

SENATE BILL NO. 392

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 HOUSE

February 28, 1983	Introduced and referred to Committee on Business and Industry.
March 11, 1983	Committee recommend bill be concurred in. Report adopted.
March 19, 1983	Second reading, concurred in.
March 21, 1983	Third reading, concurred in.

IN THE SENATE

March 22, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 *State* BILL NO. *392*
2 INTRODUCED BY *Elliott Page*
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."

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

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 and a secretary, and a 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 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, MCA, is amended to read:

24 "37-50-203. Rules of the board ~~---solicitation---of~~
25 advisory ~~---comments~~. (1) The board may adopt such rules

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

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:

22 (i) may, among other things, use or rely upon
23 guidelines and pronouncements of recognized educational and
24 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
8 practicing public accounting, including but not limited to
9 rules concerning their style, name, title, and affiliation
10 with any other organization and establishing reasonable
11 standards with respect to professional liability insurance
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

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;

20 ~~(g) 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 ~~(h) rules defining requirements for accounting~~

1 ~~experience, not exceeding 2 years, for issuance of the~~
2 ~~initial annual permit; and~~

3 ~~(11) rules to enforce the provisions of this chapter,~~
4 ~~the purpose 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--a--rule~~
8 ~~or--amendment,--the--department--shall--mail--copies--of--the~~
9 ~~proposed--rule--or--amendment--to--each--holder--of--a--certificate~~
10 ~~or--license--issued--under--37-50-314,--with--a--notice--advising~~
11 ~~him--of--the--proposed--effective--date--of--the--rule--or--amendment~~
12 ~~and--requesting--that--he--submit--his--comments--on--it--at--least--15~~
13 ~~days--prior--to--the--effective--date. These comments are~~
14 ~~advisory--only. The department's certificate of mailing to~~
15 ~~licensed 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 certified
22 public accountant unless such person ~~has received~~ holds a
23 current certificate as a certified public accountant in some
24 state and is certified under 37-50-302, 37-50-310, or
25 37-50-311 and all of such person's offices in this state for

1 ~~the practice of public accounting are maintained and~~
2 ~~registered as required under 37-50-335 under this chapter.~~

3 However, a foreign accountant who has registered under the
4 provisions of 37-50-313 may use the title under which he is
5 generally known in his country, followed by the name of the
6 country from which he received his certificate, license, or
7 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
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 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
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 chapter, holds a current
25 license issued under 37-50-314, and all of such person's

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 state who holds a current license~~
 5 ~~issued under 37-50-314, and all of such person's offices in~~
 6 ~~this state for the practice of public accounting are~~
 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.

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

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 (6) No person may sign or affix his name or any trade
 7 or assumed name used by him in his profession or business
 8 with any wording indicating that he has expert knowledge in
 9 accounting or auditing to any accounting or financial
 10 statement or to any opinion on, report on, or certificate to
 11 any accounting or financial statement unless he holds a
 12 current ~~license~~ permit issued under 37-50-314 and all of his
 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

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
 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,
 15 37-50-332, 37-50-333, or 37-50-334. However, it is lawful
 16 for a sole proprietor to continue the use of the deceased's
 17 name in connection with his business for a reasonable period
 18 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 public accountants --
 21 certification -- qualifications and requirements.
 22 ~~Certification~~ The board shall grant an 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~~
 9 available to any person who:

10 ~~(1) is a resident of this state or has a place of~~
 11 ~~business in this state or is an employee, is regularly~~
 12 ~~employed in this state;~~

13 ~~(2)~~ (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 ~~(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:

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

1 supplemented by ~~experience or by~~ related courses in other
2 areas of business administration and the board determines
3 that an 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
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
16 examination."

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 eligible therefor who is the holder of a
24 certificate, ~~license, 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,
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 were
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:

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

1 originally issued."

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

4 "37-50-314. Annual certification--or--license permit
5 required--display. (1) Annual--certificates--and--licenses No
6 person may engage in the practice of public accounting in
7 this state unless he holds a current annual permit issued by
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 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
14 chapter. There is an annual certificate or license renewal
15 fee in an amount to be determined by the board. Annual
16 certificates and licenses expire on December 31 of each year
17 and may be renewed for a period of one year by certified
18 public accountants and licensed public accountants in good
19 standing on payment of the annual renewal fee

20 (2) A person who fails to renew his license or
21 certificate shall promptly surrender it to the board upon
22 request

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

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) (2) 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
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) (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 (6) The current annual permit to engage in the
21 practice of public accounting must be prominently displayed
22 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

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 ~~NEW SECTION.~~ 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. Revocation, ~~and suspension, or refusal to~~
18 ~~renew of certificates, 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
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:

1 ~~(1)(a)~~ fraud or deceit in obtaining a certificate as
2 certified public accountant or in obtaining a license to
3 practice public accounting under this chapter;

4 ~~(2)(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 chapter or rules of the board;~~

8 ~~(4) --violation of a rule of professional conduct~~
9 ~~promulgated by the board under the authority granted by this~~
10 ~~chapter;~~

11 ~~(5)(d)~~ conviction of a felony under the laws of any
12 state or of the United States;

13 ~~(6)(e)~~ 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 ~~(7)(f)~~ cancellation, revocation, suspension, or
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 fee
20 in such other state;

21 ~~(8)(g)~~ suspension or revocation of the right to
22 practice before any state or federal agency;

23 ~~(h) failure to pay the renewal fees prescribed by the~~
24 ~~boards;~~

25 ~~(2) The board may, following a final determination~~

~~resulting in any disciplinary action taken by the board under subsection (1), recover from the disciplined party all reasonable costs of any proceeding incurred for the purposes of that disciplinary action."~~

Section 15. Section 37-50-322, MCA, is amended to read:

"37-50-322. Reinstatement of certificates or licenses or permit to practice. On application in writing and after hearing pursuant to notice, the board may authorize the department to:

~~(1) issue a new certificate to a certified public accountant whose certificate has been revoked or may permit the re-licensing of anyone whose license has been revoked or may re-issue or modify the suspension of a license to practice public accounting which has been revoked or suspended; licenses or permits~~

~~(2) reinstate a suspended or revoked certificate, license, or permit; or~~

~~(3) modify the terms of suspension of a certificate, license, or permit."~~

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

"37-50-333. Partnership composed of public accountants -- registration. (1) A partnership engaged in this state in the practice of public accounting must register with the

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

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

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

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

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

1 withdrawal of a partner from a partnership so registered."

2 Section 17. Section 37-50-334, MCA, is amended to
3 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
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

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~~ permit 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
12 corporation or the qualified shareholders to purchase any
13 shares offered for sale by or not under the ownership or
14 effective control of a qualified shareholder and binding any
15 shareholder not a qualified shareholder to sell such shares
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~~ permit 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

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 established or maintained in this state for the practice of public accounting in this state by a certified public accountant or a partnership or corporation of certified public accountants or by a licensed public accountant or a partnership or corporation of licensed public accountants or by one registered under 37-50-313 shall be registered annually with the department. A fee may not be charged for this registration. In addition, each individual engaged in this state in the practice of public accounting must be certified--or--licensed have annually received a permit under 37-50-314."

Section 19. Section 37-50-342, MCA, is amended to 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 punished by a fine of not more than \$1,000, by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment."

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

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

NEW SECTION. 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.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 392

1 for which other disciplinary action is not warranted.

3
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 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,
15 never consented to. The Legislature believes this to be a
16 sensitive area, as investigations may or may not result in
17 civil and criminal charges and may even result in legal
18 action by others against the client. Rules governing
19 experience required by the Board must require only so much
20 experience as is necessary for the protection of the public
21 and must not impede access to the profession by those
22 persons reasonably well qualified. Enforcement rules must
23 create a positive enforcement program which will require
24 application of continuing education principles for persons
25 who, among others, may be close to violations of the law but

Approved by Committee
on Business and Industry

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INTRODUCED BY ELLIOTT, GAGE

BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS 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, 37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333 THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA."

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

Section 1. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. Nothing contained in this chapter shall prohibit any person not a certified public accountant or licensed public accountant from serving as an employee of or an assistant to a certified public accountant or a licensed public accountant holding a ~~license permit~~ to practice under 37-50-314 or a partnership or corporation

composed of certified public accountants or licensed public accountants registered under this chapter or a foreign accountant registered under 37-50-313 provided that such employee or assistant shall not issue any accounting or financial statement over his name."

Section 2. Section 37-50-201, MCA, is amended to read:

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

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

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

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

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

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

"37-50-203. Rules of the board ~~----solicitation--of advisory--comments~~. (1) The board may adopt such rules

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

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:

22 (i) may, among other things, use or rely upon
23 guidelines and pronouncements of recognized educational and
24 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
8 practicing public accounting, including but not limited to
9 rules concerning their style, name, title, and affiliation
10 with any other organization and establishing reasonable
11 standards with respect to professional liability insurance
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

16 ~~{f}--rules-setting-forth-the-term--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--;~~

20 ~~that(f) 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 ~~that(g) rules defining requirements for accounting~~

1 ~~experience, not exceeding 2 years, for issuance of the~~
2 ~~initial annual permit; and~~

3 ~~iii(B) rules to enforce the provisions of this~~
4 ~~chapter, the purpose of which rules shall be to provide for~~
5 ~~the 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 a rule~~
8 ~~or amendment, the department shall mail copies of the~~
9 ~~proposed rule or amendment to each holder of a certificate~~
10 ~~or license issued under 37-50-314, with a notice advising~~
11 ~~him of the proposed effective date of the rule or amendment~~
12 ~~and requesting that he submit his comments on it at least 15~~
13 ~~days prior to the effective date. These comments are~~
14 ~~advisory only. The department's certificate of mailing to~~
15 ~~licensed 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 certified
22 public accountant unless such person ~~has received a~~ holds a
23 ~~current~~ certificate as a certified public accountant in some
24 ~~state and is certified under 37-50-302, 37-50-310, or~~
25 ~~37-50-311 and all of such person's offices in this state for~~

1 ~~the practice of public accounting are maintained and~~
2 ~~registered as required under 37-50-335 under this chapter.~~

3 However, a foreign accountant who has registered under the
4 provisions of 37-50-313 may use the title under which he is
5 generally known in his country, followed by the name of the
6 country from which he received his certificate, license, or
7 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
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 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
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 chapter ~~holds a current~~
25 ~~license issued under 37-50-314, 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 or unless such person has received a certificate as a certified public accountant in some state, holds a current license issued under 37-50-314, 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.

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

(5) No person, corporation, or partnership may assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", "licensed public accountant", "public accountant" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar abbreviations likely to be confused with

"CPA". However, a foreign accountant who has 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) No person may sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he has expert knowledge in accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement unless he holds a current license permit issued under 37-50-314 and all of his offices in this state for the practice of public accounting are maintained and registered under 37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title, or office which he holds in that organization, nor do the provisions of this subsection prohibit any act of a public official or public 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

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
 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,
 15 37-50-332, 37-50-333, or 37-50-334. However, it is lawful
 16 for a sole proprietor to continue the use of the deceased's
 17 name in connection with his business for a reasonable period
 18 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 public accountants --
 21 certification -- qualifications and requirements.
 22 ~~Certification The board shall grant an 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~~
 9 ~~available~~ to any person who:

10 ~~(1) is a resident of this state or has a place of~~
 11 ~~business in this state or, as an employee, is regularly~~
 12 ~~employed in this state;~~

13 ~~(2)(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 ~~(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:

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

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

Section 8. Section 37-50-308, MCA, is amended to read:

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

Section 9. Section 37-50-311, MCA, is amended to read:

"37-50-311. Certified public accountants -- waiver of examination for holders of ~~foreign or~~ out-of-state ~~license~~ ~~licenses, certificates, permits, or degrees~~. The board in its discretion may waive the examination and issue a certificate as a certified public accountant to any person otherwise eligible therefor who is the holder of a certificate, ~~license, or permit~~ as a certified public accountant, then in full force and effect, issued under the

laws of any state or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant in this state, which is then in full force and effect, where the requirements entitling him to practice as such certified public accountant were substantially equivalent to those in force in the state of Montana at the time the certificate was originally issued."

Section 10. Section 37-50-312, MCA, is amended to read:

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

1 originally issued."

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

4 *37-50-314. Annual certification--or--license permit
5 required---display. (1) Annual--certificates--and--licenses No
6 person may engage in the practice of public accounting in
7 this state unless he holds a current annual permit issued by
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 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
14 chapter. There is an annual certificate or license renewal
15 fee in an amount to be determined by the board. Annual
16 certificates and licenses expire on December 31 of each year
17 and may be renewed for a period of 1 year by certified
18 public accountants and licensed public accountants in good
19 standing on payment of the annual renewal fee.

20 (2) A person who fails to renew his license or
21 certificate shall promptly surrender it to the board upon
22 request.

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

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) (2) 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
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) (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 (6) The current annual permit to engage in the
21 practice of public accounting must be prominently displayed
22 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

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

~~NEW SECTION.~~ 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.

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

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

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

~~"37-50-321. Revocation, and suspension, or refusal to renew of certificate, or license, or permit or refusal to renew permit -- recovery of costs. (1) After notice and hearing as provided in 37-50-341, the board may revoke or may suspend any certificate issued under 37-50-302 or any license granted under 37-50-303 or may revoke, suspend, or refuse to renew any license permit issued under 37-50-314 or may censure the holder of any such license for any one or 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 practice public accounting under this chapter;~~

~~(1)(b) dishonesty, fraud, or gross negligence in the practice of public accounting;~~

~~(1)(c) violation of any of the provisions of 37-50-301 this chapter or rules of the board;~~

~~(1)(d) violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;~~

~~(1)(e) conviction of a felony under the laws of any state or of the United States;~~

~~(1)(f) conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States;~~

~~(1)(g) cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any cause other than failure to pay an annual registration fee in such other state;~~

~~(1)(h) suspension or revocation of the right to practice before any state or federal agency;~~

~~(1)(i) failure to pay the renewal fees prescribed by the board.~~

~~(2) The board may, following a final determination~~

1 ~~resulting in any disciplinary action taken by the board~~
 2 ~~under subsection (1), 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 certificate, or license,
 8 ~~or permit~~ 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 certificate to a certified public~~
 12 ~~accountant whose certificate has been revoked or may permit~~
 13 ~~the re-licensing of anyone whose license has been revoked or~~
 14 ~~may reissue or modify the suspension of a license to~~
 15 ~~practice public accounting which has been revoked or~~
 16 ~~suspended; license, or permit;~~

17 ~~(2) reinstate a suspended or revoked certificate,~~
 18 ~~license, or permit; or~~

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
 24 -- registration. (1) A partnership engaged in this state in
 25 the practice of public accounting must register with the

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 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.

17 (2) Application for registration must be made on the
 18 affidavit of a general partner of the partnership who holds
 19 a ~~license 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

1 withdrawal of a partner from a partnership so registered."

2 Section 17. Section 37-50-334, MCA, is amended to
3 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
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

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~~ permit 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
12 corporation or the qualified shareholders to purchase any
13 shares offered for sale by or not under the ownership or
14 effective control of a qualified shareholder and binding any
15 shareholder not a qualified shareholder to sell such shares
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~~ permit 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

1 connection with its corporation name. Notification shall be
 2 given the board within 1 month after the admission or
 3 withdrawal of a shareholder of a corporation so registered."

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

6 "37-50-335. Registration of offices. Each office
 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
 16 ~~certified--or--licensed have annually received a permit~~ under
 17 37-50-314."

18 Section 19. Section 37-50-342, MCA, 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 board is~~ guilty of a misdemeanor and ~~upon conviction~~
 23 ~~shall be punished by a fine of not more than \$1,000 \$500, by~~
 24 ~~imprisonment in the county jail for not more than 6 months,~~
 25 ~~or by both such fine and imprisonment."~~

1 Section 20. Section 37-50-402, MCA, is amended to
 2 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
 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
 16 shall not apply to the testimony ~~or documents~~ of a public
 17 accountant ~~given furnished~~ pursuant to a subpoena in a court
 18 of competent jurisdiction ~~or a board proceeding."~~

19 ~~NEW SECTION.~~ Section 21. Codification instruction.
 20 Section 13 is intended to be codified as an integral part of
 21 Title 37, chapter 50, and the provisions of Title 37,
 22 chapter 50, apply to section 13.

-End-

SENATE BILL NO. 392

INTRODUCED BY ELLIOTT, GAGE

BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS 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, 37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333 THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA."

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

Section 1. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. Nothing contained in this chapter shall prohibit any person not a certified public accountant or licensed public accountant from serving as an employee of or an assistant to a certified public accountant or a licensed public accountant holding a license permit to practice under 37-50-314 or a partnership or corporation

THIRD READING

There are no changes in SB 392 second reading (yellow) amended. Please refer to it for complete text.

SB 392

1 STATEMENT OF INTENT

2 SENATE BILL 392

1 for which other disciplinary action is not warranted.

3
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 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,
15 never consented to. The Legislature believes this to be a
16 sensitive area, as investigations may or may not result in
17 civil and criminal charges and may even result in legal
18 action by others against the client. Rules governing
19 experience required by the Board must require only so much
20 experience as is necessary for the protection of the public
21 and must not impede access to the profession by those
22 persons reasonably well qualified. Enforcement rules must
23 create a positive enforcement program which will require
24 application of continuing education principles for persons
25 who, among others, may be close to violations of the law but

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INTRODUCED BY ELLIOTT, GAGE

BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAWS FOR CERTIFIED PUBLIC ACCOUNTANTS AND LICENSED PUBLIC ACCOUNTANTS; TO BROADEN THE BOARD OF ACCOUNTANTS MANDATORY RULEMAKING AUTHORITY; TO ALLOW THE BOARD TO REQUIRE ACCOUNTING EXPERIENCE AS A PREREQUISITE TO RECEIVING A PERMIT; GRANTING THE BOARD AUTHORITY TO ASSESS INVESTIGATIVE COSTS; PROVIDING FOR EXCEPTIONS TO PRIVILEGED COMMUNICATIONS; AND PROVIDING A PENALTY; AMENDING SECTIONS 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, 37-50-314, 37-50-316, 37-50-321, 37-50-322, 37-50-333 THROUGH 37-50-335, 37-50-342, AND 37-50-402, MCA."

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

Section 1. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. Nothing contained in this chapter shall prohibit any person not a certified public accountant or licensed public accountant from serving as an employee of or an assistant to a certified public accountant or a licensed public accountant holding a ~~license~~ permit to practice under 37-50-314 or a partnership or corporation

composed of certified public accountants or licensed public accountants registered under this chapter or a foreign accountant registered under 37-50-313 provided that such employee or assistant shall not issue any accounting or financial statement over his name."

Section 2. Section 37-50-201, MCA, is amended to read:

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

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

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

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

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

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

"37-50-203. Rules of the board ~~---solicitation---of advisory---comments~~. (1) The board may adopt such rules

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

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:

22 (i) may, among other things, use or rely upon
23 guidelines and pronouncements of recognized educational and
24 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
8 practicing public accounting, including but not limited to
9 rules concerning their style, name, title, and affiliation
10 with any other organization and establishing reasonable
11 standards with respect to professional liability insurance
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

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;~~

20 ~~(g) 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 ~~(h) rules defining requirements for accounting~~

1 ~~experiences not exceeding 2 years, for issuance of the~~
2 ~~initial annual permits and~~

3 ~~title rules to enforce the provisions of this~~
4 ~~chapter, the purpose of which rules shall be to provide for~~
5 ~~the 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 a rule~~
8 ~~or amendment, the department shall mail copies of the~~
9 ~~proposed rule or amendment to each holder of a certificate~~
10 ~~or license issued under 37-50-314, with a notice advising~~
11 ~~him of the proposed effective date of the rule or amendment~~
12 ~~and requesting that he submit his comments on it at least 15~~
13 ~~days prior to the effective date. These comments are~~
14 ~~advisory only. The department's certificate of mailing to~~
15 ~~licensed 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 certified
22 public accountant unless such person ~~has received a~~ holds a
23 ~~current~~ certificate as a certified public accountant in some
24 ~~state and is certified under 37-50-302, 37-50-310, or~~
25 ~~37-50-311 and all of such person's offices in this state for~~

1 ~~the practice of public accounting are maintained and~~
2 ~~registered as required under 37-50-335 under this chapter.~~
3 However, a foreign accountant who has registered under the
4 provisions of 37-50-313 may use the title under which he is
5 generally known in his country, followed by the name of the
6 country from which he received his certificate, license, or
7 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
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 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
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 chapter, ~~holds a current~~
25 ~~license issued under 37-50-314 and all of such person's~~

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 37-50-314, and all of such person's offices in~~
 6 ~~this state for the practice of public accounting are~~
 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.

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

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 (6) No person may sign or affix his name or any trade
 7 or assumed name used by him in his profession or business
 8 with any wording indicating that he has expert knowledge in
 9 accounting or auditing to any accounting or financial
 10 statement or to any opinion on, report on, or certificate to
 11 any accounting or financial statement unless he holds a
 12 current ~~license~~ permit issued under 37-50-314 and all of his
 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

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
 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,
 15 37-50-332, 37-50-333, or 37-50-334. However, it is lawful
 16 for a sole proprietor to continue the use of the deceased's
 17 name in connection with his business for a reasonable period
 18 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 public accountants --
 21 certification -- qualifications and requirements.
 22 ~~Certification~~ The board shall grant an 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~~
 9 ~~available~~ to any person who:

10 ~~(1) is a resident of this state or has a place of~~
 11 ~~business in this state or, as an employee, is regularly~~
 12 ~~employed in this state;~~

13 ~~(2)(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 ~~(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:

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

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

Section 8. Section 37-50-308, MCA, is amended to read:

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

Section 9. Section 37-50-311, MCA, is amended to read:

"37-50-311. Certified public accountants -- waiver of examination for holders of ~~foreign or~~ out-of-state ~~license licenses, certificates, permits, or degrees~~. The board in its discretion may waive the examination and issue a certificate as a certified public accountant to any person otherwise eligible therefor who is the holder of a certificate, ~~license, or permit~~ as a certified public accountant, then in full force and effect, issued under the

laws of any state or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant in this state, which is then in full force and effect, where the requirements entitling him to practice as such certified public accountant were substantially equivalent to those in force in the state of Montana at the time the certificate was originally issued."

Section 10. Section 37-50-312, MCA, is amended to read:

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

1 originally issued."

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

4 "37-50-314. Annual certification--or--license permit
5 required--display. (1) Annual--certificates--and--licenses No
6 person may engage in the practice of public accounting in
7 this state unless he holds a current annual permit issued by
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 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
14 chapter. There is an annual certificate or license--renewal
15 fee--in--an--amount--to--be--determined--by--the--boards--Annual
16 certificates--and--licenses--expire--on--December--31--of--each--year
17 and may be renewed for a period--of--1--year--by--certified
18 public--accountants--and--licensed--public--accountants--in--good
19 standing--on--payment--of--the--annual--renewal--fees

20 (2) A person who fails to renew his license or
21 certificate shall promptly surrender it to the board upon
22 request.

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

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) (2) 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
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)(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 (b) The current annual permit to engage in the
21 practice of public accounting must be prominently displayed
22 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

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

~~NEW SECTION.~~ 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.

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

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

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

"37-50-321. Revocation~~y~~ and suspension~~y~~~~or refusal~~~~to~~ ~~renew of certificate, or license, or permit or refusal to~~ ~~renew permit~~ ~~recovery of costs.~~ (1) After notice and hearing as provided in 37-50-341, the board may revoke or may suspend any certificate issued under 37-50-302 or any license granted under 37-50-303 or may revoke, suspend, or refuse to renew any ~~license~~ permit issued under 37-50-314 or may censure the holder of any such license for any one or 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 practice public accounting under this chapter;

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

(3)(c) violation of any ~~of the provisions of 37-50-301~~ ~~this chapter or rules of the board;~~

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

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

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

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

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

(h) ~~failure to pay the renewal fees prescribed by the board.~~

(2) ~~The board may, following a final determination~~

~~resulting in any disciplinary action taken by the board under subsection (1), recover from the disciplined party all reasonable costs of any proceeding incurred for the purposes of that disciplinary action."~~

Section 15. Section 37-50-322, MCA, is amended to read:

"37-50-322. Reinstatement of certificate, or license, or permit to practice. On application in writing and after hearing pursuant to notice, the board may authorize the department to:

~~(1) issue a new certificate to a certified public accountant whose certificate has been revoked or may permit the reticensing of anyone whose license has been revoked or may reissue or modify the suspension of a license to practice public accounting which has been revoked or suspended; license, or permit;~~

~~(2) reinstate a suspended or revoked certificate, license, or permit; or~~

~~(3) modify the terms of suspension of a certificate, license, or permit."~~

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

"37-50-333. Partnership composed of public accountants -- registration. (1) A partnership engaged in this state in the practice of public accounting must register with the

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

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

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

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

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

1 withdrawal of a partner from a partnership so registered."

2 Section 17. Section 37-50-334, MCA, is amended to
3 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
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

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~~ permit 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
12 corporation or the qualified shareholders to purchase any
13 shares offered for sale by or not under the ownership or
14 effective control of a qualified shareholder and binding any
15 shareholder not a qualified shareholder to sell such shares
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~~ permit 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

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 established or maintained in this state for the practice of public accounting in this state by a certified public accountant or a partnership or corporation of certified public accountants or by a licensed public accountant or a partnership or corporation of licensed public accountants or by one registered under 37-50-313 shall be registered annually with the department. A fee may not be charged for this registration. In addition, each individual engaged in this state in the practice of public accounting must be certified--or--licensed ~~have~~ annually received a permit under 37-50-314."

Section 19. Section 37-50-342, MCA, is amended to 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 punished by a fine of not more than \$1,000 \$500, by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment."~~

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

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

NEW SECTION. 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.

-End-