

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 *Spencer* BILL NO. 391
 2 INTRODUCED BY Lockren, Hinck
 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 4 amended or repealed.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
 22 Section 2. Section 37-50-101, MCA, is amended to read:
 23 "37-50-101. Definitions. Unless the context requires
 24 otherwise, in this chapter the following definitions apply:
 25 (1) "Board" means the board of public accountants
 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 occupation 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, signs, cards, 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, signs, cards, 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-(2)-(2)-(3)-(4)-(5) and a foreign accountant
 18 registered--under--37-50-319--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--furthermore
 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 is an employee regularly
 5 employed in this state
 6 (3) is of good moral character;
 7 (4) has successfully passed the certified public
 8 accountants' examination; and
 9 (5) 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 is an employee 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 practices."

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 application,
 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 contents
 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) forfeiture 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 test 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 forfeiture
 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.~~
~~(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 37-50-324 which is in
 21 effect.

22 (c) 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 ~~Each shareholder, officer, or manager~~ 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 37-50-324
 11 which is in effect be certified under the provisions of this
 12 chapter.

13 ~~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 37-50-324 which is in effect.

17 ~~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 shareholder 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 shareholder 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 --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 ~~for--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 ~~fficial~~ 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. Repeater. Sections 2-15-1641, 37-50-101,

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:

	FY 80	FY 81
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