

CHAPTER NO. 684

SENATE BILL NO. 489

INTRODUCED BY RASMUSSEN

BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on State Administration.
February 15, 1979	Fiscal note requested.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Fiscal note returned. Rules suspended so that Statement of Intent allowed to be attached prior to second reading. Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Business and Industry.
March 7, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 8, 1979	Second reading, concurred in.

March 12, 1979 Third reading, concurred in as amended.

IN THE SENATE

March 13, 1979 Returned from second house. Concurred in as amended.

March 14, 1979 Second reading, pass consideration.

March 15, 1979 Second reading, amendments rejected.

March 16, 1979 On motion Joint Conference Committee requested.

March 17, 1979 Joint Conference Committee appointed.

March 23, 1979 Joint Conference Committee reported.

March 24, 1979 Second reading, pass consideration.

March 26, 1979 Second reading, adopted.

March 27, 1979 Third reading, adopted.

March 30, 1979 Adopted by House.

March 31, 1979 Sent to enrolling.

April 6, 1979 Correctly enrolled.
Signed by President.

April 7, 1979 Delivered to Governor.

April 13, 1979 Returned from Governor with recommended amendments.

April 16, 1979 Second reading, amendments adopted.

April 17, 1979 Third reading, amendments adopted. Transmitted to second house.

IN THE HOUSE

April 18, 1979

On motion Governor's amendments placed on second reading this day.

Governor's amendments adopted on second reading.

Governor's amendments adopted on third reading.

IN THE SENATE

April 19, 1979

Returned from second house.
Sent to enrolling.

Reported correctly enrolled.

1 Sen. Rasmussen BILL NO. 489
2 INTRODUCED BY Rasmussen

3 BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF PUBLIC ACCOUNTANTS AND TO GENERALLY REVISE THE
7 AUTHORITY OF THE BOARD WITH REGARD TO CERTIFICATION AND
8 LICENSING; AMENDING SECTIONS 2-8-103, 2-15-1641, 37-50-102,
9 37-50-201 THROUGH 37-50-203, 37-50-301, 37-50-302,
10 37-50-305, 37-50-308, 37-50-309, 37-50-314, 37-50-315,
11 37-50-321, 37-50-331 THROUGH 37-50-335, MCA; AND REPEALING
12 SECTIONS 37-50-303, 37-50-304, 37-50-306, 37-50-307, AND
13 37-50-312, MCA; AND PROVIDING AN EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Board reestablished. The
17 board of public accountants created by 2-15-1641 is
18 reestablished for a period of 6 years pursuant to 2-8-122.

19 Section 2. Section 2-8-103, MCA, is amended to read:

20 "2-8-103. Agencies to terminate. (1) The following
21 agencies shall terminate on July 1, 1979:

22 (a) board of abstractors, department of professional
23 and occupational licensing, created by 2-15-1643;

24 ~~(b) board of public accountants, department of~~
25 ~~professional and occupational licensing, created by~~

1 2-15-1641

2 ~~(c)(b)~~ board of architects, department of professional
3 and occupational licensing, created by 2-15-1651;

4 ~~(d)(c)~~ state banking board, department of business
5 regulation, created by 2-15-1803;

6 ~~(e)(d)~~ state electrical board, department of
7 professional and occupational licensing, created by
8 2-15-1654;

9 ~~(f)(e)~~ board of professional engineers and land
10 surveyors, department of professional and occupational
11 licensing, created by 2-15-1653;

12 ~~(g)(f)~~ office of commissioner of insurance and the
13 insurance department, state auditor's office, created by
14 2-15-1902 and 2-15-1903;

15 ~~(h)(g)~~ office of the investment commissioner, state
16 auditor's office, created by 2-15-1901;

17 ~~(i)(h)~~ board of landscape architects, department of
18 professional and occupational licensing, created by
19 2-15-1652;

20 ~~(j)(i)~~ board of county printing, department of
21 community affairs, created by 2-15-1102;

22 ~~(k)(j)~~ board of plumbers, department of professional
23 and occupational licensing, created by 2-15-1655;

24 ~~(l)(k)~~ board of real estate, department of
25 professional and occupational licensing, created by

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1 2-15-1642;

2 (m)(11) state board of warm air heating, ventilation,
3 and air conditioning, department of professional and
4 occupational licensing, created by 2-15-1656;

5 (n)(1) board of institutions, department of
6 institutions, created by 2-15-2303.

7 (2) The following agencies shall terminate on July 1,
8 1981:

9 (a) commission for human rights, department of labor
10 and industry, created by 2-15-1706;

11 (b) board of athletics, department of professional and
12 occupational licensing, created by 2-15-1661;

13 (c) board of barbers, department of professional and
14 occupational licensing, created by 2-15-1625;

15 (d) board of chiropractors, department of professional
16 and occupational licensing, created by 2-15-1613;

17 (e) board of cosmetologists, department of
18 professional and occupational licensing, created by
19 2-15-1626;

20 (f) board of dentists, department of professional and
21 occupational licensing, created by 2-15-1606;

22 (g) board of hearing aid dispensers, department of
23 professional and occupational licensing, created by
24 2-15-1616;

25 (h) board of massage therapists, department of

1 professional and occupational licensing, created by
2 2-15-1627;

3 (i) Montana state board of medical examiners,
4 department of professional and occupational licensing,
5 created by 2-15-1605;

6 (j) board of morticians, department of professional
7 and occupational licensing, created by 2-15-1619;

8 (k) board of nursing, department of professional and
9 occupational licensing, created by 2-15-1610;

10 (l) board of nursing home administrators, department
11 of professional and occupational licensing, created by
12 2-15-1611;

13 (m) board of optometrists, department of professional
14 and occupational licensing, created by 2-15-1612;

15 (n) board of osteopathic physicians, department of
16 professional and occupational licensing, created by
17 2-15-1607;

18 (o) board of pharmacists, department of professional
19 and occupational licensing, created by 2-15-1609;

20 (p) board of podiatry examiners, department of
21 professional and occupational licensing, created by
22 2-15-1608;

23 (q) board of psychologists, department of professional
24 and occupational licensing, created by 2-15-1617;

25 (r) board of radiologic technologists, department of

1 professional and occupational licensing, created by
2 2-15-1614;

3 (s) board of speech pathologists and audiologists,
4 department of professional and occupational licensing,
5 created by 2-15-1615;

6 (t) board of veterinarians, department of professional
7 and occupational licensing, created by 2-15-1618;

8 (u) board of veterans' affairs, department of social
9 and rehabilitation services, created by 2-15-2202.

10 (3) The following units of state government shall
11 terminate on July 1, 1983:

12 (a) board of aeronautics, department of community
13 affairs, created by 2-15-1103;

14 (b) state board of hail insurance, department of
15 agriculture, created by 2-15-3003;

16 (c) board of horseracing, department of professional
17 and occupational licensing, created by 2-15-1662;

18 (d) board of livestock, department of livestock,
19 created by 2-15-3102;

20 (e) board of milk control, department of business
21 regulation, created by 2-15-1802;

22 (f) board of oil and gas conservation, department of
23 natural resources and conservation, created by 2-15-3303;

24 (g) Montana outfitters council, department of fish and
25 game, created by 2-15-3403;

1 (h) public service commission, department of public
2 service regulation, created by 69-1-102;

3 (i) board of sanitarians, department of professional
4 and occupational licensing, created by 2-15-1631;

5 (j) board of water and wastewater operators,
6 department of health and environmental sciences, created by
7 2-15-2105;

8 (k) board of water well contractors, department of
9 professional and occupational licensing, created by
10 2-15-1632.

11 ~~(4) The following agency terminates on July 1, 1985:~~
12 ~~the board of public accountants created by 2-15-1641.~~

13 Section 3. Section 2-15-1641, MCA, is amended to read:

14 "2-15-1641. Board of public accountants. (1) There is
15 a board of public accountants.

16 (2) The board consists of ~~five~~ nine members appointed
17 by the governor. The members are:

18 (a) ~~three~~ four certified public accountants certified
19 under ~~37-50-302~~ Title 37, chapter 50, who have been ~~are~~
20 certified and actively engaged in the practice of public
21 accounting ~~and who have held a valid certificate~~ for at
22 least 5 years before their appointment. The Montana society
23 of certified public accountants shall submit to the governor
24 ~~biennially~~ annually a list of names of two candidates from
25 which the appointments of these members may be made.

1 However, the governor is not restricted to the names on this
2 list. These members may not be residents of the same county.

3 ~~(b) one certified public accountant who is not~~
4 ~~actively engaged in the practice of public accounting and~~
5 ~~who has been certified for at least 5 years before his~~
6 ~~appointment. When an appointment in this category is~~
7 ~~necessary, the Montana society of certified public~~
8 ~~accountants shall submit to the governor a list of names of~~
9 ~~two candidates from which the appointment of this member may~~
10 ~~be made. However, the governor is not restricted to the~~
11 ~~names on this list.~~

12 ~~(c) two licensed public accountants licensed under~~
13 ~~37-50-309 Title 37, Chapter 50, who have been and actively~~
14 ~~engaged in the practice of public accounting and who have~~
15 ~~held a valid license for at least 5 years before their~~
16 ~~appointment. When an appointment in this category is~~
17 ~~necessary, the the Montana society of public accountants~~
18 ~~shall submit to the governor biennially a list of names of~~
19 ~~two candidates from which the appointment of these members~~
20 ~~may be made. However, the governor is not restricted to the~~
21 ~~names on this list. These members may not be residents of~~
22 ~~the same county. If there is no licensed public accountant~~
23 ~~known by the governor to be qualified and willing to serve~~
24 ~~in this position, the governor may appoint a certified~~
25 ~~public accountant meeting the qualifications provided in~~

1 ~~(2)(a).~~

2 ~~(d) two members of the general public who are not~~
3 ~~engaged in the practice of public accounting. These members~~
4 ~~may not be residents of the same county.~~

5 ~~(3) All members shall be residents of this state and~~
6 ~~citizens of the United States and hold current licenses~~
7 ~~under 37-50-314. The governor shall remove any member whose~~
8 ~~license to practice has become void, revoked, or suspended~~
9 ~~or who ceases to be engaged in the practice of public~~
10 ~~accounting. Each appointment is subject to confirmation by~~
11 ~~the senate and shall be submitted for consideration at the~~
12 ~~next regular session following appointment.~~

13 ~~(4) Each member shall serve for a term of 6 3 years. A~~
14 ~~member who has served two successive complete terms is not~~
15 ~~eligible for reappointment until after the lapse of 1 year.~~
16 ~~The governor may, after a hearing, remove a member for~~
17 ~~neglect of duty or other just cause.~~

18 ~~(5) The board is allocated to the department for~~
19 ~~administrative purposes only as prescribed in 2-15-121."~~

20 Section 4. Section 37-50-102, MCA, is amended to read:

21 "37-50-102. Exemptions. (1) Nothing contained in this
22 chapter shall prohibit any person not a certified public
23 accountant or licensed public accountant from serving as an
24 employee of or an assistant to a certified public accountant
25 or a licensed public accountant holding a license to

1 practice under 37-50-314 or a partnership or corporation
2 composed of certified public accountants or licensed public
3 accountants registered under this chapter or a foreign
4 accountant registered under 37-50-313 provided that such
5 employee or assistant shall not issue any accounting or
6 financial statement over his name.

7 ~~(2) Nothing contained in this chapter shall prohibit a~~
8 ~~certified public accountant or a licensed public accountant~~
9 ~~of another state or any accountant who holds a certificate~~
10 ~~degree or license in a foreign country constituting a~~
11 ~~recognized qualification for the practice of public~~
12 ~~accounting in such country from temporarily practicing in~~
13 ~~this state on professional business incident to his regular~~
14 ~~practice outside this state, provided that such temporary~~
15 ~~practice is conducted in conformity with the rules of~~
16 ~~professional conduct promulgated by the board."~~

17 Section 5. Section 37-50-201, MCA, is amended to read:

18 "37-50-201. Organization -- general rulemaking power
19 -- quorum -- seal -- records. (1) The board shall elect
20 annually a chairman, secretary, and treasurer from its
21 members.

22 (2) The board may adopt rules for the conduct of its
23 affairs and the administration of this chapter.

24 (3) A quorum for the transaction of business consists
25 of three five members of the board.

1 (4) The board shall have a seal which shall be
2 judicially noticed.

3 (5) The department shall keep records of the board's
4 proceeding. In a proceeding in court, civil or criminal,
5 arising out of or founded on this chapter, copies of these
6 records certified as correct under the seal of the board are
7 admissible in evidence as tending to prove the content of
8 these records."

9 Section 6. Section 37-50-202, MCA, is amended to read:

10 "37-50-202. Compensation of members -- expenses. Each
11 member of the board shall receive as compensation ~~626~~ for
12 each day while actually engaged in the duties of his office
13 and in addition shall be reimbursed for travel expenses
14 provided for in 2-18-501 through 2-18-503, connected with
15 the discharge of his official duties, is entitled to:

- 16 (1) a mileage allowance as provided in 2-18-503;
- 17 (2) expenses as provided in 2-18-501 and 2-18-502; and
- 18 (3) a salary equal to one-fourth the daily rate of a
19 grade 8, step 1, classified state employee, for every 6
20 hours or fraction thereof spent away from home on board
21 business."

22 Section 7. Section 37-50-203, MCA, is amended to read:

23 "37-50-203. Rules of professional conduct the board --
24 solicitation of advisory comments. (1) The board may adopt
25 such rules consistent with the purposes of this chapter as

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1 ~~it considers necessary.~~

2 ~~(2) The board may now shall adopt:~~

3 ~~(a) rules of professional conduct appropriate to~~
4 ~~establish and maintain a high standard of integrity,~~
5 ~~dignity, and competency in the profession of public~~
6 ~~accountancy including competency in specific fields of~~
7 ~~public accountancy;~~

8 ~~(b) rules of procedure governing the conduct of~~
9 ~~matters before the board;~~

10 ~~(c) rules governing education requirements for~~
11 ~~issuance of the certificate of a certified public~~
12 ~~accountant;~~

13 ~~(d) rules prescribing requirements for continuing~~
14 ~~education to be met by certified public accountants, in~~
15 ~~order to maintain their professional knowledge and~~
16 ~~competence, as a condition to continuing in the practice of~~
17 ~~public accountancy. In issuing rules and individual orders~~
18 ~~regarding continuing education, the board, in its~~
19 ~~discretions~~

20 ~~(i) may, among other things, use or rely upon~~
21 ~~guidelines and pronouncements of recognized educational and~~
22 ~~professional associations;~~

23 ~~(ii) may prescribe the content, durations, and~~
24 ~~organization of courses; and~~

25 ~~(iii) shall take into account the accessibility to~~

1 ~~applicants of such continuing education as it may require~~
2 ~~and any impediments to interstate practice of public~~
3 ~~accountancy that may result from differences in such~~
4 ~~requirements in other states;~~

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

14 ~~(f) rules setting forth the terms, not exceeding 2~~
15 ~~years, and areas of experience required for certification as~~
16 ~~a certified public accountant.~~

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

1 Section 8. Section 37-50-301, MCA, is amended to read:

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

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

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

5 (3) No person may assume or use the title or
6 designation "licensed public accountant", "public
7 accountant", or any other title, designation, words,
8 letters, abbreviation, sign, card, or device tending to
9 indicate that such person is a public accountant unless such
10 person is registered licensed as a licensed public
11 accountant under ~~37-50-303~~ this chapter, holds a current
12 license issued under 37-50-314, and all of such person's
13 offices in this state for the practice of public accounting
14 are maintained and registered as required under 37-50-335 or
15 unless such person has received a certificate as a certified
16 public accountant ~~under 37-50-302 in some state~~, holds a
17 current license issued under 37-50-314, and all of such
18 person's offices in this state for the practice of public
19 accounting are maintained and registered as required under
20 37-50-335.

21 (4) No partnership or corporation may assume or use
22 the title or designation "licensed public accountant",
23 "public accountant", or any other title, designation, words,
24 letters, abbreviation, sign, card, or device tending to
25 indicate that such partnership or corporation is composed of

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

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

1 certificate, license, or degree.

2 (6) No person may sign or affix his name or any trade
3 or assumed name used by him in his profession or business
4 with any wording indicating that he ~~is an accountant or~~
5 ~~auditor or with any wording indicating that he~~ has expert
6 knowledge in accounting or auditing to any accounting or
7 financial statement or to any opinion on, report on, or
8 certificate to any accounting or financial statement unless
9 he holds a current license issued under 37-50-314 and all of
10 his offices in this state for the practice of public
11 accounting are maintained and registered under 37-50-335.
12 However, the provisions of this subsection do not prohibit
13 any officer, employee, partner, or principal of any
14 organization from affixing his signature to any statement or
15 report in reference to the financial affairs of that
16 organization with any wording designating the position,
17 title, or office which he holds in that organization, nor do
18 the provisions of this subsection prohibit any act of a
19 public official or public employee in the performance of his
20 duties as such.

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

1 report on or certificate to any accounting or financial
 2 statement unless the partnership or corporation is
 3 registered under 37-50-331, 37-50-332, 37-50-333, or
 4 37-50-334 and all of its offices in this state for the
 5 practice of public accounting are maintained and registered
 6 as required under 37-50-335.

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

23 Section 9. Section 37-50-302, MCA, is amended to read:

24 "37-50-302. Certified public accountants --
 25 certification -- qualifications and requirements.

1 Certification as a certified public accountant is available
 2 to any person who:

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

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

8 (1) is of good moral character;

9 (2) has successfully passed the certified public
 10 accountants' examination; and

11 (3) meets the requirements of education and
 12 ~~experience in 37-50-305 and 37-50-306 set forth in this~~
 13 ~~chapter and in board rules."~~

14 Section 10. Section 37-50-305, MCA, is amended to
 15 read:

16 "37-50-305. Education and experience requirements.
 17 Education and experience requirements shall be as follows: A
 18 candidate for certification as a certified public accountant
 19 must have

20 ~~(1) graduation graduated from a college or university~~
 21 ~~accredited to offer recognized by the board with a~~
 22 ~~baccalaureate degree;~~

23 (1) with a concentration in accounting; or an
 24 equivalent education in the judgment of the board and

25 ~~(2) one year of experience in public, private, or~~

~~governmental accounting of a nature and quality satisfactory to the board.~~

(2) with a concentration other than accounting if supplemented by related courses in other areas of business administration and the board determines that an equivalent education has been achieved."

Section 11. Section 37-50-308, MCA, is amended to read:

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

Section 12. Section 37-50-309, MCA, is amended to read:

"37-50-309. Credit for examinations taken in other states. The board may by rule provide for granting credit to a candidate for his satisfactory completion of a written examination in any one or more of the subjects of

examination given by the licensing authority in another state ~~if when he took the examination he was not a resident of this state.~~ These rules shall include requirements the board determines appropriate in order that an examination approved as a basis for credit is, in the judgment of the board, at least as thorough as that included in the ~~most recent~~ examination given in this state at the time of ~~granting the credit originally was granted by the other state for passing the examination."~~

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

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

1 accountants in good standing on payment of on ~~the~~ annual
2 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 neglect~~
11 A person who fails to renew his license or certificate shall
12 promptly surrender it to the board upon request.

13 (3) After the expiration of the 3-year period
14 immediately following the effective date of a board rule
15 establishing continuing education requirements, each
16 application for renewal by a person who has held his
17 certificate or license for 3 years or more must be
18 accompanied or supported by evidence satisfactory to the
19 board of fulfillment of such requirements during the 3-year
20 period immediately preceding the application.

21 (4) The board may in its discretion waive the
22 requirement stated in subsection (3) if the applicant agrees
23 to follow a particular program or schedule of continuing
24 education agreeable to the board.

25 ~~(3) A certificate holder or licensed public accountant~~

1 ~~who is retiring from active practice or other employment~~
2 ~~because of illness, age, marriage, or other justifiable~~
3 ~~cause in the opinion of the board, may be placed on an~~
4 ~~inactive list without prejudicing his right to be issued an~~
5 ~~annual license at a future date. A request for inactive~~
6 ~~status must be sent to the department within the 3-year~~
7 ~~period as outlined in this section.~~

8 (5) The board may relax or suspend continuing
9 education requirements for an applicant who certifies that
10 he does not intend to engage in the practice of public
11 accountancy and for an applicant who cannot fulfill the
12 requirement due to individual hardship.

13 (6) Subject to subsections (4) and (5), the board may
14 revoke, suspend, or refuse to renew the certificate or
15 license of an applicant who fails to furnish evidence of
16 having met the continuing education requirements established
17 by the board."

18 Section 14. 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 15. 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 [section 21]~~ or may revoke,
6 suspend, or refuse to renew any license issued under
7 37-50-314 or may censure the holder of any such license for
8 any one or any 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 test obtained or renewed by said
9 certificate holder or registrant of 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 16. Section 37-50-331, MCA, is amended to
15 read:

16 *37-50-331. Partnership composed of certified public
17 accountants -- registration. (1) A partnership that is or
18 plans to become engaged in this state in the practice of
19 public accounting ~~may~~ shall register with the department as
20 a partnership of certified public accountants provided it
21 meets the 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) (a).~~ Each partner or manager personally engaged in

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

5 ~~(c)(b)~~ Each partner must be a certified public
6 accountant of some state in good standing.

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

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

21 Section 17. Section 37-50-332, MCA, is amended to
22 read:

23 "37-50-332. Corporation composed of certified public
24 accountants -- registration. (1) A professional service
25 corporation organized for the practice of public accounting

1 may must register with the board as a corporation of
2 certified public accountants provided it meets the following
3 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 of this state in good standing~~
11 ~~and must hold a license issued under 37-50-314 which is in~~
12 ~~effect.~~

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

22 ~~(d)(c)~~ Each shareholder, officer, or manager of the
23 corporation personally engaged within this state in the
24 practice of public accounting as a member thereof must be a
25 certified public accountant of this ~~some~~ state in good

1 standing and must hold ~~a license issued under 37-50-314~~
2 ~~which is in effect~~ be certified under this chapter.

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

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

17 (2) Application for such registration must be made
18 upon the affidavit of a shareholder who holds a permit to
19 practice in this state as a certified public accountant. The
20 board shall determine whether the applicant is eligible for
21 registration. A corporation which is so registered may use
22 the words "certified public accountant" or the abbreviation
23 "CPA" in connection with its corporation name. Notification
24 shall be given the board within 1 month after the admission
25 or withdrawal of a shareholder of a corporation so

1 registered."

2 Section 18. Section 37-50-333, MCA, is amended to
3 read:

4 "37-50-333. Partnership composed of public accountants
5 -- registration. (1) A partnership engaged in this state in
6 the practice of public accounting ~~may~~ must register with the
7 department as a partnership of licensed public accountants
8 provided it meets the following requirements:

9 (a) At least one general partner ~~must~~ be a certified
10 public accountant or a licensed public accountant of this
11 state in good standing and a holder of a license issued
12 under 37-50-314 which is in effect.

13 (b) Each partner personally engaged in this state in
14 the practice of public accounting ~~must~~ be a certified public
15 accountant or a licensed public accountant of this state in
16 good standing and a holder of a license issued under
17 37-50-314 which is in effect.

18 (c) Each local manager in charge of an office or
19 firm in this state ~~must~~ be a certified public accountant or
20 a licensed public accountant of this state in good standing
21 and a holder of a license issued under 37-50-314 which is in
22 effect.

23 ~~(d) Each staff member employed within this state and~~
24 ~~who is certified under 37-50-302 or registered under~~
25 ~~37-50-303 must hold a license issued under 37-50-314 which~~

1 ~~is-in-effectv~~

2 (2) Application for registration must be made on the
3 affidavit of a general partner of the partnership who holds
4 a license to practice in this state as a certified public
5 accountant or as a licensed public accountant. The board
6 shall in each case determine whether the applicant is
7 eligible for registration. A partnership which is registered
8 may use the words "public accountants" in connection with
9 its partnership name. Notification shall be given the
10 department within 1 month after the admission to or
11 withdrawal of a partner from a partnership so registered."

12 Section 19. Section 37-50-334, MCA, is amended to
13 read:

14 "37-50-334. Corporation composed of public accountants
15 -- registration. (1) A professional service corporation
16 organized for the practice of public accounting ~~may~~ **MUST**
17 register with the board as a corporation of public
18 accountants provided it meets the following requirements:

19 (a) The sole purpose and business of the corporation
20 must be to furnish to the public services not inconsistent
21 with this chapter or the rules of the board, but the
22 corporation may invest its funds in a manner not
23 incompatible with the practice of public accounting.

24 (b) At least one shareholder thereof must be a
25 certified public accountant or public accountant of this

1 state in good standing and must hold a license issued under
2 37-50-314 which is in effect.

3 (c) Each shareholder of the corporation must be a
4 certified public accountant or a licensed public accountant
5 of some state in good standing and must be principally
6 employed by the corporation or actively engaged in its
7 business. No other person may have any interest in the stock
8 of the corporation. The principal of the corporation and any
9 officer or director having authority over the practice of
10 public accounting by the corporation must be certified
11 public accountants or public accountants of some state in
12 good standing.

13 (d) Each shareholder of the corporation personally
14 engaged within this state in the practice of public
15 accounting as a member thereof must be a certified public
16 accountant or a licensed public accountant of this state in
17 good standing and must hold a license issued under 37-50-314
18 which is in effect.

19 ~~(e) -- Each -- staff -- member -- who -- is -- employed -- within -- this~~
20 ~~state -- and -- who -- is -- certified -- under -- 37-50-302 -- or -- registered~~
21 ~~under -- 37-50-303 -- must -- also -- hold -- a -- license -- issued -- under~~
22 ~~37-50-314 -- which -- is -- in -- effect.~~

23 ~~(f)(g)~~ In order to facilitate compliance with the
24 provisions of this section relating to the ownership of
25 stock, there must be a written agreement binding the

1 corporation or the qualified shareholders to purchase any
 2 shares offered for sale by or not under the ownership or
 3 effective control of a qualified shareholder and binding any
 4 shareholder not a qualified shareholder to sell such shares
 5 to the corporation or the qualified shareholders. The
 6 agreement must be noticed on each certificate of corporate
 7 stock.

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

18 Section 20. Section 37-50-335, MCA, is amended to
 19 read:

20 "37-50-335. Registration of offices. Each office
 21 established or maintained in this state for the practice of
 22 public accounting in this state by a certified public
 23 accountant or a partnership or corporation of certified
 24 public accountants or by a licensed public accountant or a
 25 partnership or corporation of licensed public accountants or

1 by one registered under 37-50-313 shall be registered
 2 annually with the department. A fee may not be charged for
 3 this registration. ~~The principals of sole proprietorships
 4 and staff employees who are employed in this state and who
 5 are holders of certificates as certified public accountants
 6 must also hold licenses issued under 37-50-314 which are in
 7 effect. Partnerships and corporations must be registered
 8 under 37-50-331, 37-50-332, 37-50-333, or 37-50-334,
 9 whichever is applicable and foreign accountants under the
 10 provisions of 37-50-313. In addition, each individual
 11 engaged in this state in the practice of public accounting
 12 must be certified or licensed annually under 37-50-314."~~

13 **NEW SECTION.** Section 21. Continued licensure of
 14 currently licensed public accountants. Licensure as a
 15 licensed public accountant is available to any person
 16 licensed as such on July 1, 1979. In addition, persons
 17 serving in the armed forces of the United States on July 1,
 18 1979, who immediately prior to entering this service held
 19 themselves out to the public as licensed public accountants
 20 and who were engaged as principals, in this state, in the
 21 practice of public accounting as their principal occupation
 22 prior to service in the armed forces, may register with the
 23 department within 6 months after the date of their
 24 separation from active service and, on registration and
 25 payment of the license fee, be issued a license by the

1 department as a licensed public accountant. A principal is
2 either the owner of or a partner in an existing accounting
3 practice.

4 NEW SECTION. Section 22. Duties of the department.
5 The department shall:

6 (1) assist the board in transactions of its business
7 and keep a record of the board's official action; and

8 (2) assess to the board the reasonable costs of the
9 department incurred in assisting the board.

10 NEW SECTION. Section 23. Existing orders and rules
11 effective until revoked or modified. All orders and rules
12 relating to the practice of accounting made by the board of
13 public accountants prior to July 1, 1979, remain in effect
14 until revoked or modified in accordance with law.

15 NEW SECTION. Section 24. Continuation of funds. All
16 unexpended balances of appropriations, allocations, or other
17 funds of the board of public accountants shall continue to
18 be used by the board of public accountants, as reestablished
19 in this act, for the purpose of regulating the practice of
20 accounting.

21 Section 25. Transition. The terms of office of persons
22 who are members of the board of public accountants on July
23 1, 1979, expire on July 31, 1979. Initial appointments to
24 the new board shall be made by the governor before July 31,
25 1979. The governor shall designate three appointees to serve

1 initial terms of 1 year, three appointees to serve initial
2 terms of 2 years, and three appointees to serve initial
3 terms of 3 years. Thereafter appointments shall be for terms
4 of 3 years as provided in section 3.

5 Section 26. Codification. Sections 21 and 22 are
6 intended to be codified as an integral part of Title 37,
7 chapter 50. The provisions of Title 37, chapter 50, apply to
8 sections 21 and 22, and sections 21 and 22 apply to Title
9 37, chapter 50. All references in the MCA to Title 37,
10 chapter 50, include sections 21 and 22.

11 Section 27. Repealer. Sections 37-50-303, 37-50-304,
12 37-50-306, 37-50-307, and 37-50-312, MCA, are repealed.

13 Section 28. Effective date of certain sections.
14 Sections 1 and 2 are effective on passage and approval.

-End-

SB 489

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 1979, there is hereby submitted a Fiscal Note for Senate Bill 489 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:

To reestablish the board of public accountants, revise certificate and licensing provisions; revising board compensation, increase from 5 to 9 members and to provide an effective date.

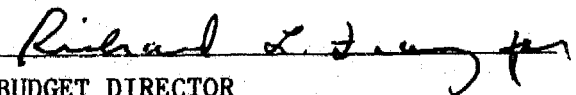
ASSUMPTIONS:

1. Board will increase from 5 to 9 members.
2. Compensation will change from \$20 per day to approximately \$8.75 per 6 hours spent on board business.
3. Travel and communications will increase with more members.

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Under proposed law	\$55,050	\$57,219
Under current law	<u>51,555</u>	<u>53,724</u>
Increased expenses under proposed law	<u>\$ 3,495</u>	<u>\$ 3,495</u>

Funding is from an earmarked revenue fund account.


 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2/21/79

1 STATEMENT OF INTENT RE: SB 489

2
3
4 A statement of intent is required by Senate Bill No.
5 489 in that it delegates rulemaking authority to the Board
6 of Public Accountants in Sections 7 and 13.

7 1. The Board may establish rules setting standards for
8 determining a practitioner's competency in specialized
9 fields of accounting. It is contemplated the rules should
10 address the following:

11 (a) the fields of specialized practice such as
12 auditing of financial institutions, auditing of governmental
13 entities, estate tax planning and other fields requiring
14 specialized knowledge;

15 (b) types of programs required for determining
16 competency such as classroom instruction, seminars,
17 homestudy, experience, examination or any combination
18 thereof;

19 (c) standards for determining programs to be approved
20 for fulfillment of the requirements such as adequacy of
21 facilities, qualifications of instructors, course content
22 and endorsement by other regulatory agencies or professional
23 or education groups;

24 (d) the number of hours of instruction or experience,
25 if any, required;

- 1 (e) contents of examinations, if any, required;
- 2 (f) alternative methods of fulfilling the requirements
- 3 such as intrafirm or company programs and a provision for
- 4 waiver of the requirements for hardship.

5 The rules may not prohibit the person holding a license

6 or certificate from practicing in any area or field of

7 public accounting nor affect his ability to acquire annual

8 renewal of his certificate or license.

9 2. The Board may establish rules governing education

10 requirements for certification or licensure. It is

11 contemplated that the rules should supplement and interpret

12 37-50-305 as amended by the bill by:

13 (a) making determinations as to recognized colleges

14 and universities. The Board may use the University System

15 schools of business as a yardstick;

16 (b) determining standards for accepting college

17 graduates with majors other than accounting, including but

18 not limited to:

19 (i) the minimum number of accounting credits required.

20 (ii) subjects of courses allowed as supplementary

21 business-related courses; and

22 (iii) the total number of credits required in business

23 administration.

24 3. The Board may adopt rules prescribing continuing

25 education for continued practice in public accounting. It is

1 contemplated that they should address the following:

2 (a) types of programs required for determining
3 knowledge and competence such as classroom instruction,
4 seminars, homestudy, experience, examination, or any
5 combination thereof;

6 (b) standards for determining programs to be approved
7 for fulfillment of the requirements such as adequacy of
8 facilities, qualifications of instructors, course content
9 and endorsement by other regulatory agencies or professional
10 or national groups;

11 (c) the number of hours of instruction or experience,
12 if any, required;

13 (d) contents of examinations, if any, required;

14 (e) alternative methods of fulfilling the requirements
15 such as intrafirm or intracompany programs or prospective
16 programs of study;

17 (f) methods of monitoring and enforcement;

18 (g) the rules may not deny a person the ability to
19 acquire annual renewal of his certificate or license if
20 continuing education requirements constitute a hardship due
21 to inaccessability to programs or interference with an
22 interstate practice;

23 (h) the rules should reflect standards for continuing
24 education programs to ensure equal access, reasonable cost,
25 exceptions for financial or physical hardships or

1 impediments and reference to areas commonly and not rarely
2 practiced by those engaged in public accounting.

3 4. The Board may establish rules governing
4 partnerships and corporations practicing public accountancy.
5 It is contemplated that the rules should address the
6 following:

7 (a) the financial ability of a partnership or
8 corporation to protect the public from damages caused by
9 negligence or malpractice, if any;

10 (b) the method of establishing financial ability such
11 as unimpaired capital, professional liability insurance,
12 self-insurance or mutual insurance, or agreement;

13 (c) other areas of regulation regarding firm style,
14 name, title, affiliations, and joint and several liability
15 of members or shareholders are governed by existing
16 statutory law regulating partnerships and professional
17 corporations.

18 5. The Board may establish rules setting forth terms,
19 not exceeding two years, and areas of experience for
20 original certification or licensure. It is contemplated
21 that the rules should address the following:

22 (a) the duration of experience required, not to exceed
23 two years;

24 (b) the areas of experience such as private, public or
25 governmental accounting, or accounting experience as an

1 educator, researcher, publisher or military serviceman, or
2 combination thereof;

3 (c) the rules should not discriminate between the
4 areas of experience.

5 6. Section 13 allows the Board to prescribe a
6 reasonable annual renewal fee. It is intended that the fee
7 not exceed an amount necessary to meet administrative costs.

8 First adopted by the SENATE STATE ADMINISTRATIVE
9 COMMITTEE on February 21, 1979.

1 SENATE BILL NO. 489
 2 INTRODUCED BY RASMUSSEN
 3 BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
 6 BOARD OF PUBLIC ACCOUNTANTS AND TO GENERALLY REVISE THE
 7 AUTHORITY OF THE BOARD WITH REGARD TO CERTIFICATION AND
 8 LICENSING; AMENDING SECTIONS 2-8-103, 2-15-1641, 37-50-102,
 9 37-50-201 THROUGH 37-50-203, 37-50-301, 37-50-302,
 10 37-50-305, 37-50-308, 37-50-309, 37-50-314, 37-50-315,
 11 37-50-321, 37-50-331 THROUGH 37-50-335, MCA; AND REPEALING
 12 SECTIONS ~~37-50-303, 37-50-304, 37-50-306, AND 37-50-307, AND~~
 13 ~~37-50-312, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Board reestablished. The
 17 board of public accountants created by 2-15-1641 is
 18 reestablished for a period of 6 years pursuant to 2-8-122.
 19 Section 2. Section 2-8-103, MCA, is amended to read:
 20 "2-8-103. Agencies to terminate. (1) The following
 21 agencies shall terminate on July 1, 1979:
 22 (a) board of abstracters, department of professional
 23 and occupational licensing, created by 2-15-1643;
 24 ~~(b) board of public accountants, department of~~
 25 ~~professional and occupational licensing, created by~~

1 ~~2-15-1641;~~
 2 ~~(e)(b)~~ board of architects, department of professional
 3 and occupational licensing, created by 2-15-1651;
 4 ~~(d)(c)~~ state banking board, department of business
 5 regulation, created by 2-15-1803;
 6 ~~(e)(d)~~ state electrical board, department of
 7 professional and occupational licensing, created by
 8 2-15-1654;
 9 ~~(f)(e)~~ board of professional engineers and land
 10 surveyors, department of professional and occupational
 11 licensing, created by 2-15-1653;
 12 ~~(g)(f)~~ office of commissioner of insurance and the
 13 insurance department, state auditor's office, created by
 14 2-15-1902 and 2-15-1903;
 15 ~~(h)(g)~~ office of the investment commissioner, state
 16 auditor's office, created by 2-15-1901;
 17 ~~(i)(h)~~ board of landscape architects, department of
 18 professional and occupational licensing, created by
 19 2-15-1652;
 20 ~~(j)(i)~~ board of county printing, department of
 21 community affairs, created by 2-15-1102;
 22 ~~(k)(j)~~ board of plumbers, department of professional
 23 and occupational licensing, created by 2-15-1655;
 24 ~~(l)(k)~~ board of real estate, department of
 25 professional and occupational licensing, created by

1 2-15-1642;

2 ~~(m)(1)~~ state board of warm air heating, ventilation,

3 and air conditioning, department of professional and

4 occupational licensing, created by 2-15-1656;

5 ~~(m)(2)~~ board of institutions, department of

6 institutions, created by 2-15-2303.

7 (2) The following agencies shall terminate on July 1,

8 1981:

9 (a) commission for human rights, department of labor

10 and industry, created by 2-15-1706;

11 (b) board of athletics, department of professional and

12 occupational licensing, created by 2-15-1661;

13 (c) board of barbers, department of professional and

14 occupational licensing, created by 2-15-1625;

15 (d) board of chiropractors, department of professional

16 and occupational licensing, created by 2-15-1613;

17 (e) board of cosmetologists, department of

18 professional and occupational licensing, created by

19 2-15-1626;

20 (f) board of dentists, department of professional and

21 occupational licensing, created by 2-15-1606;

22 (g) board of hearing aid dispensers, department of

23 professional and occupational licensing, created by

24 2-15-1616;

25 (h) board of massage therapists, department of

1 professional and occupational licensing, created by

2 2-15-1627;

3 (i) Montana state board of medical examiners,

4 department of professional and occupational licensing,

5 created by 2-15-1605;

6 (j) board of morticians, department of professional

7 and occupational licensing, created by 2-15-1619;

8 (k) board of nursing, department of professional and

9 occupational licensing, created by 2-15-1610;

10 (l) board of nursing home administrators, department

11 of professional and occupational licensing, created by

12 2-15-1611;

13 (m) board of optometrists, department of professional

14 and occupational licensing, created by 2-15-1612;

15 (n) board of osteopathic physicians, department of

16 professional and occupational licensing, created by

17 2-15-1607;

18 (o) board of pharmacists, department of professional

19 and occupational licensing, created by 2-15-1609;

20 (p) board of podiatry examiners, department of

21 professional and occupational licensing, created by

22 2-15-1608;

23 (q) board of psychologists, department of professional

24 and occupational licensing, created by 2-15-1617;

25 (r) board of radiologic technologists, department of

1 professional and occupational licensing, created by
2 2-15-1614;

3 (s) board of speech pathologists and audiologists,
4 department of professional and occupational licensing,
5 created by 2-15-1615;

6 (t) board of veterinarians, department of professional
7 and occupational licensing, created by 2-15-1618;

8 (u) board of veterans' affairs, department of social
9 and rehabilitation services, created by 2-15-2202.

10 (3) The following units of state government shall
11 terminate on July 1, 1983:

12 (a) board of aeronautics, department of community
13 affairs, created by 2-15-1103;

14 (b) state board of hail insurance, department of
15 agriculture, created by 2-15-3003;

16 (c) board of horseracing, department of professional
17 and occupational licensing, created by 2-15-1662;

18 (d) board of livestock, department of livestock,
19 created by 2-15-3102;

20 (e) board of milk control, department of business
21 regulation, created by 2-15-1802;

22 (f) board of oil and gas conservation, department of
23 natural resources and conservation, created by 2-15-3303;

24 (g) Montana outfitters council, department of fish and
25 game, created by 2-15-3403;

1 (h) public service commission, department of public
2 service regulation, created by 69-1-102;

3 (i) board of sanitarians, department of professional
4 and occupational licensing, created by 2-15-1631;

5 (j) board of water and wastewater operators,
6 department of health and environmental sciences, created by
7 2-15-2105;

8 (k) board of water well contractors, department of
9 professional and occupational licensing, created by
10 2-15-1632.

11 ~~(4) The following agency terminates on July 1, 1983:~~
12 ~~the board of public accountants created by 2-15-1641.~~

13 Section 3. Section 2-15-1641, MCA, is amended to read:
14 "2-15-1641. Board of public accountants. (1) There is
15 a board of public accountants.

16 (2) The board consists of five ~~nine~~ FIVE members
17 appointed by the governor. The members are:

18 (a) three ~~four~~ THREE certified public accountants
19 certified under 37-50-302 ~~Title 37, chapter 50,~~ who have
20 been ~~are~~ certified and actively engaged in the practice of
21 public accounting ~~and who have held a valid certificate~~ for
22 at least 5 years before their appointment. The Montana
23 society of certified public accountants shall submit to the
24 governor ~~biennially~~ annually a list of names of two
25 candidates from which the appointments of these members may

1 be made. However, the governor is not restricted to the
2 names on this list. These members may not be residents of
3 the same county.

4 ~~(b) one certified public accountant who is not~~
5 ~~actively engaged in the practice of public accounting and~~
6 ~~who has been certified for at least 5 years before his~~
7 ~~appointments. When an appointment in this category is~~
8 ~~necessary, the Montana society of certified public~~
9 ~~accountants shall submit to the governor a list of names of~~
10 ~~two candidates from which the appointment of this member may~~
11 ~~be made. However, the governor is not restricted to the~~
12 ~~names on this list.~~

13 (b) (1) two ONE licensed public accountants
14 ACCOUNTANT licensed under 37-50-303 Title 37, Chapter 50,
15 who have been ~~are~~ IS actively engaged in the practice of
16 public accounting and who have HAS held a valid license for
17 at least 5 years before their HIS appointment. When an
18 appointment in this category is necessary, The the Montana
19 society of public accountants shall submit to the governor
20 biennially a list of names of two candidates from which the
21 appointment of these members may be made. However, the
22 governor is not restricted to the names on this list. These
23 members may not be residents of the same county. If there is
24 no licensed public accountant known by the governor to be
25 qualified and willing to serve in this position, the

1 ~~governor may appoint a certified public accountant meeting~~
2 ~~the qualifications provided in (2)(a).~~

3 ~~(c) two members of the general public who are not~~
4 ~~engaged in the practice of public accounting. These members~~
5 ~~may not be residents of the same county. ONE MEMBER OF THE~~
6 ~~GENERAL PUBLIC WHO IS NOT ENGAGED IN THE PRACTICE OF PUBLIC~~
7 ~~ACCOUNTING.~~

8 (3) All members shall be residents of this state and
9 citizens of the United States and hold current licenses
10 under 37-50-314. The governor shall remove any member whose
11 license to practice has become void, revoked, or suspended
12 or who ceases to be engaged in the practice of public
13 accounting. Each appointment is subject to confirmation by
14 the senate and shall be submitted for consideration at the
15 next regular session following appointment.

16 (4) Each member shall serve for a term of 6 3 years. A
17 member who has served two successive complete terms is not
18 eligible for reappointment until after the lapse of 1 year.
19 The governor may, after a hearing, remove a member for
20 neglect of duty or other just cause.

21 (5) The board is allocated to the department for
22 administrative purposes only as prescribed in 2-15-121."

23 Section 4. Section 37-50-102, MCA, is amended to read:
24 "37-50-102. Exemptions. (1) Nothing contained in this
25 chapter shall prohibit any person not a certified public

1 accountant or licensed public accountant from serving as an
 2 employee of or an assistant to a certified public accountant
 3 or a licensed public accountant holding a license to
 4 practice under 37-50-314 or a partnership or corporation
 5 composed of certified public accountants or licensed public
 6 accountants registered under this chapter or a foreign
 7 accountant registered under 37-50-313 provided that such
 8 employee or assistant shall not issue any accounting or
 9 financial statement over his name.

10 ~~{2}--Nothing contained in this chapter shall prohibit a~~
 11 ~~certified public accountant or a licensed public accountant~~
 12 ~~of another state or any accountant who holds a certificate~~
 13 ~~degree or license in a foreign country constituting a~~
 14 ~~recognized qualification for the practice of public~~
 15 ~~accounting in such country from temporarily practicing in~~
 16 ~~this state on professional business incident to his regular~~
 17 ~~practice outside this state provided that such temporary~~
 18 ~~practice is conducted in conformity with the rules of~~
 19 ~~professional conduct promulgated by the board."~~

20 Section 5. Section 37-50-201, MCA, is amended to read:
 21 "37-50-201. Organization -- general rulemaking power
 22 -- quorum -- seal -- records. (1) The board shall elect
 23 annually a chairman, secretary, and treasurer from its
 24 members.

25 (2) The board may adopt rules for the conduct of its

1 affairs and the administration of this chapter.

2 (3) A quorum for the transaction of business consists
 3 of three five members of the board.

4 (4) The board shall have a seal which shall be
 5 judicially noticed.

6 (5) The department shall keep records of the board's
 7 proceeding. In a proceeding in court, civil or criminal,
 8 arising out of or founded on this chapter, copies of these
 9 records certified as correct under the seal of the board are
 10 admissible in evidence as tending to prove the content of
 11 these records."

12 Section 6. Section 37-50-202, MCA, is amended to read:
 13 "37-50-202. Compensation of members -- expenses. Each
 14 member of the board shall receive ~~no~~ compensation ~~of~~ for
 15 each day while actually engaged in the duties of his office
 16 and ~~in addition shall be reimbursed for travel expenses~~
 17 ~~provided for in 2-18-501 through 2-18-503, connected with~~
 18 ~~the discharge of his official duties~~ is entitled to:

19 (1) a mileage allowance as provided in 2-18-503;
 20 (2) expenses as provided in 2-18-501 and 2-18-502; and
 21 (3) a salary equal to one-fourth the daily rate of a
 22 grade 8, step 1, classified state employee, for every 6
 23 hours or fraction thereof spent away from home on board
 24 business."

25 Section 7. Section 37-50-203, MCA, is amended to read:

1 *37-50-203. Rules of professional conduct the board --
 2 solicitation of advisory comments. ~~(1) The board may adopt~~
 3 ~~such rules consistent with the purposes of this chapter as~~
 4 ~~it considers necessary.~~

5 ~~(2) The board may make shall adopt:~~

6 ~~(a) rules of professional conduct appropriate to~~
 7 ~~establish and maintain a high standard of integrity,~~
 8 ~~dignity, and competency in the profession of public~~
 9 ~~accountancy including competency in specific fields of~~
 10 ~~public accountancy;~~

11 ~~(b) rules of procedure governing the conduct of~~
 12 ~~matters before the board;~~

13 ~~(c) rules governing education requirements for~~
 14 ~~issuance of the certificate of a certified public accountant~~
 15 ~~AND THE LICENSE FOR LICENSED PUBLIC ACCOUNTANT;~~

16 ~~(d) rules prescribing requirements for continuing~~
 17 ~~education to be met by certified public accountants AND~~
 18 ~~LICENSED PUBLIC ACCOUNTANTS, in order to maintain their~~
 19 ~~professional knowledge and competence, as a condition to~~
 20 ~~continuing in the practice of public accountancy. In issuing~~
 21 ~~rules and individual orders regarding continuing education,~~
 22 ~~the board, in its discretion;~~

23 ~~(i) may, among other things, use or rely upon~~
 24 ~~guidelines and pronouncements of recognized educational and~~
 25 ~~professional associations;~~

1 ~~(ii) may prescribe the content, duration, and~~
 2 ~~organization of courses; and~~

3 ~~(iii) shall take into account the accessibility to~~
 4 ~~applicants of such continuing education as it may require~~
 5 ~~and any impediments to interstate practice of public~~
 6 ~~accountancy that may result from differences in such~~
 7 ~~requirements in other states;~~

8 ~~(e) rules governing partnerships and corporations~~
 9 ~~practicing public accounting, including but not limited to~~
 10 ~~rules concerning their style, name, title, and affiliation~~
 11 ~~with any other organization and establishing reasonable~~
 12 ~~standards with respect to professional liability insurance~~
 13 ~~and unimpaired capital and prescribing joint and several~~
 14 ~~liability for torts relating to professional services for~~
 15 ~~shareholders of any such corporation failing to comply with~~
 16 ~~such standards; and~~

17 ~~(f) rules setting forth the terms, not exceeding 2~~
 18 ~~years, and areas of experience required for certification as~~
 19 ~~a certified public accountant AND LICENSING AS A LICENSED~~
 20 ~~PUBLIC ACCOUNTANT.~~

21 ~~(3) At least 60 days prior to the adoption of a~~
 22 ~~rule or amendment, the department shall mail copies of the~~
 23 ~~proposed rule or amendment to each holder of a CERTIFICATE~~
 24 ~~OR license issued under 37-50-314, with a notice advising~~
 25 ~~him of the proposed effective date of the rule or amendment~~

1 and requesting that he submit his comments on it at least 15
2 days prior to the effective date. These comments are
3 advisory only. The department's certificate of mailing to
4 licensed accountants is conclusive proof thereof."

5 Section 8. Section 37-50-301, MCA, is amended to read:

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

24 (2) No partnership or corporation shall assume or use
25 the title or designation "certified public accountant" or

1 the abbreviation "CPA" or any other title, designation,
2 words, letters, abbreviation, sign, card, or device tending
3 to indicate that such partnership or corporation is composed
4 of certified public accountants unless it is registered
5 under 37-50-331 or 37-50-332, whichever is applicable, and
6 all of its offices in this state for the practice of public
7 accounting are maintained and registered as required under
8 37-50-335.

9 (3) No person may assume or use the title or
10 designation "licensed public accountant", "public
11 accountant", or any other title, designation, words,
12 letters, abbreviation, sign, card, or device tending to
13 indicate that such person is a public accountant unless such
14 person is registered licensed as a licensed public
15 accountant under 37-50-303 this chapter, 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 or
19 unless such person has received a certificate as a certified
20 public accountant under ~~37-50-302~~ in some state, holds a
21 current license issued under 37-50-314, and all of such
22 person's offices in this state for the practice of public
23 accounting are maintained and registered as required under
24 37-50-335.

25 (4) No partnership or corporation may assume or use

1 the title or designation "licensed public accountant",
 2 "public accountant", or any other title, designation, words,
 3 letters, abbreviation, sign, card, or device tending to
 4 indicate that such partnership or corporation is composed of
 5 public accountants unless it is registered under 37-50-331,
 6 37-50-332, 37-50-333, or 37-50-334, whichever is applicable,
 7 and all of its offices in this state for the practice of
 8 public accounting are maintained and registered as required
 9 under 37-50-335.

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

1 ~~state for the practice of public accounting are maintained~~
 2 ~~and registered as required under 37-50-335~~ may use the title
 3 under which he is generally known in this country, followed
 4 by the name of the country from which he received his
 5 certificate, license, or degree.

6 (6) No person may sign or affix his name or any trade
 7 or assumed name used by him in his profession or business
 8 with any wording indicating that he ~~is an accountant or~~
 9 ~~auditor or with any wording indicating that~~ he has expert
 10 knowledge in accounting or auditing to any accounting or
 11 financial statement or to any opinion on, report on, or
 12 certificate to any accounting or financial statement unless
 13 he holds a current license issued under 37-50-314 and all of
 14 his offices in this state for the practice of public
 15 accounting are maintained and registered under 37-50-335.
 16 However, the provisions of this subsection do not prohibit
 17 any officer, employee, partner, or principal of any
 18 organization from affixing his signature to any statement or
 19 report in reference to the financial affairs of that
 20 organization with any wording designating the position,
 21 title, or office which he holds in that organization, nor do
 22 the provisions of this subsection prohibit any act of a
 23 public official or public employee in the performance of his
 24 duties as such.

25 (7) No person may sign or affix a partnership or

1 corporation name with any wording indicating that it is a
 2 partnership or corporation composed of accountants--or
 3 auditors--or persons having expert knowledge in accounting or
 4 auditing to any accounting or financial statement or to any
 5 report on or certificate to any accounting or financial
 6 statement unless the partnership or corporation is
 7 registered under 37-50-331, 37-50-332, 37-50-333, or
 8 37-50-334 and all of its offices in this state for the
 9 practice of public accounting are maintained and registered
 10 as required under 37-50-335.

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

1 partner."

2 Section 9. Section 37-50-302, MCA, is amended to read:
 3 "37-50-302. Certified public accountants --
 4 certification -- qualifications and requirements.
 5 Certification as a certified public accountant is available
 6 to any person who:

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

9 ~~(2)--is--a--resident--of--this--state--or--has--a--place--of~~
 10 ~~business--in--this--state--or--as--an--employee--is--regularly~~
 11 ~~employed--in--this--state~~

12 ~~(3)(1)~~ is of good moral character;

13 ~~(4)(2)~~ has successfully passed the certified public
 14 accountants' examination; and

15 ~~(5)(3)~~ meets the requirements of education and
 16 ~~experience--in--37-50-305--and--37-50-306--set--forth--in--this~~
 17 ~~chapter--and--in--board--rules."~~

18 Section 10. Section 37-50-305, MCA, is amended to
 19 read:

20 "37-50-305. Education and--experience requirements.
 21 Education--and--experience--requirements--shall--be--as--follows: A
 22 candidate for certification as a certified public accountant
 23 OR LICENSING AS A LICENSED PUBLIC ACCOUNTANT must have

24 ~~(1)--graduation~~ graduated from a college or university
 25 ~~accredited--to--offer~~ recognized by the board with a

1 baccalaureate degree;

2 (1) with a concentration in accounting or on
3 ~~equivalent education in the judgment of the board and~~

4 ~~(2) one year of experience in public-private or~~
5 ~~governmental accounting of a nature and quality satisfactory~~
6 ~~to the board.~~

7 (2) with a concentration other than accounting if
8 supplemented by related courses in other areas of business
9 administration and the board determines that an equivalent
10 education has been achieved."

11 Section 11. Section 37-50-308, MCA, is amended to
12 read:

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

24 Section 12. Section 37-50-309, MCA, is amended to
25 read:

1 "37-50-309. Credit for examinations taken in other
2 states. The board may by rule provide for granting credit to
3 a candidate for his satisfactory completion of a written
4 examination in any one or more of the subjects of
5 examination given by the licensing authority in another
6 state ~~if when he took the examination he was not a resident~~
7 ~~of this state.~~ These rules shall include requirements the
8 board determines appropriate in order that an examination
9 approved as a basis for credit is, in the judgment of the
10 board, at least as thorough as that included in the most
11 recent examination given in this state at the time of
12 granting the credit originally was granted by the other
13 state for passing the examination."

14 Section 13. Section 37-50-314, MCA, is amended to
15 read:

16 "37-50-314. Annual renewal-----fee certification or
17 licensure. (1) Annual certificates and licenses to engage in
18 the practice of public accounting in this state shall be
19 issued by the department to holders ~~of the certificate of~~
20 certified public accountant accountants issued---under
21 37-50-302 and to persons licensed public accountants under
22 37-50-303 ~~if all offices if any of the certificate holder~~
23 ~~or licensed public accountant are maintained and registered~~
24 under 37-50-335. There is an annual certificate or license
25 renewal fee in an amount to be determined by the board ~~not~~

1 to exceed \$25 for a year or part thereof. Annual
 2 certificates and licenses expire on December 31 of each year
 3 and may be renewed for a period of 1 year by certificate
 4 holders certified public accountants and licensed public
 5 accountants in good standing on payment of on the annual
 6 renewal fee of not to exceed \$25.

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

15 A person who fails to renew his license or certificate shall
 16 promptly surrender it to the board upon request.

17 (3) After the expiration of the 3-year period
 18 immediately following the effective date of a board rule
 19 establishing continuing education requirements, each
 20 application for renewal by a person who has held his
 21 certificate or license for 3 years or more must be
 22 accompanied or supported by evidence satisfactory to the
 23 board of fulfillment of such requirements during the 3-year
 24 period immediately preceding the application.

25 (4) The board may in its discretion waive the

1 requirement stated in subsection (3) if the applicant agrees
 2 to follow a particular program or schedule of continuing
 3 education agreeable to the board.

4 ~~(3) A certificate holder or licensed public accountant~~
 5 ~~who is retiring from active practice or other employment~~
 6 ~~because of illness, age, marriage, or other justifiable~~
 7 ~~cause in the opinion of the board, may be placed on an~~
 8 ~~inactive list without prejudicing his right to be issued an~~
 9 ~~annual license at a future date. A request for inactive~~
 10 ~~status must be sent to the department within the 3-year~~
 11 ~~period as outlined in this section.~~

12 (5) The board may relax or suspend continuing
 13 education requirements for an applicant who certifies that
 14 he does not intend to engage in the practice of public
 15 accountancy and for an applicant who cannot fulfill the
 16 requirement due to individual hardship.

17 (6) Subject to subsections (4) and (5), the board may
 18 revoke, suspend, or refuse to renew the certificate or
 19 license of an applicant who fails to furnish evidence of
 20 having met the continuing education requirements established
 21 by the board."

22 Section 14. Section 37-50-315, MCA, is amended to
 23 read:

24 "37-50-315. Deposit of moneys collected. Fees and
 25 other moneys collected by the department under this chapter

1 shall be deposited in the earmarked revenue fund for the use
2 of the board, ~~subject to 37-1-101(6).~~"

3 Section 15. Section 37-50-321, MCA, is amended to
4 read:

5 "37-50-321. Revocation, suspension, or refusal to
6 renew certificate or license. After notice and hearing as
7 provided in 37-50-341, the board may revoke or may suspend
8 any certificate issued under 37-50-302 or any registration
9 license granted under 37-50-303 [section 21] or may revoke,
10 suspend, or refuse to renew any license issued under
11 37-50-314 or may censure the holder of any such license for
12 any one or any combination of the following causes:

13 (1) fraud or deceit in obtaining a certificate as
14 certified public accountant or in obtaining a license to
15 practice public accounting under this chapter;

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

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

19 (4) violation of a rule of professional conduct
20 promulgated by the board under the authority granted by this
21 chapter;

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

24 (6) conviction of any crime, an element of which is
25 dishonesty or fraud, under the laws of any state or of the

1 United States;

2 (7) cancellation, revocation, suspension, or refusal
3 to renew authority to practice as a certified public
4 accountant or a public accountant by any other state for any
5 cause other than failure to pay an annual registration fee
6 in such other state;

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

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

18 Section 16. Section 37-50-331, MCA, is amended to
19 read:

20 "37-50-331. Partnership composed of certified public
21 accountants -- registration. (1) A partnership that is or
22 plans to become engaged in this state in the practice of
23 public accounting may shall register with the department as
24 a partnership of certified public accountants provided it
25 meets the following requirements:

1 ~~(c) At least one general partner must be a certified~~
 2 ~~public accountant of this state in good standing and must~~
 3 ~~hold a license issued under 37-50-314 which is in effect.~~

4 ~~(b)(a) Each partner or manager personally engaged in~~
 5 ~~this state in the practice of public accounting must be a~~
 6 ~~certified public accountant of this some state in good~~
 7 ~~standing and must hold a license issued under 37-50-314~~
 8 ~~which is in effect be certified under this chapter.~~

9 ~~(c)(b) Each partner must be a certified public~~
 10 ~~accountant of some state in good standing.~~

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

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

25 Section 17. Section 37-50-332, MCA, is amended to

1 read:

2 "37-50-332. Corporation composed of certified public
 3 accountants -- registration. (1) A professional service
 4 corporation organized for the practice of public accounting
 5 may ~~must~~ register with the board as a corporation of
 6 certified public accountants provided it meets the following
 7 requirements:

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

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

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

~~(d)(1) Each shareholder, officer, or manager of the corporation personally engaged within this state in the practice of public accounting as a member thereof must be a certified public accountant of this ~~some~~ state in good standing and must hold ~~a~~ license issued under 37-50-314 which ~~is in effect~~ be certified under this chapter.~~

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

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

(2) Application for such registration must be made upon the affidavit of a shareholder who holds a permit to practice in this state as a certified public accountant. The board shall determine whether the applicant is eligible for registration. A corporation which is so registered may use

the words "certified public accountant" or the abbreviation "CPA" in connection with its corporation name. Notification shall be given the board within 1 month after the admission or withdrawal of a shareholder of a corporation so registered."

Section 18. Section 37-50-333, MCA, is amended to read:

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

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

(b) Each partner personally engaged in this state in the practice of public accounting must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under 37-50-314 which is in effect.

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

1 effect.

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

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

16 Section 19. Section 37-50-334, MCA, is amended to
 17 read:

18 "37-50-334. Corporation composed of public accountants
 19 -- registration. (1) A professional service corporation
 20 organized for the practice of public accounting may must
 21 register with the board as a corporation of public
 22 accountants provided it meets the following requirements:

23 (a) The sole purpose and business of the corporation
 24 must be to furnish to the public services not inconsistent
 25 with this chapter or the rules of the board, but the

1 corporation may invest its funds in a manner not
 2 incompatible with the practice of public accounting.

3 (b) At least one shareholder thereof must be a
 4 certified public accountant or public accountant of this
 5 state in good standing and must hold a license issued under
 6 37-50-314 which is in effect.

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

17 (d) Each shareholder of the corporation personally
 18 engaged within this state in the practice of public
 19 accounting as a member thereof must be a certified public
 20 accountant or a licensed public accountant of this state in
 21 good standing and must hold a license issued under 37-50-314
 22 which is in effect.

23 ~~(e) Each staff member who is employed within this~~
 24 ~~state and who is certified under 37-50-302 or registered~~
 25 ~~under 37-50-303 must also hold a license issued under~~

1 ~~37-50-314 which is in effect.~~

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

12 (2) Application for such registration must be made
13 upon the affidavit of a shareholder who holds a permit
14 certificate or license to practice in this state as a
15 certified public accountant or licensed public accountant.
16 The board shall determine whether the applicant is eligible
17 for registration. A corporation which is so registered may
18 use the words "public accountant" or the abbreviation "PA"
19 in connection with its corporation name. Notification shall
20 be given the board within 1 month after the admission or
21 withdrawal of a shareholder of a corporation so registered."

22 Section 20. Section 37-50-335, MCA, is amended to
23 read:

24 "37-50-335. Registration of offices. Each office
25 established or maintained in this state for the practice of

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

17 ~~NEW SECTION - Section 21 - Continued - - licensure - - of~~
18 ~~currently licensed public accountants - - Licensure as a~~
19 ~~licensed public accountant is available to any person~~
20 ~~licensed as such on July 1, 1979, in addition, persons~~
21 ~~serving in the armed forces of the United States on July 1,~~
22 ~~1979, who immediately prior to entering this service held~~
23 ~~themselves out to the public as licensed public accountants~~
24 ~~and who were engaged as principals in this state in the~~
25 ~~practice of public accounting as their principal occupation~~

1 prior to service in the armed forces, may register with the
 2 department within 6 months after the date of their
 3 separation from active service and, on registration and
 4 payment of the license fee, be issued a license by the
 5 department as a licensed public accountant. A principal is
 6 either the owner of or a partner in an existing accounting
 7 practice.

8 **NEW SECTION.** Section 21. Duties of the department.

9 The department shall:

10 (1) assist the board in transactions of its business
 11 and keep a record of the board's official action; and

12 (2) assess to the board the reasonable costs of the
 13 department incurred in assisting the board.

14 **NEW SECTION.** Section 22. Existing orders and rules
 15 effective until revoked or modified. All orders and rules
 16 relating to the practice of accounting made by the board of
 17 public accountants prior to July 1, 1979, remain in effect
 18 until revoked or modified in accordance with law.

19 **NEW SECTION.** Section 23. Continuation of funds. All
 20 unexpended balances of appropriations, allocations, or other
 21 funds of the board of public accountants shall continue to
 22 be used by the board of public accountants, as reestablished
 23 in this act, for the purpose of regulating the practice of
 24 accounting.

25 Section 24. Transition. The terms of office of persons

1 who are members of the board of public accountants on July
 2 1, 1979, expire on July 31, 1979. Initial appointments to
 3 the new board shall be made by the governor before July 31,
 4 1979. The governor shall designate three appointees to serve
 5 initial terms of 1 year, three appointees to serve initial
 6 terms of 2 years, and three appointees to serve initial
 7 terms of 3 years. Thereafter appointments shall be for terms
 8 of 3 years as provided in section 3.

9 Section 25. Codification. Sections 21 and 22 are
 10 intended to be codified as an integral part of Title 37,
 11 chapter 50. The provisions of Title 37, chapter 50, apply to
 12 sections 21 and 22, and sections 21 and 22 apply to Title
 13 37, chapter 50. All references in the MCA to Title 37,
 14 chapter 50, include sections 21 and 22.

15 Section 26. Repealer. Sections ~~37-50-303, 37-50-304,~~
 16 ~~37-50-306, AND 37-50-307, and 37-50-312, MCA, are repealed.~~

17 Section 27. Effective date of certain sections.
 18 Sections 1 and 2 are effective on passage and approval.

-End-

1 STATEMENT OF INTENT RE: SB 489

2
3
4 A statement of intent is required by Senate Bill No.
5 489 in that it delegates rulemaking authority to the Board
6 of Public Accountants in Sections 7 and 13.

7 1. The Board may establish rules setting standards for
8 determining a practitioner's competency in specialized
9 fields of accounting. It is contemplated the rules should
10 address the following:

11 (a) the fields of specialized practice such as
12 auditing of financial institutions, auditing of governmental
13 entities, estate tax planning and other fields requiring
14 specialized knowledge;

15 (b) types of programs required for determining
16 competency such as classroom instruction, seminars,
17 homestudy, experience, examination or any combination
18 thereof;

19 (c) standards for determining programs to be approved
20 for fulfillment of the requirements such as adequacy of
21 facilities, qualifications of instructors, course content
22 and endorsement by other regulatory agencies or professional
23 or educational groups;

24 (d) the number of hours of instruction or experience,
25 if any, required;

1 (e) contents of examinations, if any, required;
2 (f) alternative methods of fulfilling the requirements
3 such as intrafirm or company programs and a provision for
4 waiver of the requirements for hardship.

5 The rules may not prohibit the person holding a license
6 or certificate from practicing in any area or field of
7 public accounting nor affect his ability to acquire annual
8 renewal of his certificate or license.

9 2. The Board may establish rules governing education
10 requirements for certification or licensure. It is
11 contemplated that the rules should supplement and interpret
12 37-50-305 as amended by the bill by:

13 (a) making determinations as to recognized colleges
14 and universities. The Board may use the University System
15 schools of business as a yardstick;

16 (b) determining standards for accepting college
17 graduates with majors other than accounting, including but
18 not limited to:

19 (i) the minimum number of accounting credits required;

20 (ii) subjects of courses allowed as supplementary
21 business-related courses; and

22 (iii) the total number of credits required in business
23 administration.

24 3. The Board may adopt rules prescribing continuing
25 education for continued practice in public accounting. It is

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1 contemplated that they should address the following:

2 (a) types of programs required for determining
3 knowledge and competence such as classroom instruction,
4 seminars, homestudy, experience, examination, or any
5 combination thereof;

6 (b) standards for determining programs to be approved
7 for fulfillment of the requirements such as adequacy of
8 facilities, qualifications of instructors, course content
9 and endorsement by other regulatory agencies or professional
10 or national groups;

11 (c) the number of hours of instruction or experience,
12 if any, required;

13 (d) contents of examinations, if any, required;

14 (e) alternative methods of fulfilling the requirements
15 such as intrafirm or intracompany programs or prospective
16 programs of study;

17 (f) methods of monitoring and enforcement;

18 (g) the rules may not deny a person the ability to
19 acquire annual renewal of his certificate or license if
20 continuing education requirements constitute a hardship due
21 to inaccessibility to programs or interference with an
22 interstate practice;

23 (h) the rules should reflect standards for continuing
24 education programs to ensure equal access, reasonable cost,
25 exceptions for financial or physical hardships or

1 impediments and reference to areas commonly and not rarely
2 practiced by those engaged in public accounting.

3 4. The Board may establish rules governing
4 partnerships and corporations practicing public accountancy.
5 It is contemplated that the rules should address the
6 following:

7 (a) the financial ability of a partnership or
8 corporation to protect the public from damages caused by
9 negligence or malpractice, if any;

10 (b) the method of establishing financial ability such
11 as unimpaired capital, professional liability insurance,
12 self-insurance or mutual insurance, or agreement;

13 (c) other areas of regulation regarding firm style,
14 name, title, affiliations, and joint and several liability
15 of members or shareholders are governed by existing
16 statutory law regulating partnerships and professional
17 corporations.

18 5. The Board may establish rules setting forth terms,
19 not exceeding two years, and areas of experience for
20 original certification or licensure. It is contemplated
21 that the rules should address the following:

22 (a) the duration of experience required, not to exceed
23 two years;

24 (b) the areas of experience such as private, public or
25 governmental accounting, or accounting experience as an

1 educator, researcher, publisher or military serviceman, or
2 combination thereof;

3 (c) the rules should not discriminate between the
4 areas of experience.

5 6. Section 13 allows the Board to prescribe a
6 reasonable annual renewal fee. It is intended that the fee
7 not exceed an amount necessary to meet administrative costs.

8 First adopted by the SENATE STATE ADMINISTRATION
9 COMMITTEE on February 21, 1979.

1 SENATE BILL NO. 489
 2 INTRODUCED BY RASMUSSEN
 3 BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
 6 BOARD OF PUBLIC ACCOUNTANTS AND TO GENERALLY REVISE THE
 7 AUTHORITY OF THE BOARD WITH REGARD TO CERTIFICATION AND
 8 LICENSING; AMENDING SECTIONS 2-8-103, 2-15-1641, 37-50-102,
 9 37-50-201 THROUGH 37-50-203, 37-50-301, 37-50-302,
 10 37-50-305, 37-50-308, 37-50-309, 37-50-314, 37-50-315,
 11 37-50-321, 37-50-331 THROUGH 37-50-335, MCA; AND REPEALING
 12 SECTIONS ~~37-50-303, 37-50-304, 37-50-306, AND 37-50-307, AND~~
 13 ~~37-50-312, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Board reestablished. The
 17 board of public accountants created by 2-15-1641 is
 18 reestablished ~~for--a-period-of-6-years-pursuant-to-2-8-122.~~
 19 Section 2. Section 2-8-103, MCA, is amended to read:
 20 "2-8-103. Agencies to terminate. (1) The following
 21 agencies shall terminate on July 1, 1979:
 22 (a) board of abstracters, department of professional
 23 and occupational licensing, created by 2-15-1643;
 24 (b) ~~board--of--public--accountants,--department--of~~
 25 ~~professional--and--occupational--licensing,--created--by~~

1 ~~2-15-1641~~
 2 ~~(c) board of architects, department of professional~~
 3 ~~and occupational licensing, created by 2-15-1651;~~
 4 ~~(d) state banking board, department of business~~
 5 ~~regulation, created by 2-15-1803;~~
 6 ~~(e) state electrical board, department of~~
 7 ~~professional and occupational licensing, created by~~
 8 ~~2-15-1654;~~
 9 ~~(f) board of professional engineers and land~~
 10 ~~surveyors, department of professional and occupational~~
 11 ~~licensing, created by 2-15-1653;~~
 12 ~~(g) office of commissioner of insurance and the~~
 13 ~~insurance department, state auditor's office, created by~~
 14 ~~2-15-1902 and 2-15-1903;~~
 15 ~~(h) office of the investment commissioner, state~~
 16 ~~auditor's office, created by 2-15-1901;~~
 17 ~~(i) board of landscape architects, department of~~
 18 ~~professional and occupational licensing, created by~~
 19 ~~2-15-1652;~~
 20 ~~(j) board of county printing, department of~~
 21 ~~community affairs, created by 2-15-1102;~~
 22 ~~(k) board of plumbers, department of professional~~
 23 ~~and occupational licensing, created by 2-15-1655;~~
 24 ~~(l) board of real estate, department of~~
 25 ~~professional and occupational licensing, created by~~

1 2-15-1642;

2 (m)(1) state board of warm air heating, ventilation,
3 and air conditioning, department of professional and
4 occupational licensing, created by 2-15-1656;

5 (n)(1) board of institutions, department of
6 institutions, created by 2-15-2303.

7 (2) The following agencies shall terminate on July 1,
8 1981:

9 (a) commission for human rights, department of labor
10 and industry, created by 2-15-1706;

11 (b) board of athletics, department of professional and
12 occupational licensing, created by 2-15-1661;

13 (c) board of barbers, department of professional and
14 occupational licensing, created by 2-15-1625;

15 (d) board of chiropractors, department of professional
16 and occupational licensing, created by 2-15-1613;

17 (e) board of cosmetologists, department of
18 professional and occupational licensing, created by
19 2-15-1626;

20 (f) board of dentists, department of professional and
21 occupational licensing, created by 2-15-1606;

22 (g) board of hearing aid dispensers, department of
23 professional and occupational licensing, created by
24 2-15-1616;

25 (h) board of massage therapists, department of

1 professional and occupational licensing, created by
2 2-15-1627;

3 (i) Montana state board of medical examiners,
4 department of professional and occupational licensing,
5 created by 2-15-1605;

6 (j) board of morticians, department of professional
7 and occupational licensing, created by 2-15-1619;

8 (k) board of nursing, department of professional and
9 occupational licensing, created by 2-15-1610;

10 (l) board of nursing home administrators, department
11 of professional and occupational licensing, created by
12 2-15-1611;

13 (m) board of optometrists, department of professional
14 and occupational licensing, created by 2-15-1612;

15 (n) board of osteopathic physicians, department of
16 professional and occupational licensing, created by
17 2-15-1607;

18 (o) board of pharmacists, department of professional
19 and occupational licensing, created by 2-15-1609;

20 (p) board of podiatry examiners, department of
21 professional and occupational licensing, created by
22 2-15-1608;

23 (q) board of psychologists, department of professional
24 and occupational licensing, created by 2-15-1617;

25 (r) board of radiologic technologists, department of

1 professional and occupational licensing, created by
2 2-15-1614;

3 (s) board of speech pathologists and audiologists,
4 department of professional and occupational licensing,
5 created by 2-15-1615;

6 (t) board of veterinarians, department of professional
7 and occupational licensing, created by 2-15-1618;

8 (u) board of veterans' affairs, department of social
9 and rehabilitation services, created by 2-15-2202.

10 (3) The following units of state government shall
11 terminate on July 1, 1983:

12 (a) board of aeronautics, department of community
13 affairs, created by 2-15-1103;

14 (b) state board of hail insurance, department of
15 agriculture, created by 2-15-3003;

16 (c) board of horseracing, department of professional
17 and occupational licensing, created by 2-15-1662;

18 (d) board of livestock, department of livestock,
19 created by 2-15-3102;

20 (e) board of milk control, department of business
21 regulation, created by 2-15-1902;

22 (f) board of oil and gas conservation, department of
23 natural resources and conservation, created by 2-15-3303;

24 (g) Montana outfitters council, department of fish and
25 game, created by 2-15-3403;

1 (h) public service commission, department of public
2 service regulation, created by 69-1-102;

3 (i) board of sanitarians, department of professional
4 and occupational licensing, created by 2-15-1631;

5 (j) board of water and wastewater operators,
6 department of health and environmental sciences, created by
7 2-15-2105;

8 (k) board of water well contractors, department of
9 professional and occupational licensing, created by
10 2-15-1632.

11 ~~§1--The following agency terminates on July 1, 1983:~~
12 ~~the board of public accountants created by 2-15-1641.~~

13 Section 3. Section 2-15-1641, MCA, is amended to read:
14 "2-15-1641. Board of public accountants. (1) There is
15 a board of public accountants.

16 (2) The board consists of five nine FIVE members
17 appointed by the governor. The members are:

18 (a) three four THREE certified public accountants
19 certified under ~~37-50-302 Title 37, chapter 50,~~ who have
20 been are certified and actively engaged in the practice of
21 public accounting and who have held a valid certificate for
22 at least 5 years before their appointment. The Montana
23 society of certified public accountants shall submit to the
24 governor biennially annually a list of names of two
25 candidates from which the appointments of these members may

1 be made. However, the governor is not restricted to the
2 names on this list. These members may not be residents of
3 the same county.

4 ~~that one certified public accountant who is not~~
5 ~~actively engaged in the practice of public accounting and~~
6 ~~who has been certified for at least 5 years before his~~
7 ~~appointment. When an appointment in this category is~~
8 ~~necessary, the Montana society of certified public~~
9 ~~accountants shall submit to the governor a list of names of~~
10 ~~two candidates from which the appointment of this member may~~
11 ~~be made. However, the governor is not restricted to the~~
12 ~~names on this list.~~

13 (b) ~~that~~(B) two ONE licensed public accountants
14 ACCOUNTANT licensed under 37-50-303 Title 37, chapter 50,
15 who have been and IS actively engaged in the practice of
16 public accounting and who have HAS held a valid license for
17 at least 5 years before their HIS appointment. When an
18 appointment in this category is necessary, The the Montana
19 society of public accountants shall submit to the governor
20 biennially a list of n ames of two candidates from which the
21 appointment of--these--members may be made. However, the
22 governor is not restricted to the names on this list. These
23 members may not be residents of the same county. If there is
24 no licensed public accountant known by the governor to be
25 qualified and willing to serve in this position, the

1 governor may appoint a certified public accountant meeting
2 the qualifications provided in (2)(a).

3 (d)(1) two members of the general public who are not
4 engaged in the practice of public accounting. These members
5 may not be residents of the same county. ONE MEMBER OF THE
6 GENERAL PUBLIC WHO IS NOT ENGAGED IN THE PRACTICE OF PUBLIC
7 ACCOUNTING.

8 (3) All members shall be residents of this state and
9 citizens of the United States and hold current licenses
10 under 37-50-314. The governor shall remove any member whose
11 license to practice has become void, revoked, or suspended
12 or who ceases to be engaged in the practice of public
13 accounting. Each appointment is subject to confirmation by
14 the senate and shall be submitted for consideration at the
15 next regular session following appointment.

16 (4) Each member shall serve for a term of 6 3 years. A
17 member who has served two successive complete terms is not
18 eligible for reappointment until after the lapse of 1 year.
19 The governor may, after a hearing, remove a member for
20 neglect of duty or other just cause.

21 (5) The board is allocated to the department for
22 administrative purposes only as prescribed in 2-15-121."

23 Section 4. Section 37-50-102, MCA, is amended to read:
24 "37-50-102. Exemptions. (1) Nothing contained in this
25 chapter shall prohibit any person not a certified public

1 accountant or licensed public accountant from serving as an
 2 employee of or an assistant to a certified public accountant
 3 or a licensed public accountant holding a license to
 4 practice under 37-50-314 or a partnership OR CORPORATION
 5 composed of certified public accountants or licensed public
 6 accountants registered under this chapter or a foreign
 7 accountant registered under 37-50-313 provided that such
 8 employee or assistant shall not issue any accounting or
 9 financial statement over his name.

10 ~~(2) Nothing contained in this chapter shall prohibit a~~
 11 ~~certified public accountant or a licensed public accountant~~
 12 ~~of another state or any accountant who holds a certificate~~
 13 ~~degree or license in a foreign country constituting a~~
 14 ~~recognized qualification for the practice of public~~
 15 ~~accounting in such country from temporarily practicing in~~
 16 ~~this state on professional business incident to his regular~~
 17 ~~practice outside this state provided that such temporary~~
 18 ~~practice is conducted in conformity with the rules of~~
 19 ~~professional conduct promulgated by the boards."~~

20 Section 5. Section 37-50-201, MCA, is amended to read:
 21 "37-50-201. Organization -- general rulemaking power
 22 -- quorum -- seal -- records. (1) The board shall elect
 23 annually a chairman, secretary, and treasurer from its
 24 members.

25 (2) The board may adopt rules for the conduct of its

1 affairs and the administration of this chapter.

2 (3) A quorum for the transaction of business consists
 3 of three ~~five~~ THREE members of the board.

4 (4) The board shall have a seal which shall be
 5 judicially noticed.

6 (5) The Department shall keep records of the board's
 7 proceeding. In a proceeding in court, civil or criminal,
 8 arising out of or founded on this chapter, copies of these
 9 records certified as correct under the seal of the board are
 10 admissible in evidence as tending to prove the content of
 11 these records."

12 Section 6. Section 37-50-202, MCA, is amended to read:
 13 "37-50-202. Compensation of members -- expenses. Each
 14 member of the board shall receive as compensation \$20 for
 15 each day while actually engaged in the duties of his office
 16 and in addition shall be reimbursed for travel expenses
 17 provided for in 2-18-501 through 2-18-503, connected with
 18 the discharge of his official duties, is entitled to:

19 (1) a mileage allowance as provided in 2-18-503;
 20 (2) expenses as provided in 2-18-501 and 2-18-502; and
 21 (3) a salary equal to one-fourth the daily rate of a
 22 grade 8, step 1, classified state employee, for every 6
 23 hours or fraction thereof spent away from home on board
 24 business."

25 Section 7. Section 37-50-203, MCA, is amended to read:

1 "37-50-203. Rules of professional conduct the board --
 2 solicitation of advisory comments. ~~(1) The board may adopt~~
 3 ~~such rules consistent with the purposes of this chapter as~~
 4 ~~it considers necessary.~~

5 ~~††(2) The board may make shall adopt:~~

6 (a) rules of professional conduct appropriate to
 7 establish and maintain a high standard of integrity,
 8 dignity, and competency in the profession of public
 9 accountancy including competency in specific fields of
 10 public accountancy;

11 (b) rules of procedure governing the conduct of
 12 matters before the board;

13 (c) rules governing education requirements for
 14 issuance of the certificate of a certified public accountant
 15 AND THE LICENSE FOR LICENSED PUBLIC ACCOUNTANT;

16 (d) rules prescribing requirements for continuing
 17 education to be met by certified public accountants AND
 18 LICENSED PUBLIC ACCOUNTANTS, in order to maintain their
 19 professional knowledge and competence, as a condition to
 20 continuing in the practice of public accountancy. In issuing
 21 rules and individual orders regarding continuing education,
 22 the board, in its discretion;

23 (i) may, among other things, use or rely upon
 24 guidelines and pronouncements of recognized educational and
 25 professional associations;

1 (ii) may prescribe the contents, duration, and
 2 organization of courses; and

3 (iii) shall take into account the accessibility to
 4 applicants of such continuing education as it may require
 5 and any impediments to interstate practice of public
 6 accountancy that may result from differences in such
 7 requirements in other states;

8 (e) rules governing partnerships and corporations
 9 practicing public accounting, including but not limited to
 10 rules concerning their style, name, title, and affiliation
 11 with any other organization and establishing reasonable
 12 standards with respect to professional liability insurance
 13 and unimpaired capital and prescribing joint and several
 14 liability for torts relating to professional services for
 15 shareholders of any such corporation failing to comply with
 16 such standards; and

17 (f) rules setting forth the terms, not exceeding 2
 18 years, and areas of experience required for certification as
 19 a certified public accountant AND LICENSING AS A LICENSED
 20 PUBLIC ACCOUNTANT.

21 ††(3) At least 60 days prior to the adoption of a
 22 rule or amendment, the department shall mail copies of the
 23 proposed rule or amendment to each holder of a CERTIFICATE
 24 OR license issued under 37-50-314, with a notice advising
 25 him of the proposed effective date of the rule or amendment

1 and requesting that he submit his comments on it at least 15
2 days prior to the effective date. These comments are
3 advisory only. The department's certificate of mailing to
4 licensed accountants is conclusive proof thereof."

5 Section 8. Section 37-50-301, MCA, is amended to read:

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

24 (2) No partnership or corporation shall assume or use
25 the title or designation "certified public accountant" or

1 the abbreviation "CPA" or any other title, designation,
2 words, letters, abbreviation, sign, card, or device tending
3 to indicate that such partnership or corporation is composed
4 of certified public accountants unless it is registered
5 under 37-50-331 or 37-50-332, whichever is applicable, and
6 all of its offices in this state for the practice of public
7 accounting are maintained and registered as required under
8 37-50-335.

9 (3) No person may assume or use the title or
10 designation "licensed public accountant", "public
11 accountant", or any other title, designation, words,
12 letters, abbreviation, sign, card, or device tending to
13 indicate that such person is a public accountant unless such
14 person is registered licensed as a licensed public
15 accountant under 37-50-303 this chapter, 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 or
19 unless such person has received a certificate as a certified
20 public accountant ~~under--37-50-302~~ in some state, holds a
21 current license issued under 37-50-314, and all of such
22 person's offices in this state for the practice of public
23 accounting are maintained and registered as required under
24 37-50-335.

25 (4) No partnership or corporation may assume or use

1 the title or designation "licensed public accountant",
 2 "public accountant", or any other title, designation, words,
 3 letters, abbreviation, sign, card, or device tending to
 4 indicate that such partnership or corporation is composed of
 5 public accountants unless it is registered under 37-50-331,
 6 37-50-332, 37-50-333, or 37-50-334, whichever is applicable,
 7 and all of its offices in this state for the practice of
 8 public accounting are maintained and registered as required
 9 under 37-50-335.

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

1 ~~state for the practice of public accounting are maintained~~
 2 ~~and registered as required under 37-50-335~~ may use the title
 3 under which he is generally known in this country, followed
 4 by the name of the country from which he received his
 5 certificate, license, or degree.

6 (6) No person may sign or affix his name or any trade
 7 or assumed name used by him in his profession or business
 8 with any wording indicating that he ~~is an accountant or~~
 9 ~~auditor or with any wording indicating that he~~ has expert
 10 knowledge in accounting or auditing to any accounting or
 11 financial statement or to any opinion on, report on, or
 12 certificate to any accounting or financial statement unless
 13 he holds a current license issued under 37-50-314 and all of
 14 his offices in this state for the practice of public
 15 accounting are maintained and registered under 37-50-335.
 16 However, the provisions of this subsection do not prohibit
 17 any officer, employee, partner, or principal of any
 18 organization from affixing his signature to any statement or
 19 report in reference to the financial affairs of that
 20 organization with any wording designating the position,
 21 title, or office which he holds in that organization, nor do
 22 the provisions of this subsection prohibit any act of a
 23 public official or public employee in the performance of his
 24 duties as such.

25 (7) No person may sign or affix a partnership or

1 corporation name with any wording indicating that it is a
 2 partnership or corporation composed of accountants--or
 3 auditors--or persons having expert knowledge in accounting or
 4 auditing to any accounting or financial statement or to any
 5 report on or certificate to any accounting or financial
 6 statement unless the partnership or corporation is
 7 registered under 37-50-331, 37-50-332, 37-50-333, or
 8 37-50-334 and all of its offices in this state for the
 9 practice of public accounting are maintained and registered
 10 as required under 37-50-335.

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

1 partner."

2 Section 9. Section 37-50-302, MCA, is amended to read:

3 "37-50-302. Certified public accountants --
 4 certification -- qualifications and requirements.
 5 Certification as a certified public accountant is available
 6 to any person who:

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

9 ~~(2) is a resident of this state or has a place of~~
 10 ~~business in this state or as an employee is regularly~~
 11 ~~employed in this state~~

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

13 ~~(4) has successfully passed the certified public~~
 14 ~~accountants' examination; and~~

15 ~~(5) meets the requirements of education and~~
 16 ~~experience in 37-50-305 and 37-50-306 set forth in this~~
 17 ~~chapter and in board rules."~~

18 Section 10. Section 37-50-305, MCA, is amended to
 19 read:

20 "37-50-305. Education and experience requirements.
 21 Education and experience requirements shall be as follows: A
 22 candidate for certification as a certified public accountant
 23 OR LICENSING AS A LICENSED PUBLIC ACCOUNTANT must have

24 ~~(1) graduation graduated from a college or university~~
 25 ~~accredited to offer ACCREDITED TO DEEBB recognized by the~~

1 ~~board with~~ a baccalaureate degree;
 2 (1) with a concentration in accounting or on
 3 ~~equivalent education in the judgment of the board and~~
 4 ~~(2) one year of experience in public, private or~~
 5 ~~governmental accounting of a nature and quality satisfactory~~
 6 ~~to the board.~~
 7 (2) with a concentration other than accounting, if
 8 supplemented by related courses in other areas of business
 9 administration and the board determines that an equivalent
 10 education has been achieved."

11 Section 11. Section 37-50-308, MCA, is amended to
 12 read:

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

24 Section 12. Section 37-50-309, MCA, is amended to
 25 read:

1 "37-50-309. Credit for examinations taken in other
 2 states. The board may by rule provide for granting credit to
 3 a candidate for his satisfactory completion of a written
 4 examination in any one or more of the subjects of
 5 examination given by the licensing authority in another
 6 state ~~if when he took the examination he was not a resident~~
 7 ~~of this state.~~ These rules shall include requirements the
 8 board determines appropriate in order that an examination
 9 approved as a basis for credit is, in the judgment of the
 10 board, at least as thorough as that included in the most
 11 recent examination given in this state at the time of
 12 granting the credit originally was granted by the other
 13 state for passing the examination."

14 Section 13. Section 37-50-314, MCA, is amended to
 15 read:

16 "37-50-314. Annual ~~renewal~~ ~~fee~~ certification or
 17 licensure. (1) Annual certificates and licenses to engage in
 18 the practice of public accounting in this state shall be
 19 issued by the department to ~~holders of the certificate of~~
 20 ~~certified public accountant accountants~~ ~~issued under~~
 21 ~~37-50-302~~ and to persons licensed public accountants under
 22 ~~37-50-303 if all offices if any of the certificate holder~~
 23 ~~or licensed public accountant are maintained and registered~~
 24 ~~under 37-50-335.~~ There is an annual certificate or license
 25 renewal ~~fee~~ in an amount to be determined by the board ~~not~~

1 to---exceed---\$25---for---a---year---or---part---thereof. Annual
 2 certificates and licenses expire on December 31 of each year
 3 and may be renewed for a period of 1 year by certificate
 4 holders certified public accountants and licensed public
 5 accountants in good standing on payment of an the annual
 6 renewal fee of not-to-exceed-\$25.

7 (2) ~~Failure of a certificate holder or licensed public~~
 8 ~~accountant to apply for the annual license to practice~~
 9 ~~within 3 years from the expiration date of the annual~~
 10 ~~license to practice last obtained or renewed or 3 years from~~
 11 ~~the date on which the certificate holder or licensee was~~
 12 ~~granted his certificate or license deprives him of the right~~
 13 ~~to the annual license unless the board in its discretion~~
 14 ~~determines the failure to have been due to excusable neglect~~
 15 A person who fails to renew his license or certificate shall
 16 promptly surrender it to the board upon request.

17 (3) After the expiration of the 3-year period
 18 immediately following the effective date of a board rule
 19 establishing continuing education requirements, each
 20 application for renewal by a person who has held his
 21 certificate or license for 3 years or more must be
 22 accompanied or supported by evidence satisfactory to the
 23 board of fulfillment of such requirements during the 3-year
 24 period immediately preceding the application.

25 (4) The board may in its discretion waive the

1 requirement stated in subsection (3) if the applicant agrees
 2 to follow a particular program or schedule of continuing
 3 education agreeable to the board.

4 (3) ~~A certificate holder or licensed public accountant~~
 5 ~~who is retiring from active practice or other employment~~
 6 ~~because of illness, age, marriage or other justifiable~~
 7 ~~cause in the opinion of the board, may be placed on an~~
 8 ~~inactive list without prejudicing his right to be issued an~~
 9 ~~annual license at a future date. A request for inactive~~
 10 ~~status must be sent to the department within the 3-year~~
 11 ~~period as outlined in this section.~~

12 (5) The board may relax or suspend continuing
 13 education requirements for an applicant who certifies that
 14 he does not intend to engage in the practice of public
 15 accountancy and for an applicant who cannot fulfill the
 16 requirement due to individual hardship.

17 (6) Subject to subsections (4) and (5), the board may
 18 revoke, suspend, or refuse to renew the certificate or
 19 license of an applicant who fails to furnish evidence of
 20 having met the continuing education requirements established
 21 by the board."

22 Section 14. Section 37-50-315, MCA, is amended to
 23 read:

24 "37-50-315. Deposit of moneys collected. Fees and
 25 other moneys collected by the department under this chapter

1 shall be deposited in the earmarked revenue fund for the use
2 of the board ~~subject to 37-1-101(6).~~"

3 Section 15. Section 37-50-321, MCA, is amended to
4 read:

5 "37-50-321. Revocation, suspension, or refusal to
6 renew certificate or license. After notice and hearing as
7 provided in 37-50-341, the board may revoke or may suspend
8 any certificate issued under 37-50-302 or any registration
9 license granted under 37-50-303 ~~[section 21]~~ or may revoke,
10 suspend, or refuse to renew any license issued under
11 37-50-314 or may censure the holder of any such license for
12 any one or any combination of the following causes:

13 (1) fraud or deceit in obtaining a certificate as
14 certified public accountant or in obtaining a license to
15 practice public accounting under this chapter;

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

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

19 (4) violation of a rule of professional conduct
20 promulgated by the board under the authority granted by this
21 chapter;

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

24 (6) conviction of any crime, an element of which is
25 dishonesty or fraud, under the laws of any state or of the

1 United States;

2 (7) cancellation, revocation, suspension, or refusal
3 to renew authority to practice as a certified public
4 accountant or a public accountant by any other state for any
5 cause other than failure to pay an annual registration fee
6 in such other state;

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

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

18 Section 16. Section 37-50-331, MCA, is amended to
19 read:

20 "37-50-331. Partnership composed of certified public
21 accountants -- registration. (1) A partnership that is or
22 plans to become engaged in this state in the practice of
23 public accounting may shall register with the department as
24 a partnership of certified public accountants provided it
25 meets the following requirements:

1 ~~(c) At least one general partner must be a certified~~
 2 ~~public accountant of this state in good standing and must~~
 3 ~~hold a license issued under 37-50-314 which is in effect.~~

4 ~~(b)(1) Each partner or manager personally engaged in~~
 5 ~~this state in the practice of public accounting must be a~~
 6 ~~certified public accountant of this some state in good~~
 7 ~~standing and must hold a license issued under 37-50-314~~
 8 ~~which is in effect be certified under this chapter.~~

9 ~~(c)(1) Each partner must be a certified public~~
 10 ~~accountant of some state in good standing.~~

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

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

25 Section 17. Section 37-50-332, MCA, is amended to

1 read:

2 "37-50-332. Corporation composed of certified public
 3 accountants -- registration. (1) A professional service
 4 corporation organized for the practice of public accounting
 5 may ~~MUST~~ register with the board as a corporation of
 6 certified public accountants provided it meets the following
 7 requirements:

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

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

17 ~~(c)(1) Each shareholder of the corporation must be a~~
 18 ~~certified public accountant of some state in good standing~~
 19 ~~and must be principally employed by the corporation or~~
 20 ~~actively engaged in its business. No other person may have~~
 21 ~~any interest in the stock of the corporation. The principal~~
 22 ~~of the corporation and any officer or director having~~
 23 ~~authority over the practice of public accounting by the~~
 24 ~~corporation must be certified public accountants of some~~
 25 ~~state in good standing.~~

1 ~~(c)~~ Each shareholder, officer, or manager of the
 2 corporation personally engaged within this state in the
 3 practice of public accounting as a member thereof must be a
 4 certified public accountant of this ~~some~~ state in good
 5 standing and must hold ~~a license issued under 37-50-314~~
 6 which is in effect ~~be certified under this chapter.~~

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

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

21 (2) Application for such registration must be made
 22 upon the affidavit of a shareholder who holds a permit to
 23 practice in this state as a certified public accountant. The
 24 board shall determine whether the applicant is eligible for
 25 registration. A corporation which is so registered may use

1 the words "certified public accountant" or the abbreviation
 2 "CPA" in connection with its corporation name. Notification
 3 shall be given the board within 1 month after the admission
 4 or withdrawal of a shareholder of a corporation so
 5 registered."

6 Section 18. Section 37-50-333, MCA, is amended to
 7 read:

8 "37-50-333. Partnership composed of public accountants
 9 -- registration. (1) A partnership engaged in this state in
 10 the practice of public accounting ~~may~~ **must** register with the
 11 department as a partnership of licensed public accountants
 12 provided it meets the following requirements:

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

17 (b) Each partner personally engaged in this state in
 18 the practice of public accounting must be a certified public
 19 accountant or a licensed public accountant of this state in
 20 good standing and a holder of a license issued under
 21 37-50-314 which is in effect.

22 (c) Each local manager in charge of an office or a
 23 firm in this state must be a certified public accountant or
 24 a licensed public accountant of this state in good standing
 25 and a holder of a license issued under 37-50-314 which is in

1 effect.

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

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

16 Section 19. Section 37-50-334, MCA, is amended to
 17 read:

18 "37-50-334. Corporation composed of public accountants
 19 -- registration. (1) A professional service corporation
 20 organized for the practice of public accounting may ~~must~~
 21 register with the board as a corporation of public
 22 accountants provided it meets the following requirements:

23 (a) The sole purpose and business of the corporation
 24 must be to furnish to the public services not inconsistent
 25 with this chapter or the rules of the board, but the

1 corporation may invest its funds in a manner not
 2 incompatible with the practice of public accounting.

3 (b) At least one shareholder thereof must be a
 4 certified public accountant or public accountant of this
 5 state in good standing and must hold a license issued under
 6 37-50-314 which is in effect.

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

17 (d) Each shareholder of the corporation personally
 18 engaged within this state in the practice of public
 19 accounting as a member thereof must be a certified public
 20 accountant or a licensed public accountant of this state in
 21 good standing and must hold a license issued under 37-50-314
 22 which is in effect.

23 ~~(e) Each staff member who is employed within this~~
 24 ~~state and who is certified under 37-50-302 or registered~~
 25 ~~under 37-50-303 must also hold a license issued under~~

1 ~~37-50-314-which-is-in-effect~~

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

12 (2) Application for such registration must be made
13 upon the affidavit of a shareholder who holds a permit
14 certificate or license to practice in this state as a
15 certified public accountant or licensed public accountant.
16 The board shall determine whether the applicant is eligible
17 for registration. A corporation which is so registered may
18 use the words "public accountant" or the abbreviation "PA"
19 in connection with its corporation name. Notification shall
20 be given the board within 1 month after the admission or
21 withdrawal of a shareholder of a corporation so registered."

22 Section 20. Section 37-50-335, MCA, is amended to
23 read:

24 "37-50-335. Registration of offices. Each office
25 established or maintained in this state for the practice of

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

17 ~~NEW SECTION. Section 21. Continued. License of
18 currently licensed public accountants. License as
19 licensed public accountant is available to any person
20 licensed as such on duty in 1979. In addition, persons
21 serving in the armed forces of the United States on duty in
22 1979 who immediately prior to entering this service held
23 themselves out to the public as licensed public accountants
24 and who were engaged as principals in this state in the
25 practice of public accounting as their principal occupation~~

1 prior-to-service-in-the-armed-forces, may register with the
 2 department within 6 months after the date of their
 3 separation from active service and, on registration and
 4 payment of the license fee, be issued a license by the
 5 department as a licensed public accountant. A principal is
 6 either the owner of or a partner in an existing accounting
 7 practice.

8 NEW SECTION. Section 21. Duties of the department.
 9 The department shall:

- 10 (1) assist the board in transactions of its business
 11 and keep a record of the board's official action; and
 12 (2) assess to the board the reasonable costs of the
 13 department incurred in assisting the board.

14 NEW SECTION. Section 22. Existing orders and rules
 15 effective until revoked or modified. All orders and rules
 16 relating to the practice of accounting made by the board of
 17 public accountants prior to July 1, 1979, remain in effect
 18 until revoked or modified in accordance with law.

19 NEW SECTION. Section 23. Continuation of funds. All
 20 unexpended balances of appropriations, allocations, or other
 21 funds of the board of public accountants shall continue to
 22 be used by the board of public accountants, as reestablished
 23 in this act, for the purpose of regulating the practice of
 24 accounting.

25 Section 24. Transition. The terms of office of persons

1 who are members of the Board of public accountants on July
 2 1, 1979, expire on July 31, 1979. Initial appointments to
 3 the new board shall be made by the governor before July 31,
 4 1979. The governor shall designate three appointees to serve
 5 initial terms of 1 year, three appointees to serve initial
 6 terms of 2 years, and three appointees to serve initial
 7 terms of 3 years. Thereafter appointments shall be for terms
 8 of 3 years as provided in section 3.

9 Section 25. Codification. Sections 21 and 22 are
 10 intended to be codified as an integral part of Title 37,
 11 chapter 50. The provisions of Title 37, chapter 50, apply to
 12 sections 21 and 22, and sections 21 and 22 apply to Title
 13 37, chapter 50. All references in the MCA to Title 37,
 14 chapter 50, include sections 21 and 22.

15 Section 26. Repealer. Sections ~~37-50-303, 37-50-304,~~
 16 ~~37-50-306, AND 37-50-307, and 37-50-312, MCA, are repealed.~~

17 Section 27. Effective date of certain sections.
 18 Sections 1 and 2 are effective on passage and approval.

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1 practice of public accounting as their principal occupation
 2 prior to service in the armed forces, may register with the
 3 department within 6 months after the date of their
 4 separation from active service and on registration and
 5 payment of the license fee be issued a license by the
 6 department as a licensed public accountant. A principal is
 7 either the owner of or a partner in an existing accounting
 8 practice.

9 NEW SECTION. Section 21. Duties of the department.
 10 The department shall:

11 (1) assist the board in transactions of its business
 12 and keep a record of the board's official action; and

13 (2) assess to the board the reasonable costs of the
 14 department incurred in assisting the board.

15 NEW SECTION. Section 22. Existing orders and rules
 16 effective until revoked or modified. All orders and rules
 17 relating to the practice of accounting made by the board of
 18 public accountants prior to July 1, 1979, remain in effect
 19 until revoked or modified in accordance with law.

20 NEW SECTION. Section 23. Continuation of funds. All
 21 unexpended balances of appropriations, allocations, or other
 22 funds of the board of public accountants shall continue to
 23 be used by the board of public accountants, as reestablished
 24 in this act, for the purpose of regulating the practice of
 25 accounting.

1 Section 24. Transition. The terms of office of persons
 2 who are members of the board of public accountants on duty
 3 in 1979, expire on duty 31, 1979. Initial appointments to
 4 the new board shall be made by the governor before duty 31,
 5 1979. The governor shall designate three appointees to serve
 6 initial terms of 1 year, three appointees to serve initial
 7 terms of 2 years, and three appointees to serve initial
 8 terms of 3 years. Thereafter appointments shall be for terms
 9 of 3 years as provided in section 3. CURRENTLY MEMBERS OF
 10 THE BOARD OF PUBLIC ACCOUNTANTS ARE NOT AFFECTED BY THIS
 11 ACT. THE GOVERNOR SHALL MAKE THE APPOINTMENT NECESSARY TO
 12 COMPLY WITH THE CHANGE IN BOARD COMPOSITION CONTAINED IN
 13 (SECTION 3 OF THIS ACT) UPON THE FIRST AVAILABLE VACANCY
 14 SUITABLE FOR THAT PURPOSE.

15 Section 25. Codification. Sections 21 and 22 are
 16 intended to be codified as an integral part of Title 37,
 17 chapter 50. The provisions of Title 37, chapter 50, apply to
 18 sections 21 and 22, and sections 21 and 22 apply to Title
 19 37, chapter 50. All references in the MCA to Title 37,
 20 chapter 50, include sections 21 and 22.

21 Section 26. Repealer. Sections 37-50-303, 37-50-304,
 22 37-50-306, AND 37-50-307, and 37-50-312, MCA, are repealed.

23 Section 27. effective date of certain sections.
 24 Sections 1 and 2 are effective on passage and approval.

-End-

BUSINESS & INDUSTRY COMMITTEE OF THE HOUSE, AMENDMENTS TO SENATE
BILL NO. 489, THIRD READING COPY, AS FOLLOWS:

1. Page 1, line 18.

Following: "reestablished"

Strike: "for a period of 6 years pursuant to 2-8-122"

2. Page 10, line 3.

Following: "~~three~~"

Strike: "five"

Insert: "three"

3. Page 18, line 25.

Following: line 24

Insert: "accredited to offer"

4. Page 18, line 25.

Following: "~~offer~~"

Strike: "recognized by the board with"

AND AS AMENDED BE CONCURRED IN