(d) Each staff member employed within this state and  
9 who is certified under 37-50-302 or registered under  
10 37-50-303 must hold a license issued under 37-50-314 which  
11 is in effect.~~

12 (2) Application for registration must be made on the  
13 affidavit of a general partner of the partnership who holds  
14 a license to practice in this state as a certified public  
15 accountant or as a licensed public accountant. The board  
16 shall in each case determine whether the applicant is  
17 eligible for registration. A partnership which is registered  
18 may use the words "public accountants" in connection with  
19 its partnership name. Notification shall be given the  
20 department within 1 month after the admission to or  
21 withdrawal of a partner from a partnership so registered."

22 Section 17. Section 37-50-334, MCA, is amended to  
23 read:

24 "37-50-334. Corporation composed of public accountants  
25 -- registration. (1) A professional service corporation

1 organized for the practice of public accounting ~~may shall~~  
 2 register with the board as a corporation of public  
 3 accountants provided it meets the following requirements:

4 (a) The sole purpose and business of the corporation  
 5 must be to furnish to the public services not inconsistent  
 6 with this chapter or the rules of the board, but the  
 7 corporation may invest its funds in a manner not  
 8 incompatible with the practice of public accounting.

9 (b) At least one shareholder thereof must be a  
 10 certified public accountant or public accountant of this  
 11 state in good standing and must hold a license issued under  
 12 37-50-314 which is in effect.

13 (c) Each shareholder of the corporation must be a  
 14 certified public accountant or licensed public accountant of  
 15 some state in good standing and must be principally employed  
 16 by the corporation or actively engaged in its business. No  
 17 other person may have any interest in the stock of the  
 18 corporation. The principal of the corporation and any  
 19 officer or director having authority over the practice of  
 20 public accounting by the corporation must be certified  
 21 public accountants or public accountants of some state in  
 22 good standing.

23 (d) Each shareholder of the corporation personally  
 24 engaged within this state in the practice of public  
 25 accounting as a member thereof must be a certified public

1 accountant or licensed public accountant of this state in  
 2 good standing and must hold a license issued under 37-50-314  
 3 which is in effect.

4 ~~(e) Each staff member who is employed within this~~  
 5 ~~state and who is certified under 37-50-302 or registered~~  
 6 ~~under 37-50-303 must also hold a license issued under~~  
 7 ~~37-50-314 which is in effect.~~

8 ~~(f)(g)~~ In order to facilitate compliance with the  
 9 provisions of this section relating to the ownership of  
 10 stock, there must be a written agreement binding the  
 11 corporation or the qualified shareholders to purchase any  
 12 shares offered for sale by or not under the ownership or  
 13 effective control of a qualified shareholder and binding any  
 14 shareholder not a qualified shareholder to sell such shares  
 15 to the corporation or the qualified shareholders. The  
 16 agreement must be noticed on each certificate of corporate  
 17 stock.

18 (2) Application for such registration must be made  
 19 upon the affidavit of a shareholder who holds a ~~permit~~  
 20 certificate or license to practice in this state as a  
 21 certified public accountant or licensed public accountant.  
 22 The board shall determine whether the applicant is eligible  
 23 for registration. A corporation which is so registered may  
 24 use the words "public accountant" or the abbreviation "PA"  
 25 in connection with its corporation name. Notification shall

1 be given the board within 1 month after the admission or  
2 withdrawal of a shareholder of a corporation so registered."

3 Section 18. Section 37-50-335, MCA, is amended to  
4 read:

5 "37-50-335. Registration of offices. Each office  
6 established or maintained in this state for the practice of  
7 public accounting in this state by a certified public  
8 accountant or a partnership or corporation of certified  
9 public accountants or by a licensed public accountant or a  
10 partnership or corporation of licensed public accountants or  
11 by one registered under 37-50-313 shall be registered  
12 annually with the department. A fee may not be charged for  
13 this registration. ~~The principals of sole proprietorships  
14 and staff employees who are employed in this state and who  
15 are holders of certificates as certified public accountants  
16 must also hold licenses issued under 37-50-314 which are in  
17 effect. Partnerships and corporations must be registered  
18 under 37-50-331, 37-50-332, 37-50-333, or 37-50-334,  
19 whichever is applicable, and foreign accountants under the  
20 provisions of 37-50-313. In addition, each individual  
21 engaged in this state in the practice of public accounting  
22 must be certified or licensed annually as provided in  
23 37-50-314."~~

24 NEW SECTION. Section 19. Duties of the department.  
25 The department shall:

1 (1) assist the board in transaction of its business  
2 and keep a record of the board's official action; and

3 (2) charge the board for the reasonable costs of the  
4 department incurred in assisting the board.

5 Section 20. Transfer of funds. All unexpended balances  
6 of appropriations, allocations, or other funds of the board  
7 of public accountants shall be transferred to the board of  
8 professional service regulation on July 1, 1979, to be used  
9 for the purpose of regulating the practice of accounting.

10 Section 21. Transition. All orders and rules relating  
11 to the practice of accounting made by the board of public  
12 accountants remain in effect until revoked or modified in  
13 accordance with law by the board of professional service  
14 regulation. The records and documents of the board of public  
15 accountants are transferred to the board of professional  
16 service regulation. Licenses, permits, and certificates  
17 issued prior to July 1, 1979, remain valid under the same  
18 terms and conditions as when issued and are subject to the  
19 provisions of Title 37, chapter 50.

20 Section 22. Effect of termination. The provisions of  
21 2-8-121 do not apply to the board of public accountants.

22 Section 23. Codification. Section 19 is intended to be  
23 codified as an integral part of Title 37, chapter 50, and  
24 the provisions of Title 37, chapter 50, apply to section 19.

25 Section 24. Repealer. Sections 2-15-1641, 37-50-201,

LC 1481/01

- 1 37-50-202, 37-50-304, 37-50-306, 37-50-307, and 37-50-312,
- 2 MCA, are repealed.

-End-



## STATE OF MONTANA

Request No. 266-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 1979, there is hereby submitted a Fiscal Note for Senate Bill 391 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:

An act providing for the regulation of the Practice of Public Accounting by a Board of Professional Service Regulation in the Department of Business Regulation.

## ASSUMPTIONS:

1. The duties of the Board of Public Accountants will be assumed by a Board of Professional Service Regulation July 1, 1979.
2. 1.25 FTE will be required to administer this act.

## FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Anticipated revenue	\$58,424	\$60,600
Anticipated expenditures	<u>58,424</u>	<u>60,600</u>
Net fiscal impact	<u>0</u>	<u>0</u>

Revenue and expenditures will accrue to an earmarked revenue fund account.

## COMMENT:

This board, currently under the Department of Professional and Occupational Licensing contributes to the Centralized Services Program for services performed for the Department. The elimination of these funds could increase the amount contributed by the remaining boards not scheduled for sunset at this time.

*Carolyn Dearing for*  
 BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 Date: 2-14-79