SENATE BILL NO. 392

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INTRODUCED BY ELLIOTT, GAGE

BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

IN THE SENATE

February	10,	1983		Introduced and referred to Committee on Business and Industry.
February	15,	1983		Committee recommend bill do pass as amended. Report adopted.
				Statement of Intent attached.
February	16,	1983		Bill printed and placed on members' desks.
February	17,	1983		Second reading, do pass.
February	18,	1983		Correctly engrossed.
February	19,	1983		Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.
			IN THE HO	USE
February	28,	1983		Introduced and referred to Committee on Business and Industry.
March 11,	, 198	33		Committee recommend bill be concurred in. Report adopted.
March 19,	, 198	13		Second reading, concurred in.
March 21,	, 198	33		Third reading, concurred in.

IN THE SENATE

March 22, 1983

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Returned to Senate. Sent to enrolling.

Reported correctly enrolled.

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actor BILL NO. 392 1 z INTRODUCED BY BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 6 CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS 7 AND LICENSED PUBLIC ACCOUNTANTS: TO BROADEN THE BOARD OF 8 ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE 9 BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS 10 11 INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS 12 13 37-50-102+ 37-50-201. 37-50-203, 37-50-301 THROUGH 37-50-303, 37-50-305, 37-50-308, 37-50-311, 37-50-312, 14 15 37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333 16 THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA.* 17

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 18 19 Section 1. Section 37-50-102, MCA, is amended to read: #37-50-102. Exemptions. Nothing contained in this 20 chapter shall prohibit any person not a certified public 21 22 accountant or licensed public accountant from serving as an 23 employee of or an assistant to a certified public accountant 24 or a licensed public accountant holding a license nermit to 25 practice under 37+50-314 or a partnership or corporation

1 composed of certified public accountants or licensed public 2 accountants registered under this chapter or a foreign 3 accountant registered under 37-50-313 provided that such 4 employee or assistant shall not issue any accounting or 5 financial statement over his name." 6 Section 2. Section 37-50-201. MCA. is amended to read: 7 #37-50-201. Organization --- general rulemaking power 8 -- quorum -- seal -- records. (1) The board shall elect 9 annually a chairmany and a secretary-and-treasurer from its 10 members. 11 (2) The board may adopt rules for the conduct of its 12 affairs and the administration of this chapter. 13 (3) A guorum for the transaction of business consists 14 of three members of the board. 15 (4) The board shall have a seal which shall be 16 judicially noticed. 17 (5) The department shall keep records of the board's 18 proceeding. In a proceeding in court, civil or criminal. 19 arising out of or founded on this chapter, copies of these 20 records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of 21 22 these records." 23 Section 3. Section 37-50-203; MCA; is amended to read: *37-50-203. Rules of the board ----solicitation--of 24 25 advisory--comments. (1) The board may adopt such rules

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consistent with the purposes of this chapter as it considers
 necessary.

(2) The board shall adopt:

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4 (a) rules of professional conduct appropriate to 5 establish and maintain a high standard of integrity, 6 dignity, and competency in the profession of public 7 accounting including competency in specific fields of public 8 accounting;

9 (b) rules of procedure governing the conduct of
 10 matters before the board:

11 (c) rules governing education requirements<u>2....as</u> 12 <u>provided_in_37=50=305</u> for issuance of the certificate of a 13 certified public accountant and the license for licensed 14 public accountant;

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

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

25 (ii) may prescribe the content, duration, and

1 organization of courses; and

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

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

16 (f) rules setting forth the terms, not exceeding 2 17 years, and-areas-of-experience required for certification as 18 a certified public accountant and licensing as a licensed 19 public accountant=1.

20 (g)_internal_rules_considered_necessary_te_initiate

21 and conduct investigations and protect the confidences of

- 22 the client of any certified public accountant or licensed
- 23 public____accountant___subjected___to___board___disciplinary
- 24 proceedings1

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(bl_rules___defining___requirements___for___accounting)

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1 experiences__not__exceeding__2_yearss__for__issuance_of_the Z iditial_annual_permit: and 3 (il__rules_to_enforce_the_provisions_of_this_chapters 4 the__ourpose__of__which__rules_shall be to provide for the 5 monitoring of the profession of public accounting and to 6 maintain the quality of the accounting profession. 7 {3}--At--least--60-days-prior-to-the-adoption-of-e-rule 8 or-smendmenty--the--depertment--shatt--matt--coptes--of--the 9 proposed--rute--or-amendment-to-each-holder-af-a-cartificate 10 or-ficense-issued-under-37-58-3147-with--a--notice--advising 11 hta--of-the-proposed-effective-date-of-the-rute-or-amendment 12 and-requesting-that-he-submit-his-comments-on-it-at-ipast-15 13 days--prior--to--the--effective--datas--Thesa--comments--are 14 advisory--onlyv--The--department's-certificate-of-mailting-ta 15 itcensed-accountents-is-conclusive-proof-thereofy# 16 Section 4. Section 37-50-301, MCA, is amended to read: =37-50-301. Illegal use of title. (1) No person may 17 18 assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title. 19 designation, words, letters, abbreviation, sign, card, or 20 device tending to indicate that such person is a certified 21 public accountant unless such person has-received-a holds_a 22 current certificate as a certified public accountant in-some 23 state--and--is--certified--under--37-50-3027--37-50-3107--0f 24 37-50-311-ond-oll-of-such-person's-offices-in-this-state-for 25

the---practice--of--public--accounting--are--maintained--and registered-as-required-under-37-50-335 under_this_chapter+ However, a foreign accountant who has registered under the provisions of 37-50-313 may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license, or degree.

8 (2) No partnership or corporation shall assume or use the title or designation "certified public accountant" or 9 10 the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending 11 12 to indicate that such partnership or corporation is composed 13 of certified public accountants unless it is registered 14 under 37-50-331 or 37-50-332, whichever is applicable, and 15 all of its offices in this state for the practice of public accounting are maintained and registered as required under 16 17 37-50-335+

16 (3) No person may assume or use the title or "public 19 designation "licensed public accountant*, 20 accountant", or any other title, designation, words, 21 letters, abbreviation, sign, card, or device tending to 22 indicate that such person is a public accountant unless such 23 person is--licensed holds. a current license as a licensed 24 public accountant under this chaptery--holds--a-corrent ticense--tssued--under--37-50-314y--ond-att-of-such-person*s 25

1 offices-in-this-state-for-the-practice-of-public--accounting
2 are-maintained-and-registered-as-required-under-37-50-335-or
3 unless-such-person-has-received-a-certificata-as-a-certified
4 public--accountant--in--some--statey-holds-a-current-license
5 issued-under-37-58-324y-and-all-af-such-person4s-offices--in
6 this--state--for--the--practice--of--public--accounting--are
7 mmintained-and-registered-as-required-under-37-50-335.

8 (4) No partnership or corporation may assume or use 9 the title or designation "licensed public accountant", 10 "public accountant", or any other title, designation, words, 11 letters, abbreviation, sign, card, or device tending to indicate that such partnership or corporation is composed of 12 13 public accountants unless it is registered under 37-50-331. 14 37-50-332, 37-50-333, or 37-50-334, whichever is applicable, 15 and all of its offices in this state for the practice of 16 public accounting are maintained and registered as required 17 under 37-50-335.

18 (5) No person, corporation, or partnership may assume or use the title or designation "certified accountant", 19 20 "chartered accountant", "enrolled accountant", "licensed 21 accountant*, "registered accountant", or any other title or designation likely to be confused with "certified public 22 23 licensed public accountant", "oublic accountant*• accountant" or any of the abbreviations "CA", "EA", "LA", or 24 "RA" or similar abbreviations likely to be confused with 25

CPA• However, a foreign accountant who bas registered
 under__37=50=313 may use the title under which he is
 generally known in his country. followed by the name of the
 country from which he received his 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 with any wording indicating that he has expert knowledge in 8 9 accounting or auditing to any accounting or financial 10 statement or to any opinion on, report on, or certificate to any accounting or financial statement unless he holds a 11 12 current license permit issued under 37-50-314 and all of his 13 offices in this state for the practice of public accounting are maintained and registered under 37-50-335. However, the 14 provisions of this subsection do not prohibit any officer. 15 16 employee, partner, or principal of any organization from affixing his signature to any statement or report in 17 reference to the financial affairs of that organization with 18 19 any wording designating the position, title, or office which he holds in that organization, nor do the provisions of this 20 21 subsection prohibit any act of a public official or public 22 employee in the performance of his duties as such. 23 (7) No person may sign or affix a partnership or

24 corporation name with any wording indicating that it is a 25 partnership or corporation composed of persons having expert

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1 knowledge in accounting or auditing to any accounting or 2 financial statement or to any report on or certificate to 3 any accounting or financial statement unless the partnership 4 or corporation is registered under 37-50-331, 37-50-332, 5 37-50-333, or 37-50-334 and all of its offices in this state 6 for the practice of public accounting are maintained and 7 registered as required under 37-50-335,

8 (8) No person may assume or use the title or 9 designation "certified public accountant" or "public 10 accountant" in conjunction with names indicating or implying 11 that there is a partnership or corporation or in conjunction with the designation "and company" or "and cos" or a similar 12 13 designation if, in any such case, there is in fact no bona 14 fide partnership or corporation registered under 37-50-331, 37-50-332, 37-50-333, or 37-50-334. However, it is lawful 15 for a sole proprietor to continue the use of the deceased's 16 name in connection with his business for a reasonable period 17 of time after the death of a former partner." 18

Section 5. Section 37-50-302, NCA, is amended to read: 19 #37-50-302. Certified public accountants ---20 qualifications certification -and requirements. 21 Certification Ibe_board_shall_grant_an_initial_certificate 22 as a certified public accountant is-available to any person 23 24 who:

25 (1) is of good moral character;

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1	(2) has successfully passed the certified public
2	accountants* examination; and
3	(3) meets the requirements of education set forth in
4	this chapter and in board rules."
5	Section 6. Section 37-50-303, MCA, is amended to read:
6	*37-50-303. Public accountants licensure
7	qualifications and requirements. Licensure <u>The board s</u>ball
8	grant_au_initial_license as a licensed public accountant +*
9	avattable to any person who:
10	tlyisarasidentofthisstata-or-has-a-placa-of
11	business-in-this-state-oryasanemployeeyisregularly
12	emptoyed-in-this-statet
13	t27111 is of good moral character;
14	(3)[2] me ets the requirements of education set forth
15	in this chapter and board rules; and
16	(4)(2) complies with the qualifications and
17	requirements in any one of the subsections of 37-50-304."
18	Section 7. Section 37-50-305, MCA, is amended to read:
19	#37-50-305. Education requirements. A candidate for
20	certification as a certified public accountant or licensing
21	as a licensed public accountant must have graduated from a
22	college or university accredited to offer a baccalaureate
23	degree:
24	(1) with a concentration in accounting; or
25	(2) with a concentration other than accounting if

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supplemented by <u>experience_or_by</u> related courses in other
 areas of business administration and the board determines
 that an equivalent education has been achieved.^m

4 Section 8. Section 37-50-308, MCA, is amended to read: 5 #37-50-308. Examination. Except as provided in 6 37-1-101(4), the department shall hold-and-grade administer 7 a written examination in accounting, auditing, and related subjects as the board determines appropriate. The grade 8 determination of the department board is final in each case. 9 10 The department board may use the examination and grading 11 services of the American institute of certified public 12 accountants. The examination must be held at least annually 13 and at such other times as applications warrant. The board 14 may determine the time and place of examination and may adopt rules necessary for the orderly conduct of the 15 16 examination."

17 Section 9. Section 37-50-311, NCA, is amended to read: 18 "37-50-311. Certified public accountants -- waiver of 19 examination for holders of foreign or out-of-state license licenses, certificates, permits, or degrees. The board in 20 **Z1** its discretion may waive the examination and issue a 22 certificate as a certified public accountant to any person 23 otherwise eligible therefor who is the holder of a 24 certificates licenses or permit as a certified public 25 accountant, then in full force and effect, issued under the

1 laws of any state or is the holder of a certificate, Z license, or degree in a foreign country constituting a 3 recognized qualification for the practice of public 4 accounting in such country, comparable to that of a 5 certified public accountant in this state, which is then in 6 full force and effect, where the requirements entitling him 7 to practice as such certified public accountant were B substantially equivalent to those in force in the state of 9 Montana at the time the certificate was originally issued." 10 Section 10. Section 37-50-312, MCA, is amended to 11 read:

12 #37-50-312. Public accountants -waiver of 13 examination for holders of out-of-state license. The board 14 In its discretion may waive the examination and register as 15 a licensed public accountant any person otherwise eligible 16 therefor who is the holder of a license as a licensed public 17 accountant, then in full force and effect, issued under the 18 laws of any state or is the holder of a license or degree in 19 a foreign country constituting a recognized qualification 20 for the practice of public accounting in such country, 21 comparable to that of a licensed public accountant in this 22 state, which is then in full force and effect, where the 23 requirements entitling him to practice as such licensed 24 public accountant were substantially equivalent to those in 25 force in the state of Montana at the time the license was

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1 originally issued."

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2 Section 11. Section 37-50-314, MCA, is amended to 3 read:

4 #37-50-314. Annual certification--or-liconsure <u>permit</u> 5 required ____display. (1) Annual-cortificates-and-licenses No person mar engage in the practice of public accounting in 6 this_state_unless_be_bolds_s_current_annual_permit_issued_by 7 the department. An angual permit to engage in the practice 8 9 of public accounting in this state shall be issued by the department to certified-public-accountants-and-to-licensed 10 public-accountants a person who holds a current certificate 11 as a certified public accountant or license as a licensed 12 public accountant and complies with the requirements of this 13 chapter. There-ts-en-ennuel-certificate-or-license--renewal 14 fee--in--an--amount--to--be-deterzined-by-the-board---Annuai 15 eert+ficates-and-licenses-expire-on-Becember-31-of-eech-year 16 and-zay-be-renewed-for-a--period--of--i--year--by--certified 17 public--accountants--and-ticensed-public-accountants-in-good 18 19 standing-on-payment-of-the-annual-renewal-feet t21---A--person--who--faits--to--renew--his--lisense--or 20 21 22 reatesty +3+12) After the expiration of the 3-year period 23 immediately following the effective date of a board rule 24

1 application for renewal <u>of a permit</u> by a person who has held 2 his certificate or license for 3 years or more must be 3 accompanied or supported by evidence satisfactory to the 4 board of fulfillment of such requirements during the 3-year 5 period immediately preceding the application.

t47(1) The board may in its discretion waive the
requirement stated in subsection (3) (2) if the applicant
agrees to follow a particular program or schedule of
continuing education agreeable to the board.

10 (5715) The board may relax or suspend continuing 11 education requirements for an applicant who certifies that 12 he does not intend to engage in the practice of public 13 accounting and for an applicant who cannot fulfill the 14 requirement due to individual hardship.

15 (6)[1] Subject to subsections (4) [3] and (5) [4], the 16 board may revoke, suspend, or refuse to remew the 17 certificate-or-ficence permit of an applicant who fails to 18 furnish evidence of having met the continuing education 19 requirements established by the board.

20 Idi__Ibe__current__annual__permit_to__engage__in___the
 21 practice__of_public_accounting_must_be_prominently_displayed
 22 for_public_inspections*
 23 Section 12. Section 37-50-316, MCA, is amended to

24 read:

25 #37-50-316. Other license fees prohibited. No

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establishing continuing education regulrements, each

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<u>certificates permits or license fees shall be imposed as a</u>
 condition upon the practice of public accountancy other than
 those provided for in this chapter.⁼

<u>YEM_SECTION</u> Section 13. Certificate, license, and
permit expiration -- renewal fees. (1) Certificates,
licenses, and permits issued by the board expire on December
31 of each year.

8 (2) Certificates and licenses must be renewed by the
9 department upon payment of the annual renewal fee prescribed
10 by the board.

11 (3) Permits must be renewed by the department upon 12 payment of the annual renewal fee and upon compliance with 13 the continuing education requirements prescribed by the 14 board.

15 Section 14. Section 37-50-321, MCA, is amended to 16 read:

17 #37-50-321. Revocationy and suspensiony-or-refusat--to 18 renew of certificates or licenses propermit or refusal to 19 represent -- recovery of costs. (1) After notice and hearing as provided in 37-50-341, the board may revoke or 20 21 may suspend any certificate issued under 37-50-302 or any 22 license granted under 37-50-303 or may revoke, suspend, or 23 refuse to renew any Heense permit issued under 37-50-314 or **Z4** may cansure the holder of any such license for any one or 25 any combination of the following causes:

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1	<pre>fightarrow fraud or deceit in obtaining a certificate as</pre>
2	certified public accountant or in obtaining a license to
3	practice public accounting under this chapter;
4	<pre>t2)(b) dishonesty, fraud, or gross negligence in the</pre>
5	practice of public accounting;
6	(3)(c) violation of any of-the provisions of 37-50-301
7	<u>this_chapter_or_rules_of_the_board;</u>
8	{4}violationoferuleofprofossionslconduct
9	promulgated-by-the-board-under-the-authority-granted-by-this
10	chopters
11	<pre>t5tidl conviction of a felony under the laws of any</pre>
12	state or of the United States;
13	<pre>totlel conviction of any crime, an element of which is</pre>
14	dishonesty or fraud, under the laws of any state or of the
15	United States;
16	<pre>{7†Lfl cancellation, revocation, suspension, or</pre>
17	refusal to renew authority to practice as a certified public
18	accountant or a public accountant by any other state for any
19	cause other than failure to pay an annual registration ofee
20	in such other state;
21	(0)(g) suspension or revocation of the right to
22	practice before any state or federal agency <u>»</u>
23	(h) failure to pay the reneval fees prescribed by the
24	board.
25	[2]Ibeboardmaxsfollowinga_final_determination

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resulting in any disciplinary action taken by the board 1 under subsection (1), recover from the disciplined party all 2 reasonable costs of any proceeding incurred for the purposes 3 of that disciplinary action." 4 Section 15. Section 37-50-322, MCA, is amended to 5 6 read: =37-50-322. Reinstatement of certificates or licenses 7 or__permit to practice. On application in writing and after 8 hearing pursuant to notice, the board may authorize the 9 10 department to: [1] issue a new certificates to-a-certified-public 11 accountant-whose-certificate-has-been-revoked-or-may---permit 12 the--reficensing-of-anyone-whose-ficense-hes-been-revoked-or 13 may-retssue--or--modify--the--suspension--of--a--ttense--to 14 proctice---public--secounting--which--has--been--revoked--or 15 suspendedy <u>licenses_or_permiti</u> 16 (2) reinstate a suspended or revoked certificates 17 18 license. or permit: of (3) modify the terms of suspension of a certificate. 19 20 licenses or permits" 21 Section 16. Section 37-50-333, MCA, is amended to 22 read: 23 *37-50-333. Partnership composed of public accountants --- registration. (1) A partnership engaged in this state in 24 the practice of public accounting must register with the 25

1 department as a partnership of licensed public accountants
2 provided it meets the following requirements:

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

7 (b) Each partner personally engaged in this state in 8 the practice of public accounting must be a certified public 9 accountant or a licensed public accountant of this state in 10 good standing and a holder of a license parmit issued under 11 37-50-314 which is in effect.

12 (c) Each local manager in charge of an office or a 13 firm in this state must be a certified public accountant or 14 a licensed public accountant of this state in good standing 15 and a holder of a license permit issued under 37-50-314 16 which is in effect.

17 (2) Application for registration must be made on the 18 affidavit of a general partner of the partnership who holds 19 a timense nermit to practice in this state as a certified 20 public accountant or as a licensed public accountant. The 21 board shall in each case determine whether the applicant is 22 eligible for registration. A partnership which is registered 23 may use the words "public accountants" in connection with 24 its partnership name. Notification shall be given the 25 department within 1 month after the admission to or

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withdrawal of a partner from a partnership so registered."
 Section 17. Section 37-50-334, HCA, is amended to
 read:

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

9 (a) The sole purpose and business of the corporation 10 must be to furnish to the public services not inconsistent 11 with this chapter or the rules of the board, but the 12 corporation may invest its funds in a manner not 13 incompatible with the practice of public accounting.

14 (b) At least one shareholder thereof must be a 15 certified public accountant or public accountant of this 16 state in good standing and must hold a license <u>permit</u> issued 17 under 37-50-314 which is in effect.

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

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1 public accountants or public accountants of some state in 2 good standing.

3 (d) Each shareholder of the corporation personally 4 engaged within this state in the practice of public 5 accounting as a member thereof must be a certified public 6 accountant or a licensed public accountant of this state in 7 good standing and must hold a license <u>permit</u> issued under 8 37-50-314 which is in effect.

9 (e) In order to facilitate compliance with the provisions of this section relating to the ownership of 10 stock, there must be a written agreement binding the 11 corporation or the qualified shareholders to purchase any 12 13 shares offered for sale by or not under the ownership or effective control of a gualified shareholder and binding any 14 shareholder not a qualified shareholder to sell such shares 15 16 to the corporation or the qualified shareholders. The 17 agreement must be noticed on each certificate of corporate 18 stock.

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

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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.⁴⁴
 Section 18. Section 37-50-335, MCA, is amended to
 read:

#37-50-335. Registration of offices. Each office 6 established or maintained in this state for the practice of 7 public accounting in this state by a certified public 8 accountant or a partnership or corporation of certified 9 public accountants or by a licensed public accountant or a 10 partnership or corporation of licensed public accountants or 11 by one registered under 37-50-313 shall be registered 12 annually with the department. A fee may not be charged for 13 this registration. In addition, each individual engaged in 14 this state in the practice of public accounting must be 15 certified--or-licensed have annually received a permit under 16 37-50-314.* 17

18 Section 19. Section 37-50-342, MCA, is amended to 19 read:

*37-50-342. Violation. Any person who violates any
provision of 37-50-301-shall-be this_chapter_or_the_rules_of
the_board_is guilty of a misdemeanor and_upon_conviction
shall_be_punisbed_by_a_fine_of_not_more_than_\$1.000._bx
imprisonment_in_the_county_jail_for_not_more_than_6_monthax
or_bx.both_such_fine_and_imprisonment.**

Section 20. Section 37-50-402, MCA, is amended to read:

3 "37-50-402. Privileged communications. Except by 4 permission of the client or person or firm or corporation 5 engaging him or the heirs, successors, or personal 6 representatives of such client or person or firm or 7 corporation and except for the expression of opinions on 8 financial statements, no certified public accountant, 9 licensed public accountant, or employee thereof shall be 10 required to nor shall he voluntarily disclose or divulge information of which he may have become possessed relative 11 to and in connection with any professional services as a 12 public accountant. The information derived from or as a 13 result of such professional services shall be deemed 14 15 confidential and privileged. The provisions of this section 16 shall not apply to the testimony or documents of a public accountant given furnished pursuant to a subpoena in a court 17 18 of competent jurisdiction or a board proceeding."

19NEW_SECIIONA
Section 21. CodificationInstruction.20Section 13 is intended to be codified as an integral part of21Title 37. chapter 50. and the provisions of Title 37.22chapter 50. apply to section 13.

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SB 392

STATEMENT OF INTENT SENATE BILL 392

This bill requires a statement of intent because it 4 requires rulemaking by the Board of Public Accountants. 5 6 Under new subsections added to section 37-50-203, the 7 Board must adopt internal rules to preserve the confidences 8 clients of investigated public accountants, rules of 9 defining experience requirements and rules for 10 investigations and enforcement of the law and board rules. 11 The internal rules required are intended to prevent 12 disclosure by board members and employees of facts learned 13 through board investigations which the client of the 14 investigated party, who may be unaware of the investigation, never consented to. The Legislature believes this to be a 15 sensitive area, as investigations may or may not result in 16 17 civil and criminal charges and may even result in legal action by others against the client. Rules governing 18 experience required by the Board must require only so much 19 20 experience as is necessary for the protection of the public and rust not impede access to the profession by those 21 persons reasonably well qualified. Enforcement rules must 22 create a positive enforcement program which will require 23 application of continuing education principles for persons 24 25 who, among others, may be close to violations of the law but

1 for which other disciplinary action is not warranted.

-2- SECOND READING SB392 48th Legislature

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SE 0392/02

Approved by Committee on <u>Business and Industry</u>

1	SENATE BILL NO. 392
Z	INTRODUCED BY ELLIDIT, GAGE
3	BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6	CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS
7	AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF
8	ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE
9	BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO
10	RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS
11	INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED
12	COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS
13	37-50-102, 37-50-201, 37-50-203, 37-50-301 THROUGH
14	37-50-303, 37-50-305, 37-50-308, 37-50-311, 37-50-312,
15	37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333
16	THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA."
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18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
19	Section 1. Section 37-50-102, MCA, is amended to read:
20	"37-50-102. Exemptions. Nothing contained in this
21	chapter shall prohibit any person not a certified public
2 2	accountant or licensed public accountant from serving as an
23	employee of or an assistant to a certified public accountant
24	or a licensed public accountant holding a license <u>permit</u> to
25	practice under 37-50-314 or a partnership or corporation

1	composed of certified public accountants or licensed public
2	accountants registered under this chapter or a foreign
3	accountant registered under 37-50-313 provided that such
4	employee or assistant shall not issue any accounting or
5	financial statement over his name."
6	Section 2. Section 37-50-201, MCA, is amended to read:
7	"37-50-201. Organization general rulemaking power
8	quorum seal records. (1) The board shall elect
9	annually a chairman y <u>and a</u> secretaryy-and-treasurer from its
10	member s.
11	(2) The board may adopt rules for the conduct of its
12	affairs and the administration of this chapter.
13	(3) A quorum for the transaction of business consists
14	of three members of the board.
15	(4) The board shall have a seal which shall be
16	judicially noticed.
17	(5) The department shall keep records of the board's
18	proceeding. In a proceeding in court, civil or criminal,
19	arising out of or founded on this chapter, copies of these
20	records certified as correct under the seal of the board are
21	admissible in evidence as tending to prove the content of
22	these records."
23	Section 3. Section 37-50-203, HCA, is amended to read:
24	"37-50-203. Rules of the board solicitationof
25	advisorycomments. (1) The board may adopt such rules

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SECOND READING

consistent with the purposes of this chapter as it considers
 necessary.

(2) The board shall adopt:

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4 (a) rules of professional conduct appropriate to 5 establish and maintain a high standard of integrity, 6 dignity, and competency in the profession of public 7 accounting including competency in specific fields of public 8 accounting;

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

11 (c) rules governing education requirements<u>r__as</u> 12 <u>provided_in_37=50=305</u>, for issuance of the certificate of a 13 certified public accountant and the license for licensed 14 public accountant;

15 (d) rules prescribing requirements for continuing education to be met by certified public accountants and licensed public accountants, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accounting. In Issuing rules and Individual orders regarding continuing education, the board, in its discretion:

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

25 (ii) may prescribe the content, duration, and

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1 organization of courses; and

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

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

16 {f}--rules_setting-forth-then-termsy--not--exceeding--2
17 yearsy-and-areas-Of-experience-required-for-certification-as
18 s--certified--public--accountant-and-licensing-as-a-licensed
19 public-accountant=1
20 tgtifl__internal_rules_considered_necessary_to_initiate

 21
 and_conduct_investigations_and_protect_the_confidences_of

 22
 the_client_of_any_certified_public_accountant_or_licensed

 23
 public__accountant_subjected__to__board___disciplinary

24 proceedings:

25 thttG1_rules__defining_requirements_for_accounting

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2	initial_annual_permiti_and
3	tit(B)rulestoenforce_the_provisions_of_this
4	chapters_the_purpose_of_which_rules_shall_be_to_providefor
5	the monitoring of the profession of public accounting and to
6	maintain_the_quality_of_the_accounting_profession*
7	{3}Atleast60-days-prior-to-the-adoption-of-a-rale
8	or-amendmentythedepartmentshallmoilcopiesofthe
9	proposedruleor-amendment-to-each-holder-of-a-certificate
10	or-ticense-tasued-under-37-50-314y-withanoticeadvising
11	himof-the-proposed-effective-date-of-the-rule-or-emendment
12	and-requesting-that-he-submit-his-comments-on-it-at-least-15
13	d byspriortotheeffectivedaterThese commentsare
14	advisoryonlysThedepartment^s-certificate-of-mailing-to
15	ticensed-accountants -is-conclusive-proof-thereof *"
16	Section 4. Section 37-50-301, MCA, is amended to read:
17	#37-50-301。 Illegal use of title. (1) No person may
18	assume or use the title or designation "certified public
19	accountant" or the abbreviation "CPA" or any other title.
20	designation, words, letters, abbreviation, sign, card, or
21	device tending to indicate that such person is a certifled
22	public accountant unless such person hes-received-a <u>holds a</u>
23	<u>current</u> certificate as a certified public accountant in-some
24	stateandiscertifiedunder37-50-302v37-50-3±0vor
25	37-58-311-and-all-of-such-person*s-offices-in-this-state-for

experience.not_exceeding_2_years.for_issuance_of_the

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the---practice--of--public--accounting--are--maintained--and registered-as-required-under-37-50-335 under_this_chapter. However, a foreign accountant who has registered under the provisions of 37-50-313 may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license, or degree.

8 (2) No partnership or corporation shall assume or use 9 the title or designation "certified public accountant" or 10 the abbreviation "CPA" or any other title, designation, 11 words, letters, abbreviation, sign, card, or device tending 12 to indicate that such partnership or corporation is composed of certified public accountants unless it is registered 13 under 37-50-331 or 37-50-332, whichever is applicable, and 14 15 all of its offices in this state for the practice of public 16 accounting are maintained and registered as required under 17 37-50-335.

18 (3) No person may assume or use the title or 19 designation "licensed public accountant", "public 20 accountant*, or any other title, designation, words, 21 letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless such 22 23 person is--licensed holds a current license as a licensed 24 public accountant under this chaptery--holds--a--current 25 license--issued--under--37-50-314y--and-all-of-such-personas

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1 offices-in-this-state-for-the-practice-of-public--accounting are-maintained-and-registered-as-required-under-37-50-335-or unless-such-person-has-received-a-certificate-as-a-certified public--accountant--in--some--statev-holds-a-current-license issued-under-37-50-314y-and-all-of-such-person*s-offices--in this--state--for--the--practice--of--public--accounting--are maintained-ond-registered-as-required-under-37-50-335.

8 (4) No partnership or corporation may assume or use 9 the title or designation "licensed public accountant", 10 "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to 11 12 indicate that such partnership or corporation is composed of 13 public accountants unless it is registered under 37-50-331, 14 37-50-332, 37-50-333, or 37-50-334, whichever is applicable, 15 and all of its offices in this state for the practice of 16 public accounting are maintained and registered as required 17 under 37-50-335.

18 (5) No person+ corporation+ or partnership may assume 19 or use the title or designation "certified accountant", 20 "chartered accountant", "enrolled accountant", "licensed 21 accountant", "registered accountant", or any other title or 22 designation likely to be confused with "certified public 23 accountant** "licensed public accountant*, "public 24 accountant" or any of the abbreviations "CA", "EA", "LA", or 25 "RA" or similar abbreviations likely to be confused with

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1 =CPA*. However, a foreign accountant who has registered 2 under_37=50=313 may use the title under which he is 3 generally known in his country, followed by the name of the 4 country from which he received his certificate, license, or 5 degree.

6 (5) 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 has expert knowledge in 9 accounting or auditing to any accounting or financial 10 statement or to any opinion any report on, or certificate to 11 any accounting or financial statement unless he holds a current license permit issued under 37-50-314 and all of his 12 offices in this state for the practice of public accounting 13 are maintained and registered under 37-50-335. However, the 14 provisions of this subsection do not prohibit any officer, 15 employee, partner, or principal of any organization from 16 affixing his signature to any statement or report in 17 reference to the financial affairs of that organization with 18 19 any wording designating the position, title, or office which 20 he holds in that organization, nor do the provisions of this 21 subsection prohibit any act of a public official or public 22 employee in the performance of his duties as such.

(7) No person may sign or affix a partnership or
 corporation name with any wording indicating that it is a
 partnership or corporation composed of persons having expert

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1 knowladge in accounting or auditing to any accounting or 2 financial statement or to any report on or certificate to 3 any accounting or financial statement unless the partnership 4 or corporation is registered under 37-50-331, 37-50-332, 37-50-333, or 37-50-334 and all of its offices in this state 6 for the practice of public accounting are maintained and 7 registered as required under 37-50-335.

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

19 Section 5. Section 37-50-302, MCA, is amended to read: 20 *37-50-302. Certified oublic accountants 21 certification -gualifications and requirements. 22 certification The board shall grant ap_initial_certificate 23 as a certified public accountant is-available to any person 24 who:

25 (1) is of good moral character;

1 (2) has successfully passed the certified public 2 accountants* examination; and 3 (3) meets the requirements of education set forth in 4 this chapter and in board rules." 5 Section 6. Section 37-50-303, MCA, is amended to read: 6 #37-50-303. Public accountants -- licensure --7 qualifications and requirements. Licensure The board shall 8 grant_an_initial_license as a licensed public accountant is available to any person who: 9 10 (1)--is--esident--of--this--state-or-has-a-place-of 11 business-in-this-state-ory--as--an--employeey--is--regularly 12 emptoyed-in-this-state; 13 t2f(1) is of good moral character; 14 t3f121 meets the requirements of education set forth 15 in this chapter and board rules; and 16 (4)(3) complies with the qualifications and 17 requirements in any one of the subsections of 37-50-304." 18 Section 7. Section 37-50-305, MCA, is amended to read: "37-50-305. Education requirements. A candidate for 19 20 certification as a certified public accountant or licensing 21 as a licensed public accountant must have graduated from a 22 college or university accredited to offer a baccalaureate 23 degree: 24 (1) with a concentration in accounting; or

25 (2) with a concentration other than accounting if

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supplemented by <u>experience or by</u> related courses in other
 areas of business administration and the board determines
 that equivalent education has been achieved."

4 Section 8. Section 37-50-308, MCA, is amended to read: 5 #37-50-308. Examination. Except as provided in 6 37-1-101(4), the department shall hold-and-grade administer a written examination in accounting, auditing, and related 7 8 subjects as the board determines appropriate. The grade 9 determination of the department board is final in each case. 10 The department board may use the examination and grading services of the American institute of certified public 11 12 accountants. The examination must be held at least annually 13 and at such other times as applications warrant. The board 14 may determine the time and place of examination and may 15 adopt rules necessary for the orderly conduct of the examination." 16

17 Section 9. Section 37-50-311. MCA. is amended to read: #37-50-311. Certified public accountants -- waiver of 18 examination for holders of foreign or out-of-state +;cense 19 20 licenses. certificates, permits, or degrees. The board in 21 its discretion may waive the examination and issue a 22 certificate as a certified public accountant to any person 23 otherwise eligible therefor who is the holder of a certificates licenses or permit as a certified public 24 25 accountant, then in full force and effect, issued under the

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1 laws of any state or is the holder of a certificate. 2 license, or degree in a foreign country constituting a 3 recognized qualification for the practice of public 4 accounting in such country, comparable to that of a 5 certified public accountant in this state, which is then in 6 full force and effect, where the requirements entitling him 7 to practice as such certified public accountant UATE 8 substantially equivalent to those in force in the state of 9 Montana at the time the certificate was originally issued." 10 Section 10. Section 37-50-312, MCA, is amended to 11 read:

*37-50-312. Public accountants waiver of 12 examination for holders of out-of-state license. The board 13 in its discretion may waive the examination and register as 14 15 a licensed public accountant any person otherwise eligible therefor who is the holder of a license as a licensed public 15 17 accountant, then in full force and effect, issued under the 18 laws of any state or is the holder of a license or degree in a foreign country constituting a recognized qualification 19 for the practice of public accounting in such country, 20 21 comparable to that of a licensed public accountant in this 22 state, which is then in full force and effect, where the 23 requirements entitling him to practice as such licensed 24 public accountant were substantially equivalent to those in 25 force in the state of Montana at the time the license was

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1 originally issued."

2 Section 11. Section 37-50-314, MCA, is amended to 3 read:

*37-50-314. Annual certification--or-licensure permit 4 5 required____display. (1) Annual-certificates-and-licenses No. 6 Receased max engage in the practice of public accounting in this_state_unless_be_bolds_a_current_annual_permit_issued_by 7 8 the__department___An annual permit to engage in the practice 9 of public accounting in this state shall be issued by the 10 department to certified-public-accountants-and-to-licensed 11 public-secondants a_person_wbo_bolds_a_current__certificate 12 as a certified public accountant or license as a licensed 13 public_accountant_and_complies_with_the_requirements_of_this <u>chapter</u>. There-is-an-annual-certificate-or-license--renewal 14 15 fee--in--an--amount--to--be-determined-by-the-board---Annuat 16 certificates-and-licenses-expire-an-December-31-of-each-year and-may-be-renewed-for-a--period--of--1--year--by--certified 17 18 oublie--accountants--and-licensed-sublic-scountants-in-good standing-on-nevment-of-the-onnusl-renewal-feet 19 20 tzt--A--person--who--fails--ta--renew--his--lieense--or certificate--shall--promptly--surrender-it-to-the-beard-upon 21

22 requesta

23 (3)(2) After the expiration of the 3-year period 24 immediately following the effective date of a board rule 25 establishing continuing education requirements, each

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1 application for renewal <u>of a permit</u> by a person who has held
2 his certificate or license for 3 years or more must be
3 accompanied or supported by evidence satisfactory to the
4 board of fulfillment of such requirements during the 3-year
5 period immediately preceding the application.

10 **(57) L41** The board may relax or suspend continuing 11 education requirements for an applicant who certifies that 12 he does not intend to engage in the practice of public 13 accounting and for an applicant who cannot fulfill the 14 requirement due to individual hardship.

15 tot(5) Subject to subsections (4) (3) and (5) (4), the 16 board may revoke, suspend, or refuse to renew the 17 certificate-or-license permit of an applicant who fails to 18 furnish evidence of having met the continuing education

19 requirements established by the board.

20 [61._Ibe_current_annual_permit_to_engage_in__the
21 practice_of_public_accounting_must_be_prominently_displayed
22 for_public_inspections*
23 Section 12. Section 37-50-316, MCA, is amended to

24 read:

25 #37-50-316. Other license fees prohibited. No

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<u>certificates permits or</u> license fees shall be imposed as a
 condition upon the practice of public accountancy other than
 those provided for in this chapter."

<u>YEM_SECTION</u> Section 13. Certificate, license, and
permit expiration -- renewal fees. (1) Certificates,
licenses, and permits issued by the board expire on December
31 of each year.

8 (2) Certificates and licenses must be renewed by the
9 department upon payment of the annual renewal fee prescribed
10 by the board.

11 (3) Permits must be renewed by the department upon 12 payment of the annual renewal fee and upon compliance with 13 the continuing education requirements prescribed by the 14 board.

15 Section 14. Section 37-50+321, MCA, is amended to 16 read:

17 *37-50-321. Revocationy and suspensiony-or-refusal--to 18 renew of certificate, or license, or permit or refusal to 19 renew permit -- recovery of costs. [1] After notice and 20 hearing as provided in 37-50-341, the board may revoke or 21 may suspend any certificate issued under 37-50-302 or any 22 license granted under 37-50-303 or may revoke, suspend, or refuse to renew any treense permit issued under 37-50-314 or 23 24 may cansure the holder of any such license for any one or 25 any combination of the following causes:

1 +++(a) fraud or deceit in obtaining a certificate as certified public accountant or in obtaining a license to 2 practice public accounting under this chapter; 3 4 +27(b) dishonesty, fraud, or gross negligence in the 5 practice of public accounting; 6 (3)(c) violation of any of-the provisions of 37-50-301 7 this chanter or rules of the board; (+)--violation--of--a--rulè--of--professional----conduct 8 9 promul asted-by-the-board-under-the-authority-granted-by-this 10 chopter: 11 (5)(d) conviction of a felony under the laws of any 12 state or of the United States; (6)(e) conviction of any crime, an element of which is 13 dishonasty or fraud, under the laws of any state or of the 14 15 United States: (7)(f) cancellation, revocation, suspension, or 16 17 refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any 18 cause other than failure to pay an annual registration fee 19 20 in such other state: (8)(a) suspension or revocation of the right to 21 22 practice before any state or federal agencywi 23 (b) failure to pay the renewal fees prescribed by the

- 24 board.
- 25 (2) The board mays following a final determination

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1 resulting in any disciplinary action_taken_by_the_board 2 under_subsection_ills_recover_from_the_disciplined_party_all 3 reasonable_costs_of_any_proceeding_incurred_for_the_purposes 4 of_that_disciplinary_action.* 5 Section 15. Section 37-50-322, MCA, is amended to 6 read: 7 "37-50-322. Reinstatement of certificates or licenses 8 <u>QL_QLEMIT</u> to practice. On application in writing and after 9 hearing pursuant to notice, the board may authorize the 10 department to: 11 (1) issue a new certificates to-a-certified-public 12 accountant-whose-ceftificate-has-been-revoked-of-may--permit 13 the--relicensing-of-anyone-whose-license-has-been-revoked-or may-retssue-or--modify--the--suspension--of--a--lieense--to 14 15 practice---public--accounting--which--has--been--revoked--or 16 suspended= license.or_permit1 17 121 __reinstate__a__suspended__or__revoked__certificate. license. or permiti or 18 19 (3) modify the terms of suspension of a certificate. 20 license. or permit." 21 Section 16. Section 37-50-333, MCA, is amended to 22 read: 23 "37-50-333. Partnership composed of public accountants -- registration. (1) A partnership engaged in this state in 24 the practice of public accounting must register with the 25

department as a partnership of licensed public accountants
 provided it meets the following requirements:

3 (a) At least one general partner must be a certified 4 public accountant or a licensed public accountant of this 5 state in good standing and a holder of a license <u>permit</u> 6 issued under 37-50-314 which is in effect.

7 (b) Each partner personally engaged in this state in 8 the practice of public accounting must be a certified public 9 accountant or a licensed public accountant of this state in 10 good standing and a holder of a license <u>permit</u> issued under 11 37-50-314 which is in effect.

12 (c) Each local manager in charge of an office or a 13 firm in this state must be a certified public accountant or 14 a licensed public accountant of this state in good standing 15 and a holder of a license permit issued under 37-50-314 16 which is in effect.

17 (2) Application for registration must be made on the 18 affidavit of a general partner of the partnership who holds 19 a ticense permit to practice in this state as a certified 20 public accountant or as a licensed public accountant. The 21 board shall in each case determine whether the applicant is 22 eligible for registration. A partnership which is registered 23 may use the words "public accountants" in connection with 24 its partnership name. Notification shall be given the 25 department within 1 month after the admission to or

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withdrawal of a partner from a partnership so registered."
 Section 17. Section 37-50-334, MCA, is amended to
 read:

4 "37-50-334. Corporation composed of public accountants
5 -- registration. (1) A professional service corporation
6 organized for the practice of public accounting must
7 register with the board as a corporation of public
8 accountants provided it meets the following requirements:

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

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

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

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1 public accountants or public accountants of some state in 2 good standing.

3 (1) Each shareholder of the corporation personally 4 engaged within this state in the practice of public 5 accounting as a member thereof must be a certified public 6 accountant or a licensed public accountant of this state in 7 good standing and must hold a license <u>permit</u> issued under 8 37-50-314 which is in effect.

9 (e) In order to facilitate compliance with the 10 provisions of this section relating to the ownership of 11 stock, there must be a written agreement binding the corporation or the qualified shareholders to purchase any 12 shares offered for sale by or not under the ownership or 13 effective control of a qualified shareholder and binding any 14 shareholder not a qualified shareholder to sell such shares 15 15 to the corporation or the gualified shareholders. The 17 agreement must be noticed on each certificate of corporate 18 stock.

19 (2) Application for such registration must be made 20 upon the affidavit of a shareholder who holds a certificate 21 or--Heense <u>Desmit</u> to practice in this state as a certified 22 public accountant or Hicensed public accountant. The board 23 shall determine whether the applicant is eligible for 24 registration. A corporation which is so registered may use 25 the words "public accountant" or the abbreviation "PA" in

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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 37-50-335, MCA, is amended to
 read:

37-50-335. Registration of offices. Each office 6 7 established or maintained in this state for the practice of 8 public accounting in this state by a certified public 9 accountant or a partnership or corporation of certified 10 public accountants or by a licensed public accountant or a 11 partnership or corporation of licensed public accountants or 12 by one registered under 37-50-313 shall be registered 13 annually with the department. A fee may not be charged for 14 this registration. In addition, each individual engaged in 15 this state in the practice of public accounting must be certified-or-licensed have annually received a permit under 16 37-50-314. 17

18 Section 19. Section 37-50-342, MCA, is amended to 19 read:

*37-50-342. Violation. Any person who violates any
provision of 37-59-301-shell-be this_chapter_or_the_rules_of
the_board_is_guilty of a misdemeanor and_uRon_conviction
shall_be_punished_by_a_fine_of_not_more_than \$1x800 \$500. by
imprisonment_in_the_county_jail_for_not_more_than_6_months.
or_by_both_such_fine_and_imprisonment.**

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1 Section 20. Section 37-50-402, MCA, is amended to
2 read:

3 "37-50-402. Privileged communications. Except by permission of the client or person or firm or corporation 4 engaging him or the heirs, successors, or personal 5 representatives of such client or person or firm or 6 7 corporation and except for the expression of opinions on financial statements, no certified public accountant, R 9 licensed public accountant, or employee thereof shall be 10 required to nor shall he voluntarily disclose or divulge 11 information of which he may have become possessed relative 12 to and in connection with any professional services as a public accountant. The information derived from or as a 13 14 result of such professional services shall be deemed 15 confidential and privileged. The provisions of this section 16 shall not apply to the testimony <u>or documents</u> of a public 17 accountant given furnished pursuant to a subpoena in a court of competent jurisdiction or a board proceeding." 18

<u>NEW_SECTION</u> Section 21. Codification instruction.
 Section 13 is intended to be codified as an integral part of
 Title 37, chapter 50, and the provisions of Title 37,
 chapter 50, apply to section 13.

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SENATE BILL NO+ 392 INTRODUCED BY ELLIGTT, GAGE By request of the board of public accountants

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS 6 7 AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF 8 ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE 9 BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO 10 RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS 11 INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED 12 COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS 13 37-50-102, 37-50-203, 37-50-301 THROUGH 37-50-201+ 37-50-303, 37-50-305, 37-50-308, 37-50-311, 37-50-312, 14 15 37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333 16 THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA.*

17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 19 Section 1. Section 37-50-102, MCA, is amended to read: 20 "37-50-102. Exemptions. Nothing contained in this 21 chapter shall prohibit any person not a certified public 22 accountant or licensed public accountant from serving as an 23 employee of or an assistant to a certified public accountant 24 or a licensed public accountant holding a license permit to 25 practice under 37-50-314 or a partnership or corporation

> THIRD READING There are no changes in <u>SB 392</u> second reading (yellow) amended. Please refer to it for complete text.

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STATEMENT OF INTENT

SENATE BILL 392

4 This bill requires a statement of intent because it 5 requires rulemaking by the Board of Public Accountants. 6 Under new subsections added to section 37-50-203, the 7 Board must adopt internal rules to preserve the confidences 8 of clients of investigated public accountants, rules 9 defining experience requirements rules and for investigations and enforcement of the law and board rules. 10 11 The internal rules required are intended to prevent 12 disclosure by board members and employees of facts learned 13 through board investigations which the client of the investigated party, who may be unaware of the investigation, 14 15 never consented to. The Legislature believes this to be a sensitive area, as investigations may or may not result in 16 civil and criminal charges and may even result in legal 17 18 action by others against the client. Rules governing 19 experience required by the Board must require only so much experience as is necessary for the protection of the public 20 and must not impede access to the profession by those 21 persons reasonably well qualified. Enforcement rules must 22 create a positive enforcement program which will require 23 24 application of continuing education principles for persons 25 who, among others, may be close to violations of the law but

1 for which other disciplinary action is not warranted.



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1	SENATE BILL NO. 392	1	composed of certified public accountants or licensed public
2	INTRODUCED BY ELLIDTT, GAGE	2	accountants registered under this chapter or a foreign
3	BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS	3	accountant registered under 37-50-313 provided that such
4		4	employee or assistant shall not issue any accounting or
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	5	financial statement over his name."
6	CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS	6	Section 2. Section 37-50-201, MCA, is amended to read:
7	AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF	7	*37~50→20I。 Organization general rulemaking power
e	ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE	8	quorum seal records. (1) The board shall elect
9	BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO	9	annually a chairmany <u>and a</u> secretary y-and-treasurer from its
10	RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS	10	members.
11	INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED	11	(2) The board may adopt rules for the conduct of its
12	COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS	12	affairs and the administration of this chapter.
13	37-50-102, 37-50-201, 37-50-203, 37-50-301 THROUGH	13	(3) A quorum for the transaction of business consists
14	37-50-303, 37-50-305, 37-50-308, 37-50-311, 37-50-312,	14	of three members of the board.
15	37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333	15	(4) The board shall have a seal which shall be
16	THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA."	16	judicially noticed.
17		17	(5) The department shall keep records of the board*s
18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	18	proceeding. In a proceeding in court, civil or criminal.
19	Section 1. Section 37-50-102, MCA, is amended to read:	19	arising out of or founded on this chapter, copies of these
20	*37+50+102. Exemptions. Nothing contained in this	20	records certified as correct under the seal of the board are
21	chapter shall prohibit any person not a certified public	21	admissible in evidence as tending to prove the content of
22	accountant or licensed public accountant from serving as an	22	these records."
23	employee of or an assistant to a certified public accountant	23	Section 3. Section 37-50-203, MCA, is amended to read:
Z4	or a licensed public accountant holding a license permit to	24	"37-50-203. Rules of the boardsofficitationof
25	practice under 37-50-314 or a partnership or corporation	25	edviserycomments. (1) The board may adopt such rules

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consistent with the purposes of this chapter as it considers
 necessary.

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3 (2) The board shall adopt:

4 (a) rules of professional conduct appropriate to 5 establish and maintain a high standard of integrity, 6 dignity, and competency in the profession of public 7 accounting including competency in specific fields of public 8 accounting;

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

11 (c) rules governing education requirements....as 12 provided...in_37=50=305* for issuance of the certificate of a 13 certified public accountant and the license for licensed 14 public accountant;

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

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

25 (ii) may prescribe the content, duration, and

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1 organization of courses; and

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

(e) rules governing partnerships and corporations 7 practicing public accounting, including but not limited to 8 9 rules concerning their style, name, title, and affiliation with any other organization and establishing reasonable 10 standards with respect to professional liability insurance 11 12 and unimpaired capital and prescribing joint and several 13 liability for torts relating to professional services for 14 shareholders of any such corporation failing to comply with 15 such standards; and

ffj--rules-setting-forth-the--termsy--not--exceeding--2 16 vearsy-and-areas-of-experience-required-for-certification-as 17 18 e--certified--public--accountant-and-licensing-as-a-licensed 19 public-accountantut 20 tatifi___internal_rules_considered_oecessary_to_initiate 21 and conduct investigations and protect the confidences of 22 the client of any certified public accountant or licensed 23 public___accountant___subjected___to___board____disciplinary 24 proceedings: 25 tot(G)_rules__defining__requirements_for_accounting

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1	experiences_not_exceeding_2_yearss_for_lssuance_of_the
2	initial_appual_permit1_and
3	<u>tit(H)_rulestoenforce_the_provisions_of_this</u>
4	<u>chapter. the purpose of which rules shall be to provide for</u>
5	the monitoring of the profession of public accounting and to
6	maintain_the_quality_of_the_accounting_profession_
7	{3}Atleast60-days-prior-to-the-adoption-of-a-rule
e	or-amendmentythedepartmentshallmailcopiesafthe
9	proposedruteor-amendment-to-each-holder-of-a-certificate
10	or-ficense-issued-under-37-58-314s-withanoticeadvising
11	himof-the-proposed-effective-date-of-the-rule-or-omendment
12	and-requesting-that-he-submit-his-comments-on-it-at-least-15
12	dayspriortotheeffectivedatesThesecommentsare
14	advisoryonlywThedepartment ^a s-certificate-of-mailing-to
15	<pre>t+censed-accountants-is-conclusive-proof-thereof*"</pre>
16	Section 4. Section 37-50-301. NCA, is amended to read:
17	M37-50-301. Illegal use of title. (1) No person may
18	assume or use the title or designation "certified public
19	accountant" or the abbreviation "CPA" or any other title,
20	designation, words, letters, abbreviation, sign, card, or
21	device tending to indicate that such person is a certifled
22	public accountant unless such person has-received-a holds_a
23	<u>current</u> certificate as a certified public accountant in-some
24	stateand+scert+f+edunder37-50-302y37-50-310yor
25	37-50-3tt-and-all-of-such-person*s-offices-in-this-state-for

the---practice--of--public--accounting-are--maintained--and registered-as-required-under-37-50-335 under__tbis__chapter. However, a foreign accountant who has registered under the provisions of 37-50-313 may use the title under which he is generally known in his country. followed by the name of the country from which he received his certificate, license, or degree.

8 (2) No partnership or corporation shall assume or use 9 the title or designation "certified public accountant" or 10 the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending 11 12 to indicate that such partnership or corporation is composed 13 of certified public accountants unless it is registered 14 under 37-50-331 or 37-50-332, whichever is applicable, and 15 all of its offices in this state for the practice of public 16 accounting are maintained and registered as required under 17 37-50-335.

18 (3) No Derson may assume or use the title or 19 designation "licensed public accountant", "public 20 accountant, or any other title, designation, words, 21 letters, abbreviation, sign, card, or device tending to 22 indicate that such person is a public accountant unless such person is--ficensed bolds a current_license as a licensed 23 24 public accountant under this chaptery--holds--a-corrent 25 license--issued--under--37-50-314y--and-all-of-such-person*s

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1 offices-in-this-state-for-the-practice-of-public--accounting 2 are-maintained-and-registered-as-required-under-37-50-335-or 3 unless-such-person-has-received-a-certificate-as-a-certified 4 public--accountant--in--some--states-holds-a-current-license 5 issued-under-37-50-314y-and-all-of-such-person*s-offices--in 6 this--state--for--the--practice--of--public--accounting--ore 7 maintained-and-registered-as-required-under-37-50-335.

8 (4) No partnership or corporation may assume or use 9 the title or designation "licensed public accountant", 10 "public accountant", or any other title, designation, words, 11 letters, abbreviation, sign, card, or device tending to 12 indicate that such partnership or corporation is composed of 13 public accountants unless it is registered under 37-50-331, 14 37-50-332, 37-50-333, or 37-50-334, whichever is applicable, 15 and all of its offices in this state for the practice of 16 public accounting are maintained and registered as required 17 under 37-50-335.

(5) No person+ corporation, or partnership may assume 18 19 or use the title or designation "certified accountant", 20 "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or 21 22 designation likely to be confused with "certified public 23 accountant", #licensed public accountant", "public 24 accountant or any of the abbreviations "CA", "EA", "LA", or 25 "RAM or similar abbreviations likely to be confused with

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"CPA". However, a foreign accountant who has registered
 <u>under._37=50=313</u> may use the title under which he is
 generally known in his country. followed by the name of the
 country from which he received his 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 with any wording indicating that he has expert knowledge in 8 9 accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to 10 11 any accounting or financial statement unless he holds a current Hicense permit issued under 37-50-314 and all of his 12 13 offices in this state for the practice of public accounting 14 are maintained and registered under 37-50-335. However, the 15 provisions of this subsection do not prohibit any officer, 16 employee, partner, or principal of any organization from 17 affixing his signature to any statement or report in 18 reference to the financial affairs of that organization with 19 any wording designating the position, title, or office which 20 he holds in that organization, nor do the provisions of this 21 subsection prohibit any act of a public official or public 22 employee in the performance of his duties as such-23 (7) No person may sign or affix a partnership or

24 corporation name with any wording indicating that it is a 25 partnership or corporation composed of persons having expert

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

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

19 Section 5. Section 37-50-302, MCA, is amended to read: #37-50-302. Certified Dublic 20 accountants certification -qualifications 21 and requirements. 22 Certification The board shall grant an initial certificate as a certified public accountant is-available to any person 23 24 who:

is of good moral character;

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1 (2) has successfully passed the certified public 2 accountants* examination: and 3 (3) meets the requirements of education set forth in 4 this chapter and in board rules." 5 Section 6. Section 37-50-303, MCA, is amended to read: 6 *37-50-303. Public accountants -- licensure 7 qualifications and requirements. Licensure The board shall 8 grant an initial license as a licensed public accountant is 9 available to any person who: 10 ttp--is--a--resident--of--this--state-or-has-a-place-of 11 business-in-this-state-ory--as--an--employeey--is--regularly 12 employed-in-this-statet 13 f2+(1) is of good moral character; 14 (3)(2) meets the requirements of education set forth 15 in this chapter and board rules; and 16 t41131 complies with the qualifications and 17 requirements in any one of the subsections of 37-50-304." Section 7. Section 37-50-305, MCA, is amended to read: 18 19 #37~50~305. Education requirements. A candidate for 20 certification as a certified public accountant or licensing 21 as a licensed public accountant must have graduated from a 22 college or university accredited to offer a baccalaureate 23 dearee: 24 (1) with a concentration in accounting; or 25 (?) with a concentration other than accounting if

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supplemented by <u>experience or by</u> related courses in other
 areas of business administration and the board determines
 that a equivalent education has been achieved."

Section 8. Section 37-50-308. MCA. is amended to read: 4 5 "37-50-308. Examination. Except as provided in 37-1-101(4), the department shall hold-and-grade administer 6 7 a written examination in accounting, auditing, and related 8 subjects as the board determines appropriate. The grade 9 determination of the department board is final in each case. 10 The department board may use the examination and grading 11 services of the American institute of certified public 12 accountants. The examination must be held at least annually 13 and at such other times as applications warrant. The board 14 may determine the time and place of examination and may 15 adopt rules necessary for the orderly conduct of the examination." 16

17 Section 9. Section 37-50-311. MCA. is amended to read: 18 #37-50-311. Certified public accountants -- waiver of 19 examination for holders of foreign or out-of-state license 20 licenses, certificates, permits, or degrees. The board in 21 its discretion may waive the examination and issue a 22 certificate as a certified public accountant to any person 23 otherwise aligible therefor who is the holder of a 24 certificate. license. or permit as a certified public accountant, then in full force and effect, issued under the 25

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laws of any state or is the holder of a certificate. 1 license, or degree in a foreign country constituting a 2 3 recognized gualification for the practice of public 4 accounting in such country, comparable to that of a certified public accountant in this state, which is then in 5 full force and effect, where the requirements entitling him 6 to practice as such certified public accountant were 7 substantially equivalent to those in force in the state of 8 Montana at the time the certificate was originally issued." 9 Section 10. Section 37-50-312, MCA, is amended to 10 11 read:

12 #37-50-312. Public accountants waiver of examination for holders of out-of-state license. The board 13 in its discretion may waive the examination and register as 14 a licensed public accountant any person otherwise eligible 15 16 therefor who is the holder of a license as a licensed public 17 accountant, then in full force and effect, issued under the laws of any state or is the holder of a license or degree in 18 19 a foreign country constituting a recognized gualification 20 for the practice of public accounting in such country, 21 comparable to that of a licensed public accountant in this state, which is then in full force and effect, where the 22 23 requirements entitling him to practice as such licensed public accountant were substantially equivalent to those in . 24 force in the state of Montana at the time the license was 25

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read: 3 #37-50-314. Annual certification-or-licensure permit 4 required____display. (1) Annual-certificates-and-licenses No 5 6 person may engage in the practice of public accounting in 7 this_state_unless_be_bolds_a_current_annual_permit_issued_by B the___department.___An annual permit to engage in the practice 9 of public accounting in this state shall be issued by the 10 department to certified-public-accountants-and-to-licensed 11 public-accountants a person who holds a current certificate 12 as__a__certified__public_accountant_or_license_as_a_licensed 13 public_accountant_and_complies_with_the_requirements_of_this chapter. There-is-on-onnuol-certificate-or-license--renewal 14 fee--in--on--amount--to--be-determined-by-the-boardw--Annual 15 16 certificates-and-licenses-expire-on-December-31-of-each-year 17 and-may-be-renewed-for-a--period--of--i--year--by--eertified public--accountants--and-licensed-public-accountants-in-good 18 19 standing-on-payment-of-the-annual-renewal-feew 20 f2t--A--Derson--who--fatta--to--renew--his--ticense--or 21 certificate--shall--promptly--surrender-it-to-the-board-upon 22 requests

Section 11. Section 37-50-314, MCA, is amended to

originally issued."

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23 (3)121 After the expiration of the 3-year period 24 immediately following the effective date of a board rule 25 establishing continuing education requirements, each

1 application for renewal of a permit by a person who has held 2 his certificate or license for 3 years or more must be 3 accompanied or supported by evidence satisfactory to the 4 board of fulfillment of such requirements during the 3-year 5 period immediately preceding the application. 6 (4)(3) The board may in its discretion waive the 7 requirement stated in subsection (3) 121 if the applicant 8 agrees to follow a particular program or schedule of 9 continuing education agreeable to the board. 10 (5)(4) The board may relax or suspend continuing education requirements for an applicant who certifies that 11 he does not intend to engage in the practice of public 12 13 accounting and for an applicant who cannot fulfill the 14 requirement due to individual hardship. (6)151 Subject to subsections (4) [3] and (5) [4], the

15 16 board may revoke; suspend; or refuse to renew the 17 certificate-or-license <u>permit</u> of an applicant who fails to 18 furnish evidence of having met the continuing education 19 requirements established by the board.

20 161__Ibe__current__annual_nermit__to_engage__in__the 21 practice_of_oublic_accounting_must_be_prominectly_displayed 27 for_public_inspection." 23 Section 12. Section 37-50-316, MCA, is amended to 24 read: 25

*37-50-316. Other license fees prohibited. No

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1 certificates permits or license fees shall be imposed as a 2 condition upon the practice of public accountancy other than 3 those provided for in this chapter."

4 <u>YEW_SECTION</u> Section 13. Certificate, license, and 5 permit expiration -- renewal fees. (1) Certificates, 6 licenses, and permits issued by the board expire on December 7 31 of each year.

8 (2) Certificates and licenses must be renewed by the 9 department upon payment of the annual renewal fee prescribed 10 by the board.

11 (3) Permits must be renewed by the department upon 12 payment of the annual renewal fee and upon compliance with 13 the continuing education requirements prescribed by the 14 board.

15 Section 14. Section 37-50-321, MCA, is amended to 16 read:

17 #37-50-321. Revocationy and suspensiony-or-refusal--to 18 renew of certificate, or licenses or permit or refusal to 19 renew permit == recovery of costs. (1) After notice and 20 hearing as provided in 37-50-341, the board may revoke or 21 may suspend any certificate issued under 37-50-302 or any 22 license granted under 37-50-303 or may revoke, suspend, or 23 refuse to renew any license permit issued under 37-50-314 or 24 may censure the holder of any such license for any one or 25 any combination of the following causes:

3 practice public accounting under this chapter; 4 t2+1b1 dishonesty, fraud, or gross negligence in the 5 practice of public accounting; 6 (3)(c) violation of any of-the provisions of 37-50-301 7 this_chapter_or_rules_of_the_board; 8 9 promutquted-by-the-board-under-the-authority-granted-by-this 10 chapter: 11 f5fidl conviction of a felony under the laws of any 12 state or of the United States; 13 totlel conviction of any crime, an element of which is 14 dishonesty or fraud, under the laws of any state or of the 15 United States; 16 f7f(f) cancellation; revocation, suspension, 17 refusal to renew authority to practice as a certified public 18 accountant or a public accountant by any other state for any cause other than failure to pay an annual registration fee 19 20 in such other state; total suspension or revocation of the right to 21 22 practice before any state or federal agencyw: 23 (b) failure to pay the reneval fees prescribed by the

titla) fraud or deceit in obtaining a certificate as

certified public accountant or in obtaining a license to

24 board.

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25 (2) The board max: following a final determination

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or

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resulting in any disciplinary action taken by the board 1 2 under_subsection_file_recover_from_the_disciplined_party_all 3 reasonable_costs of any proceeding incurred_for_the_purposes 4 of_that_disciplinary_action." 5 Section 15. Section 37-50-322, MCA, is amended to 6 read: 7 "37-50-322. Reinstatement of certificates or licenses or ... parmit to practice. On application in writing and after 8 9 hearing pursuant to notice, the board may authorize the 10 department to: 11 (1) issue a new certificates to-o-certified-public 12 accountant-whose-cert+ficate-has-been-revoked-or-may--permit 13 the---reficensing-of-anyone-whose-ficense-has-been-revoked-or 14 mev-reissue--or--modify--the--suspension--of--a--ticense--to 15 practice---public--accounting--which--has--been--revoked--or 16 suspendedy licenses or permiti 17 18 license. or permiti or (3) modify the terms of suspension of a certificate. 19 20 liceose.or_permit.** Section 16. Section 37-50-333, MCA, is amended to 21 22 read: 23 *37-50-333. Partnership composed of public accountants 24 -- registration. (1) A partnership engaged in this state in the practice of public accounting must register with the 25

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 permit issued under 37-50-314 which is in effect.

department as a partnership of licensed public accountants

7 (b) Each partner personally engaged in this state in
B the practice of public accounting must be a certified public
9 accountant or a licensed public accountant of this state in
10 good standing and a holder of a license permit issued under
11 37-50-314 which is in effect.

12 (c) Each local manager in charge of an office or a 13 firm in this state must be a certified public accountant or 14 a licensed public accountant of this state in good standing 15 and a holder of a license permit issued under 37-50-314 16 which is in effect.

(2) Application for registration must be made on the 17 15 affidavit of a general partner of the partnership who holds a ++cense permit to practice in this state as a certified 19 20 public accountant or as a licensed public accountant. The 21 board shall in each case determine whether the applicant is eligible for registration. A partnership which is registered 22 may use the words "public accountants" in connection with 23 its partnership name. Notification shall be given the 24 25 department within 1 month after the admission to or

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withdrawal of a partner from a partnership so registered."
 Section 17. Section 37-50-334, MCA, is amended to
 read:

4 "37-50-334. Corporation composed of public accountants
5 -- registration. (1) A professional service corporation
6 organized for the practice of public accounting must
7 register with the board as a corporation of public
8 accountants provided it meets the following requirements:

9 (a) The sole purpose and business of the corporation 10 must be to furnish to the public services not inconsistent 11 with this chapter or the rules of the board, but the 12 corporation may invest its funds in a manner not 13 incompatible with the practice of public accounting.

14 (b) At least one shareholder thereof must be a 15 certified public accountant or public accountant of this 16 state in good standing and must hold a license permit issued 17 under 37-50-314 which is in effect.

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

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public accountants or public accountants of some state in
 good standing.

3 (d) Each shareholder of the corporation personally 4 engaged within this state in the practice of public 5 accounting as a member thereof must be a certified public 6 accountant or a licensed public accountant of this state in 7 good standing and must hold a license permit issued under 8 37-50-314 which is in effect.

(e) In order to facilitate compliance with the 9 provisions of this section relating to the ownership of 10 stock, there must be a written agreement binding the 11 corporation or the qualified shareholders to purchase any 12 13 shares offered for sale by or not under the ownership or effective control of a gualified shareholder and binding any 14 shareholder not a qualified shareholder to sell such shares 15 16 to the corporation or the qualified shareholders. The 17 agreement must be noticed on each certificate of corporate 18 stock.

(2) Application for such registration must be made upon the affidavit of a shareholder who holds a certificate or--license germit to practice in this state as a certified public accountant or licensed public accountant. The board shall determine whether the applicant is eligible for registration. A corporation which is so registered may use the words "public accountant" or the abbreviation "PA" in

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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 37-50-335, MCA, is amended to
 read:

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6 *37-50-335. Registration of offices. Each office 7 established or maintained in this state for the practice of public accounting in this state by a certified public 8 9 accountant or a partnership or corporation of certified 10 public accountants or by a licensed public accountant or a partnership or corporation of licensed public accountants or 11 12 by one registered under 37-50-313 shall be registered 13 annually with the department. A fee may not be charged for this registration. In addition, each individual engaged in 14 15 this state in the practice of public accounting must be certified--or-licensed have annually received a permit under 16 37-50-314." 17

18 Section 19. Section 37-50-342, NCA, is amended to 19 read:

20 "37-50-342. Violation. Any person who violates any 21 provision of 37-50-301-shall-be this_chapter_or_the_rules_of 22 the_bracd_is guilty of a misdemeanor and_upon_conviction 23 shall_be_punished_by_a_fine_of_not_more_than \$1x000 \$500. by 24 imprisonment_in_the_county_jail_for_not_more_than_6_months. 25 or_by_both_such_fine_and_imprisonment." Section 20. Section 37-50-402, MCA, is amended to
 read:

3 "37-50-402. Privileged communications. Except by 4 permission of the client or person or firm or corporation 5 engaging him or the heirs, successors, or personal representatives of such client or person or firm or 6 7 corporation and except for the expression of opinions on 8 financial statements, no certified public accountant. 9 licensed public accountant, or employee thereof shall be 10 required to nor shall be voluntarily disclose or divulge 11 information of which he may have become possessed relative 12 to and in connection with any professional services as a 13 public accountant. The information derived from or as a 14 result of such professional services shall be deemed 15 confidential and privileged. The provisions of this section shall not apply to the testimony or documents of a public 16 17 accountant given furnished pursuant to a subpoena in a court of competent jurisdiction or a board proceeding." 18

19NEW_SECTIONSection ?1. Codificationinstruction.20Section 13 is intended to be codified as an integral part of21Title 37, chapter 50, and the provisions of Title 37,22chapter 50, apply to section 13.

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