

SENATE BILL NO. 398

INTRODUCED BY BOYLAN, FABREGA, QUILICI, LEE

IN THE SENATE

February 11, 1983	Introduced and referred to Committee on Business and Industry.
February 12, 1983	Fiscal Note requested.
February 17, 1983	Fiscal Note returned.
	Committee recommend bill do pass as amended. Report adopted.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, pass consideration.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on State Administration.
March 10, 1983	Committee recommend bill be concurred in as amended. Report adopted.
	Statement of Intent attached.
March 14, 1983	Second reading, concurred in.
March 15, 1983	Third reading, concurred in.

IN THE SENATE

March 16, 1983

Returned to Senate with  
amendments and Statement of  
Intent.

March 17, 1983

Second reading, amendments  
concurred in.

March 18, 1983

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *State* BILL NO. *398*  
 2 INTRODUCED BY *Boyle* *Boyle* *Julian*  
 3 *Car*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE  
 5 FUNCTION OF LICENSING PUBLIC CONTRACTORS FROM THE DEPARTMENT  
 6 OF REVENUE TO THE DEPARTMENT OF COMMERCE; CHANGING THE  
 7 LICENSE FEE FOR EACH CLASS OF LICENSE; CHANGING THE CONTRACT  
 8 VALUE LIMIT FOR A CLASS B LICENSE REQUIRING A PUBLIC  
 9 CONTRACTOR TO BE LICENSED IN A FIELD OF CONTRACTING;  
 10 INCLUDING FAILURE TO PERFORM QUALITY WORK AS GROUNDS FOR  
 11 LICENSE SUSPENSION; AMENDING SECTIONS 15-50-101 THROUGH  
 12 15-50-105, 15-50-204 THROUGH 15-50-206, 15-50-211 THROUGH  
 13 15-50-213, AND 15-50-302, MCA."

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

16 Section 1. Section 15-50-101, MCA, is amended to read:  
 17 "15-50-101. Definitions. ~~††~~ The following words,  
 18 terms, and phrases in this chapter are, for the purposes  
 19 hereof, defined as follows:

20 ~~111. "Department": unless the context clearly indicates~~  
 21 ~~otherwise, means the department of commerce as provided in~~  
 22 ~~2-15-1801.~~

23 ~~121. "Field of contracting" includes but is not limited~~  
 24 ~~to the distinct fields of general contracting, mechanical~~  
 25 ~~contracting, electrical contracting, and plumbing, heating,~~

1 ~~and air-conditioning contracting.~~

2 ~~††131~~ A "public contractor", within the meaning of  
 3 this chapter, ~~shall include~~ includes any person who submits  
 4 a proposal to or enters into a contract for performing ~~at~~  
 5 public construction work in the state with the federal  
 6 government, or state of Montana, or with any board,  
 7 commission, or department thereof, or with any board of  
 8 county commissioners or with any city or town council, or  
 9 with any agency of any thereof ~~of them~~, or with any other  
 10 public board, body, commission, or agency authorized to let  
 11 or award contracts for any public work when the contract  
 12 cost, value, or price thereof exceeds the sum of \$1,000.

13 ~~††141~~ The term "public contractor" includes  
 14 subcontractors undertaking to perform the work ~~within their~~  
 15 ~~field of contracting and within the limits of their class of~~  
 16 ~~license~~ covered by the original contract or any part  
 17 thereof, the contract cost, value, or price of which exceeds  
 18 the sum of \$1,000.

19 ~~††151~~ "Gross receipts" means all receipts from  
 20 sources within the state, whether in the form of money,  
 21 credits, or other valuable consideration, received from,  
 22 engaging in, or conducting a business, without deduction on  
 23 account of the cost of the property sold, the cost of the  
 24 materials used, labor or service cost, interest paid, taxes,  
 25 losses, or any other expense whatsoever. However, gross

receipts shall not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectable accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

~~{2}--The department of revenue is hereby constituted the "registrar" for the purpose of this chapter."~~

Section 2. Section 15-50-102, MCA, is amended to read:

"15-50-102. Administrative powers of department. The department of revenue is empowered to employ such assistance and to procure such records, supplies, and equipment as may be necessary to carry out the provisions of this chapter."

Section 3. Section 15-50-103, MCA, is amended to read:

"15-50-103. Rules. The department of--revenue shall establish rules necessary for the effective implementation of the provisions of this chapter."

Section 4. Section 15-50-104, MCA, is amended to read:

"15-50-104. Records. The registrar department shall maintain in said registrar's office at Helena, Montana, open to public inspection during office hours, a complete indexed record of all applications and all licenses issued and all certificates of renewal and of cancellations or suspensions thereof and shall furnish a certified copy of any license issued, of renewal certificates, or of the cancellations or

suspensions thereof, upon receipt of the sum of \$1, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein."

Section 5. Section 15-50-105, MCA, is amended to read:

"15-50-105. Disposal of fees. All moneys collected hereunder shall be deposited by the registrar department with the state treasurer, who shall credit them to the general fund of the state."

Section 6. Section 15-50-204, MCA, is amended to read:

"15-50-204. Classes of licenses. (1) There within each field of contracting there shall be three classes of licenses issued under the provisions of this chapter, and such classes of licenses are hereby designated as Classes A, B, and C. Any applicant for a license under the provisions hereof shall specify in his application the field and the class of license applied for.

(2) In any field of contracting:

~~{2}(a)~~ The ~~the~~ holder of a Class A license shall be entitled to engage in the public contracting business within the state without any limitation as to the value of a single public contract project; subject, however, to such prequalification requirements as may be imposed by the public body or bodies referred to in 15-50-101~~++{e}+~~(3). At the time of making the application for such license, the applicant shall pay to the registrar department a fee in the

1 sum of \$200 ~~\$250~~.

2 ~~(3)(b)~~ The ~~the~~ holder of a Class B license shall be  
3 entitled to engage in the public contracting business within  
4 the state but shall not be entitled to engage in the  
5 construction of any single public contract project of a  
6 value in excess of ~~\$50,000~~ ~~\$100,000~~ and shall pay to the  
7 ~~registrar~~ ~~department~~ as a license fee the sum of ~~\$100~~ ~~\$150~~  
8 for such Class B license at the time of making application  
9 therefor.

10 ~~(4)(c)~~ The ~~the~~ holder of a Class C license shall be  
11 entitled to engage in the public contracting business within  
12 the state but shall not be entitled to engage in the  
13 construction of any single public contract project of a  
14 value in excess of \$25,000 and shall pay to the registrar  
15 ~~department~~ as a license fee the sum of ~~\$10~~ ~~\$100~~ at the time  
16 of making application therefor."

17 Section 7. Section 15-50-205, MCA, is amended to read:

18 "15-50-205. Additional license tax imposed. (1) In  
19 addition to the fees enumerated above, each public  
20 contractor shall pay to the ~~state department of revenue~~ an  
21 additional license fee in a sum equal to 1% of the gross  
22 receipts from public contracts during the income year for  
23 which the license is issued; ~~provided, however, that the~~  
24 ~~additional license fee hereby imposed shall not be paid upon~~  
25 ~~or collectable from the gross receipts from any public~~

1 ~~contract which has been let to bid upon which bids have~~  
2 ~~been awarded or which has been executed by a public body~~  
3 ~~and a public contractor on February 28, 1967.~~

4 (2) The additional license fee shall be computed upon  
5 the basis of the entire contract for each separate contract  
6 let by any of the public bodies as specified in  
7 15-50-101~~(1)(a)(3)~~."

8 Section 8. Section 15-50-206, MCA, is amended to read:

9 "15-50-206. Withholding license fee from payments --  
10 refunds. (1) The prime contractor shall withhold the  
11 additional 1% license fee from payments to his  
12 subcontractors and inform the department of revenue on  
13 prescribed forms of the amount of the additional 1% license  
14 fee in his account to be allocated and transferred to the  
15 subcontractor. The notification to transfer portions of the  
16 additional 1% license fee must be filed within 30 days after  
17 each payment is made to subcontractors. If any prime  
18 contractor fails to file the required allocation and  
19 transfer report at the time required by or under the  
20 provisions of this chapter, a penalty computed at the rate  
21 of 10% of the additional 1% license fee withheld from  
22 subcontractors shall be due from the prime contractor.

23 (2) The state, county, city, or any agency or  
24 department thereof, as described in 15-50-101~~(1)(a)(3)~~ for  
25 whom the contractor is performing public work shall

1 withhold, in addition to other amounts withheld as provided  
 2 by law, 1% of all payments due the contractor and shall  
 3 transmit such moneys to the department of revenue. In the  
 4 event that the 1% of gross receipts is not withheld as  
 5 provided, the contractor shall make payment of these amounts  
 6 to the department within 30 days after the date on which the  
 7 contractor receives each increment of payment for work  
 8 performed by the contractor.

9 (3) Any overpayment of the 1% of gross receipts  
 10 withheld or paid by any contractor hereunder shall be  
 11 refunded by the department ~~of revenue~~ at the end of the  
 12 income year upon written application therefor."

13 Section 9. Section 15-50-211, MCA, is amended to read:

14 "15-50-211. Application for license -- contents. To  
 15 obtain a license under this chapter, the applicant shall  
 16 submit on such forms as the ~~registrar department~~ shall  
 17 prescribe an application, under oath, which shall contain a  
 18 statement of the applicant's experience and qualifications  
 19 as a contractor; the value and character of contract work  
 20 completed and for whom performed during 5 years prior to the  
 21 filing of such application; and a complete financial  
 22 statement on such forms and disclosing such information as  
 23 shall be required by the ~~registrar department~~. Such  
 24 application shall also contain such other information as may  
 25 be requested by the ~~registrar department~~ under such rules as

1 may be adopted by ~~said-registrar the department~~ and which  
 2 will assist ~~said-registrar the department~~ in determining the  
 3 applicant's fitness to act in the capacity of a public  
 4 contractor as defined in this chapter. Such application  
 5 shall also contain a statement that the applicant desires  
 6 the issuance of a license under the terms of this chapter  
 7 and shall specify the ~~field of contracting and the~~ class of  
 8 license applied for."

9 Section 10. Section 15-50-212, MCA, is amended to  
 10 read:

11 "15-50-212. Investigation of applicant -- issuance of  
 12 license. It shall be the duty of the ~~registrar department~~ to  
 13 investigate and determine the applicant's fitness to act in  
 14 the capacity of public contractor as defined in this  
 15 chapter, and no license shall be issued to such applicant  
 16 until the expiration of 10 days from and after the filing of  
 17 such application. The license so issued in pursuance of the  
 18 first application shall entitle the licensee to act as a  
 19 public contractor within this state, subject to the  
 20 limitations of such license, until the expiration of the  
 21 then-current calendar year."

22 Section 11. Section 15-50-213, MCA, is amended to  
 23 read:

24 "15-50-213. Renewal -- waiting period after  
 25 cancellation. (1) Any license issued under the provisions of

1 this chapter may be renewed for each successive calendar  
 2 year by obtaining from the ~~registrar department~~ a  
 3 certificate of renewal thereof. For the purpose of obtaining  
 4 such certificate of renewal, the licensee shall file with  
 5 the ~~registrar department~~ an application therefor, stating  
 6 the ~~field of contracting and~~ class of license applied for  
 7 and containing ~~at least~~ the same information as that  
 8 required in the application for the original license. The  
 9 application for such certificate of renewal must be made to  
 10 the ~~registrar department~~ on or before March 1 of each  
 11 successive calendar year, and such renewal certificate shall  
 12 be good for the then-current calendar year.

13 (2) At the time of filing the application for a  
 14 certificate of renewal, the applicant shall pay to the  
 15 ~~registrar department~~ a license fee equal to 50% of the  
 16 license fee for the original license, provided that if any  
 17 applicant for a certificate of renewal shall apply for a  
 18 renewal under a different ~~field or~~ class from the license  
 19 theretofore issued to him, such new license shall be issued  
 20 only upon the same showing and under the same terms and  
 21 conditions and upon payment of the same fee required for the  
 22 issuance of an original license.

23 (3) All certificates of renewal wherein the applicant  
 24 does not apply for a change in the ~~field or~~ class of license  
 25 shall be issued by the ~~registrar department~~ to the applicant

1 forthwith when the application is filed and the license  
 2 renewal fee paid.

3 (4) After cancellation of a license, such licensee  
 4 shall not be relicensed during the current calendar year in  
 5 which the offense was committed."

6 Section 12. Section 15-50-302, MCA, is amended to  
 7 read:

8 "15-50-302. Complaints against licensee -- grounds --  
 9 investigation -- hearing -- suspension of license --  
 10 appeals. (1) Any person or other organization may file a  
 11 duly verified complaint with the ~~registrar department~~  
 12 charging that the licensee is guilty of one or more of the  
 13 following acts or omissions:

14 (a) abandonment of any contract without legal excuse;  
 15 (b) diversion of funds or property received under  
 16 express agreement for prosecution or completion of a  
 17 specific contract under this chapter or for a specified  
 18 purpose in the prosecution or completion of any contract and  
 19 their application or use for any other contract, obligation,  
 20 or purpose with intent to defraud or deceive creditors or  
 21 the owner;

22 (c) the doing of any willful fraudulent act by the  
 23 licensee as a public contractor in consequence of which  
 24 another is substantially injured;

25 (d) the making of any false statement in any

1 application for a license or renewal thereof;

2 (e) the failure to comply with the provisions of  
3 18-1-112 requiring preference of products manufactured or  
4 produced in this state by Montana industry and labor;

5 ~~(f) the failure to perform work that meets generally~~  
6 ~~accepted standards of construction quality.~~

7 (2) Upon the filing of such complaint, the registrar  
8 department shall investigate the charge and within 60 days  
9 after the filing of such complaint shall render and file  
10 said-registrar's a decision, with said--registrar's the  
11 reasons therefor. If the registrar's department's decision  
12 be that the licensee has been guilty of any of such acts or  
13 omissions, said--registrar the department shall suspend the  
14 contractor's license. At any time within 20 days thereafter,  
15 the complainant or the contractor may petition the registrar  
16 department for a rehearing. In the order granting or denying  
17 such rehearing, the registrar department shall set forth a  
18 statement of the particular grounds and reasons for said  
19 registrar's the department's actions on such petition and  
20 shall mail a copy of such order to the parties who have  
21 appeared in support of or in opposition to the petition for  
22 rehearing. If a rehearing be granted, the registrar  
23 department shall set the matter for further hearing on due  
24 notice to the parties and, within 30 days after submission  
25 of the matter, serve said-registrar's the department's

1 decision after rehearing in like manner as an original  
2 decision.

3 (3) The filing of such petition for rehearing as to  
4 the registrar's department's actions in suspending or  
5 canceling such license shall suspend the operation of such  
6 action and permit the licensee to continue to do business as  
7 a public contractor pending final determination of the  
8 controversy.

9 (4) Within 30 days after the decision on rehearing,  
10 any party aggrieved by such decision of the registrar  
11 department may appeal therefrom to the district court in and  
12 for the county in which the licensee under this chapter  
13 resides or does business as a public contractor by serving  
14 upon the registrar department a notice of such appeal. The  
15 matter shall thereupon be heard de novo by the district  
16 court. An appeal may be taken from the decision of the  
17 district court in the same manner as appeals in other civil  
18 cases.

19 (5) In all cases where the licensee has filed his  
20 notice of appeal from the decision of the registrar  
21 department or from the decision of the district court, such  
22 licensee shall be entitled to continue to do business as a  
23 public contractor pending final decision of the  
24 controversy."

-End-



## STATE OF MONTANA

REQUEST NO. 380-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 12, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 398 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

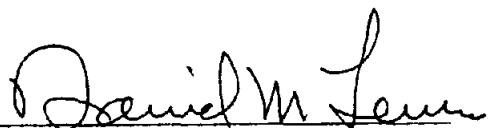
Senate Bill 398 transfers the function of licensing public contractors from the Department of Revenue to the Department of Commerce; changes the license fee for each class of license; changes the contract value limit for a class B license requiring a public contractor to be licensed in a field of contracting; and includes failure to perform quality work as grounds for license suspension.

ASSUMPTIONS:

- 1) Approximately 834 new public contractors' licenses and 1,244 renewals are issued annually.
- 2) The costs of administering the public contractors' licensing programs in the Department of Revenue include salaries and benefits for a general office clerk (50%), a tax examining agent (10%), and division and department supervision (\$2,000).
- 3) Under the proposed law, the Department of Commerce would incur new personnel costs approximately equal to the amount now spent by the Department of Revenue to administer the public contractors' licensing program.
- 4) Operating expenses associated with the public contractors' licensing program would be saved by the Department of Revenue and spent in the Department of Commerce. These expenses would neither increase nor decrease under the proposed law.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
<u>Revenue</u>		
Public Contractors' License Fees		
Under Current Law	\$ 184,780	\$ 184,780
Under Proposed Law	276,900	276,900
Increased Revenue	<u>\$ 96,120</u>	<u>\$ 96,120</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-83

<u>Expenditures</u>	<u>FY84</u>	<u>FY85</u>
Personal Services		
Under Current Law	\$ 11,323	\$ 11,323
Under Proposed Law	22,646	22,646
Estimated Increase	<u>\$ 11,323</u>	<u>\$ 11,323</u>
Operating Expenses		
Under Current Law	\$ 4,293	\$ 4,293
Under Proposed Law	4,293	4,293
Estimated Increase	<u>\$ -0-</u>	<u>\$ -0-</u>
Total Expenditures		
Under Current Law	\$ 15,616	\$ 15,616
Under Proposed Law	26,939	26,939
Estimated Increase	<u>\$ 11,323</u>	<u>\$ 11,323</u>
Net Effect		
Under Current Law	\$ 169,164	\$ 169,164
Under Proposed Law	249,961	249,961
Estimated Increase	<u>\$ 80,797</u>	<u>\$ 80,797</u>
General Fund		
Under Current Law	\$ 169,164	\$ 169,164
Under Proposed Law	249,961	249,961
Estimated Increase	<u>\$ 80,797</u>	<u>\$ 80,797</u>

COMMENT:

Total costs to operate the program under the Department of Commerce are based on Department of Revenue's experience. If this legislation was enacted, Commerce would have to be given appropriation authority in the general appropriations act to perform the necessary functions.

Approved by Committee  
on Business and Industry

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a proposal to or enters into a contract for performing ~~all~~  
public construction work in the state with the federal  
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public board, body, commission, or agency authorized to let  
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17 ~~(2) In any field of contracting:~~

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20 the state without any limitation as to the value of a single  
21 public contract project; subject, however, to such  
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22 subcontractors shall be due from the prime contractor.

23 (2) The state, county, city, or any agency or  
24 department thereof, as described in 15-50-101~~(1)(a)~~(3) for  
25 whom the contractor is performing public work shall

withhold, in addition to other amounts withheld as provided by law, 1% of all payments due the contractor and shall transmit such moneys to the department of revenue. In the event that the 1% of gross receipts is not withheld as provided, the contractor shall make payment of these amounts to the department within 30 days after the date on which the contractor receives each increment of payment for work performed by the contractor.

(3) Any overpayment of the 1% of gross receipts withheld or paid by any contractor hereunder shall be refunded by the department of revenue at the end of the income year upon written application therefor."

Section 9. Section 15-50-211, MCA, is amended to read:

"15-50-211. Application for license -- contents. To obtain a license under this chapter, the applicant shall submit on such forms as the registrar department shall prescribe an application, under oath, which shall contain a statement of the applicant's experience and qualifications as a contractor; the value and character of contract work completed and for whom performed during 5 years prior to the filing of such application; and a complete financial statement on such forms and disclosing such information as shall be required by the registrar department. Such application shall also contain such other information as may be requested by the registrar department under such rules as

may be adopted by ~~said-registrar~~ the department and which will assist ~~said-registrar~~ the department in determining the applicant's fitness to act in the capacity of a public contractor as defined in this chapter. Such application shall also contain a statement that the applicant desires the issuance of a license under the terms of this chapter and shall specify the field of contracting and the class of license applied for."

Section 10. Section 15-50-212, MCA, is amended to read:

"15-50-212. Investigation of applicant -- issuance of license. It shall be the duty of the registrar department to investigate and determine the applicant's fitness to act in the capacity of public contractor as defined in this chapter, and no license shall be issued to such applicant until the expiration of 10 days from and after the filing of such application. The license so issued in pursuance of the first application shall entitle the licensee to act as a public contractor within this state, subject to the limitations of such license, until the expiration of the then-current calendar year."

Section 11. Section 15-50-213, MCA, is amended to read:

"15-50-213. Renewal -- waiting period after cancellation. (1) Any license issued under the provisions of

1 this chapter may be renewed for each successive calendar  
 2 year by obtaining from the registrar department a  
 3 certificate of renewal thereof. For the purpose of obtaining  
 4 such certificate of renewal, the licensee shall file with  
 5 the registrar department an application therefor, stating  
 6 the field of contracting and class of license applied for  
 7 and containing at least the same information as that  
 8 required in the application for the original license. The  
 9 application for such certificate of renewal must be made to  
 10 the registrar department on or before March 1 of each  
 11 successive calendar year, and such renewal certificate shall  
 12 be good for the then-current calendar year.

13 (2) At the time of filing the application for a  
 14 certificate of renewal, the applicant shall pay to the  
 15 registrar department a license fee equal to 50% of the  
 16 license fee for the original license, provided that if any  
 17 applicant for a certificate of renewal shall apply for a  
 18 renewal under a different field or class from the license  
 19 theretofore issued to him, such new license shall be issued  
 20 only upon the same showing and under the same terms and  
 21 conditions and upon payment of the same fee required for the  
 22 issuance of an original license.

23 (3) All certificates of renewal wherein the applicant  
 24 does not apply for a change in the field or class of license  
 25 shall be issued by the registrar department to the applicant

1 forthwith when the application is filed and the license  
 2 renewal fee paid.

3 (4) After cancellation of a license, such licensee  
 4 shall not be relicensed during the current calendar year in  
 5 which the offense was committed."

6 Section 12. Section 15-50-302, MCA, is amended to  
 7 read:

8 "15-50-302. Complaints against licensee -- grounds --  
 9 investigation -- hearing -- suspension of license --  
 10 appeals. (1) Any person or other organization may file a  
 11 duly verified complaint with the registrar department  
 12 charging that the licensee is guilty of one or more of the  
 13 following acts or omissions:

14 (a) abandonment of any contract without legal excuse;  
 15 (b) diversion of funds or property received under  
 16 express agreement for prosecution or completion of a  
 17 specific contract under this chapter or for a specified  
 18 purpose in the prosecution or completion of any contract and  
 19 their application or use for any other contract, obligation,  
 20 or purpose with intent to defraud or deceive creditors or  
 21 the owner;

22 (c) the doing of any willful fraudulent act by the  
 23 licensee as a public contractor in consequence of which  
 24 another is substantially injured;

25 (d) the making of any false statement in any

1 application for a license or renewal thereof;

2 (e) the failure to comply with the provisions of  
3 18-1-112 requiring preference of products manufactured or  
4 produced in this state by Montana industry and labor;

5 ~~ffi--the-failure-to-perform-work-that-meets--generally~~  
6 ~~accepted-standards-of-construction-quality.~~

7 (2) Upon the filing of such complaint, the registrar  
8 department shall investigate the charge and within 60 days  
9 after the filing of such complaint shall render and file  
10 said-registrar's a decision, with said--registrar's the  
11 reasons therefor. If the registrar's department's decision  
12 be that the licensee has been guilty of any of such acts or  
13 omissions, said--registrar the department shall suspend the  
14 contractor's license. At any time within 20 days thereafter,  
15 the complainant or the contractor may petition the registrar  
16 department for a rehearing. In the order granting or denying  
17 such rehearing, the registrar department shall set forth a  
18 statement of the particular grounds and reasons for said  
19 registrar's the department's actions on such petition and  
20 shall mail a copy of such order to the parties who have  
21 appeared in support of or in opposition to the petition for  
22 rehearing. If a rehearing be granted, the registrar  
23 department shall set the matter for further hearing on due  
24 notice to the parties and, within 30 days after submission  
25 of the matter, serve said--registrar's the department's

1 decision after rehearing in like manner as an original  
2 decision.

3 (3) The filing of such petition for rehearing as to  
4 the registrar's department's actions in suspending or  
5 canceling such license shall suspend the operation of such  
6 action and permit the licensee to continue to do business as  
7 a public contractor pending final determination of the  
8 controversy.

9 (4) Within 30 days after the decision on rehearing,  
10 any party aggrieved by such decision of the registrar  
11 department may appeal therefrom to the district court in and  
12 for the county in which the licensee under this chapter  
13 resides or does business as a public contractor by serving  
14 upon the registrar department a notice of such appeal. The  
15 matter shall thereupon be heard de novo by the district  
16 court. An appeal may be taken from the decision of the  
17 district court in the same manner as appeals in other civil  
18 cases.

19 (5) In all cases where the licensee has filed his  
20 notice of appeal from the decision of the registrar  
21 department or from the decision of the district court, such  
22 licensee shall be entitled to continue to do business as a  
23 public contractor pending final decision of the  
24 controversy."

-End-



## SENATE BILL NO. 398

INTRODUCED BY BOYLAN, FABREGA, QUILICI, LEE

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE FUNCTION OF LICENSING PUBLIC CONTRACTORS FROM THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF COMMERCE; CHANGING THE LICENSE FEE FOR EACH CLASS OF LICENSE; CHANGING THE CONTRACT VALUE LIMIT FOR A CLASS B LICENSE REQUIRING A PUBLIC CONTRACTOR TO BE LICENSED IN A FIELD OF CONTRACTING; ~~INCLUDING FAILURE TO PERFORM QUALITY WORK AS GROUNDS FOR LICENSE SUSPENSION~~; AMENDING SECTIONS 15-50-101 THROUGH 15-50-105, 15-50-204 THROUGH 15-50-206, 15-50-211 THROUGH 15-50-213, AND 15-50-302, MCA."

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

Section 1. Section 15-50-101, MCA, is amended to read:

"15-50-101. Definitions. ~~(1)~~ The following words, terms, and phrases in this chapter are, for the purposes hereof, defined as follows:

~~(1) "Department": unless the context clearly indicates otherwise, means the department of commerce as provided in 2-15-1801.~~

~~(2) "Field of contracting" includes but is not limited to the distinct fields of general contracting, mechanical contracting, electrical contracting, and plumbing, heating,~~

~~and air-conditioning contracting.~~

~~(3) A "public contractor" within the meaning of this chapter, shall include~~ includes any person who submits a proposal to or enters into a contract for performing ~~all~~ public construction work in the state with the federal government, ~~or~~ state of Montana, or with any board, commission, or department thereof, or with any board of county commissioners or with any city or town council, or with any agency of any thereof ~~of them~~, or with any other public board, body, commission, or agency authorized to let or award contracts for any public work when the contract cost, value, or price thereof exceeds the sum of \$1,000.

~~(4) The term "public contractor" includes subcontractors undertaking to perform the work within their field of contracting and within the limits of their class of license covered by the original contract or any part thereof, the contract cost, value, or price of which exceeds the sum of \$1,000.~~

~~(5) "Gross receipts" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross~~

receipts shall not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectable accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

~~{2}--The department of revenue--is hereby--constituted the--registrar--for the purpose of this chapter."~~

Section 2. Section 15-50-102, MCA, is amended to read:

"15-50-102. Administrative powers of department. The department of revenue is empowered to employ such assistance and to procure such records, supplies, and equipment as may be necessary to carry out the provisions of this chapter."

Section 3. Section 15-50-103, MCA, is amended to read:

"15-50-103. Rules. The department of--revenue shall establish rules necessary for the effective implementation of the provisions of this chapter."

Section 4. Section 15-50-104, MCA, is amended to read:

"15-50-104. Records. The registrar department shall maintain ~~in said registrar's office~~ at Helena, Montana, open to public inspection during office hours, a complete indexed record of all applications and all licenses issued and all certificates of renewal and of cancellations or suspensions thereof and shall furnish a certified copy of any license issued, of renewal certificates, or of the cancellations or

suspensions thereof, upon receipt of the sum of \$1, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein."

Section 5. Section 15-50-105, MCA, is amended to read:

"15-50-105. Disposal of fees. All moneys collected hereunder shall be deposited by the registrar department with the state treasurer, who shall credit them to the general fund of the state."

Section 6. Section 15-50-204, MCA, is amended to read:

"15-50-204. Classes of licenses. (1) ~~There within each field of contracting there~~ shall be three classes of licenses issued under the provisions of this chapter, and such classes of licenses are hereby designated as Classes A, B, and C. Any applicant for a license under the provisions hereof shall specify in his application the field and the class of license applied for.

~~(2) In any field of contracting:~~

~~{2} (a)~~ The ~~the~~ holder of a Class A license shall be entitled to engage in the public contracting business within the state without any limitation as to the value of a single public contract project; subject, however, to such prequalification requirements as may be imposed by the public body or bodies referred to in 15-50-101~~{1} (e)~~ (3). At the time of making the application for such license, the applicant shall pay to the registrar department a fee in the

1 sum of ~~\$200~~ \$250.

2 ~~(3)(b)~~ The ~~the~~ holder of a Class B license shall be  
3 entitled to engage in the public contracting business within  
4 the state but shall not be entitled to engage in the  
5 construction of any single public contract project of a  
6 value in excess of ~~\$50,000~~ \$100,000 and shall pay to the  
7 registrar ~~department~~ as a license fee the sum of ~~\$100~~ \$150  
8 for such Class B license at the time of making application  
9 therefor.

10 ~~(4)(c)~~ The ~~the~~ holder of a Class C license shall be  
11 entitled to engage in the public contracting business within  
12 the state but shall not be entitled to engage in the  
13 construction of any single public contract project of a  
14 value in excess of \$25,000 and shall pay to the registrar  
15 ~~department~~ as a license fee the sum of ~~\$10~~ \$100 at the time  
16 of making application therefor."

17 Section 7. Section 15-50-205, MCA, is amended to read:

18 "15-50-205. Additional license tax imposed. (1) In  
19 addition to the fees enumerated above, each public  
20 contractor shall pay to the ~~state department of revenue~~ an  
21 additional license fee in a sum equal to 1% of the gross  
22 receipts from public contracts during the income year for  
23 which the license is issued; ~~provided, however, that the~~  
24 ~~additional license fee hereby imposed shall not be paid upon~~  
25 ~~or collectable from the gross receipts from any public~~

1 contract--which--has--been--let--to--bid--upon--which--bids--have  
2 been--awarded--or--which--has--been--executed--by--a--public--body  
3 and--a--public--contractor--on--February--28--1967.

4 (2) The additional license fee shall be computed upon  
5 the basis of the entire contract for each separate contract  
6 let by any of the public bodies as specified in  
7 15-50-101~~(1)(a)(3)~~."

8 Section 8. Section 15-50-206, MCA, is amended to read:

9 "15-50-206. Withholding license fee from payments --  
10 refunds. (1) The prime contractor shall withhold the  
11 additional 1% license fee from payments to his  
12 subcontractors and inform the department of revenue on  
13 prescribed forms of the amount of the additional 1% license  
14 fee in his account to be allocated and transferred to the  
15 subcontractor. The notification to transfer portions of the  
16 additional 1% license fee must be filed within 30 days after  
17 each payment is made to subcontractors. If any prime  
18 contractor fails to file the required allocation and  
19 transfer report at the time required by or under the  
20 provisions of this chapter, a penalty computed at the rate  
21 of 10% of the additional 1% license fee withheld from  
22 subcontractors shall be due from the prime contractor.

23 (2) The state, county, city, or any agency or  
24 department thereof, as described in 15-50-101~~(1)(a)(3)~~ for  
25 whom the contractor is performing public work shall

1 withhold, in addition to other amounts withheld as provided  
 2 by law, 1% of all payments due the contractor and shall  
 3 transmit such moneys to the department of revenue. In the  
 4 event that the 1% of gross receipts is not withheld as  
 5 provided, the contractor shall make payment of these amounts  
 6 to the department within 30 days after the date on which the  
 7 contractor receives each increment of payment for work  
 8 performed by the contractor.

9 (3) Any overpayment of the 1% of gross receipts  
 10 withheld or paid by any contractor hereunder shall be  
 11 refunded by the department of revenue at the end of the  
 12 income year upon written application therefor."

13 Section 9. Section 15-50-211, MCA, is amended to read:

14 "15-50-211. Application for license -- contents. To  
 15 obtain a license under this chapter, the applicant shall  
 16 submit on such forms as the ~~registrar department~~ shall  
 17 prescribe an application, under oath, which shall contain a  
 18 statement of the applicant's experience and qualifications  
 19 as a contractor; the value and character of contract work  
 20 completed and for whom performed during 5 years prior to the  
 21 filing of such application; and a complete financial  
 22 statement on such forms and disclosing such information as  
 23 shall be required by the ~~registrar department~~. Such  
 24 application shall also contain such other information as may  
 25 be requested by the ~~registrar department~~ under such rules as

1 may be adopted by ~~said-registrar~~ the department and which  
 2 will assist ~~said-registrar~~ the department in determining the  
 3 applicant's fitness to act in the capacity of a public  
 4 contractor as defined in this chapter. Such application  
 5 shall also contain a statement that the applicant desires  
 6 the issuance of a license under the terms of this chapter  
 7 and shall specify the field of contracting and the class of  
 8 license applied for."

9 Section 10. Section 15-50-212, MCA, is amended to  
 10 read:

11 "15-50-212. Investigation of applicant -- issuance of  
 12 license. It shall be the duty of the ~~registrar department~~ to  
 13 investigate and determine the applicant's fitness to act in  
 14 the capacity of public contractor as defined in this  
 15 chapter, and no license shall be issued to such applicant  
 16 until the expiration of 10 days from and after the filing of  
 17 such application. The license so issued in pursuance of the  
 18 first application shall entitle the licensee to act as a  
 19 public contractor within this state, subject to the  
 20 limitations of such license, until the expiration of the  
 21 then-current calendar year."

22 Section 11. Section 15-50-213, MCA, is amended to  
 23 read:

24 "15-50-213. Renewal -- waiting period after  
 25 cancellation. (1) Any license issued under the provisions of

1 this chapter may be renewed for each successive calendar  
 2 year by obtaining from the registrar ~~department~~ a  
 3 certificate of renewal thereof. For the purpose of obtaining  
 4 such certificate of renewal, the licensee shall file with  
 5 the registrar ~~department~~ an application therefor, stating  
 6 the ~~field of contracting and~~ class of license applied for  
 7 and containing at least the same information as that  
 8 required in the application for the original license. The  
 9 application for such certificate of renewal must be made to  
 10 the registrar ~~department~~ on or before March 1 of each  
 11 successive calendar year, and such renewal certificate shall  
 12 be good for the then-current calendar year.

13 (2) At the time of filing the application for a  
 14 certificate of renewal, the applicant shall pay to the  
 15 registrar ~~department~~ a license fee equal to 50% of the  
 16 license fee for the original license, provided that if any  
 17 applicant for a certificate of renewal shall apply for a  
 18 renewal under a different field or class from the license  
 19 theretofore issued to him, such new license shall be issued  
 20 only upon the same showing and under the same terms and  
 21 conditions and upon payment of the same fee required for the  
 22 issuance of an original license.

23 (3) All certificates of renewal wherein the applicant  
 24 does not apply for a change in the field or class of license  
 25 shall be issued by the registrar ~~department~~ to the applicant

1 forthwith when the application is filed and the license  
 2 renewal fee paid.

3 (4) After cancellation of a license, such licensee  
 4 shall not be relicensed during the current calendar year in  
 5 which the offense was committed."

6 Section 12. Section 15-50-302, MCA, is amended to  
 7 read:

8 "15-50-302. Complaints against licensee -- grounds --  
 9 investigation -- hearing -- suspension of license --  
 10 appeals. (1) Any person or other organization may file a  
 11 duly verified complaint with the registrar ~~department~~  
 12 charging that the licensee is guilty of one or more of the  
 13 following acts or omissions:

14 (a) abandonment of any contract without legal excuse;  
 15 (b) diversion of funds or property received under  
 16 express agreement for prosecution or completion of a  
 17 specific contract under this chapter or for a specified  
 18 purpose in the prosecution or completion of any contract and  
 19 their application or use for any other contract, obligation,  
 20 or purpose with intent to defraud or deceive creditors or  
 21 the owner;

22 (c) the doing of any willful fraudulent act by the  
 23 licensee as a public contractor in consequence of which  
 24 another is substantially injured;

25 (d) the making of any false statement in any

1 application for a license or renewal thereof;

2 (e) the failure to comply with the provisions of  
3 18-1-112 requiring preference of products manufactured or  
4 produced in this state by Montana industry and labor;

5 ~~fff--the-failure-to-perform-work-that-meets--generally~~  
6 ~~accepted-standards-of-construction-quality.~~

7 (2) Upon the filing of such complaint, the registrar  
8 department shall investigate the charge and within 60 days  
9 after the filing of such complaint shall render and file  
10 said-registrar's a decision, with said--registrar's the  
11 reasons therefor. If the registrar's department's decision  
12 be that the licensee has been guilty of any of such acts or  
13 omissions, said--registrar the department shall suspend the  
14 contractor's license. At any time within 20 days thereafter,  
15 the complainant or the contractor may petition the registrar  
16 department for a rehearing. In the order granting or denying  
17 such rehearing, the registrar department shall set forth a  
18 statement of the particular grounds and reasons for said  
19 registrar's the department's actions on such petition and  
20 shall mail a copy of such order to the parties who have  
21 appeared in support of or in opposition to the petition for  
22 rehearing. If a rehearing be granted, the registrar  
23 department shall set the matter for further hearing on due  
24 notice to the parties and, within 30 days after submission  
25 of the matter, serve said--registrar's the department's

1 decision after rehearing in like manner as an original  
2 decision.

3 (3) The filing of such petition for rehearing as to  
4 the registrar's department's actions in suspending or  
5 canceling such license shall suspend the operation of such  
6 action and permit the licensee to continue to do business as  
7 a public contractor pending final determination of the  
8 controversy.

9 (4) Within 30 days after the decision on rehearing,  
10 any party aggrieved by such decision of the registrar  
11 department may appeal therefrom to the district court in and  
12 for the county in which the licensee under this chapter  
13 resides or does business as a public contractor by serving  
14 upon the registrar department a notice of such appeal. The  
15 matter shall thereupon be heard de novo by the district  
16 court. An appeal may be taken from the decision of the  
17 district court in the same manner as appeals in other civil  
18 cases.

19 (5) In all cases where the licensee has filed his  
20 notice of appeal from the decision of the registrar  
21 department or from the decision of the district court, such  
22 licensee shall be entitled to continue to do business as a  
23 public contractor pending final decision of the  
24 controversy."

-End-

SENATE BILL 398  
STATEMENT OF INTENT  
STATE ADMINISTRATION COMMITTEE  
MARCH 9, 1983

"STATEMENT OF INTENT  
SENATE BILL 398

SB 398 transfers contractor licensing and rulemaking authority from the Department of Revenue to the Department of Commerce. It delegates new rulemaking authority in the form of defining fields of contracting.

It is the intention of the legislature that the Department of Commerce broadly defines fields of contracting so as to minimize the need for additional licenses within the same class while at the same time ensuring similarity of expertise within fields of contracting.

It is the intention of the legislature that the Department of Commerce gather information as required by this chapter and use that information for the following purposes:

- (1) to ensure that an applicant for license is minimally qualified in his field of contracting; and
- (2) to ensure that the Department of Commerce has information necessary to assist the Department of Administration in prequalifying bidders on state projects on the basis of financial ratings as well as previous performance reviews."

SENATE BILL 398  
AMENDMENTS  
STATE ADMINISTRATION COMMITTEE  
MARCH 9, 1983

1. Title, line 8.  
Following: "LICENSE"  
Insert: ";

2. Page 4, line 10.  
Following: "licenses"  
Insert: "--fees"

3. Page 5.  
Following: line 16  
Insert: "(3) If a holder of a license for any class within a field of contracting applies for another license for the same class but within a different field of contracting, he shall pay a fee equal to 25% of the fee for the appropriate class of license as provided in subsection (2) to be licensed in the additional field. If an applicant for a license for any class within a field of contracting at the same time applies for a license for the same class but within a different field of contracting, he shall pay the fee for the appropriate class of license as provided in subsection (2) to be licensed in one of the fields of contracting plus 25% of the fee for the same class to be licensed in the other field."

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 398

## 3 House State Administration Committee

4

5 SB 398 transfers contractor licensing and rulemaking  
6 authority from the Department of Revenue to the Department  
7 of Commerce. It delegates new rulemaking authority in the  
8 form of defining fields of contracting.

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10 Department of Commerce broadly defines fields of contracting  
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14 It is the intention of the legislature that the  
15 Department of Commerce gather information as required by  
16 this chapter and use that information for the following  
17 purposes:

18 (1) to ensure that an applicant for license is  
19 minimally qualified in his field of contracting; and

20 (2) to ensure that the Department of Commerce has  
21 information necessary to assist the Department of  
22 Administration in prequalifying bidders on state projects on  
23 the basis of financial ratings as well as previous  
24 performance reviews.

REFERENCE BILL

SB 398



## SENATE BILL NO. 398

INTRODUCED BY BOYLAN, FABREGA, QUILICI, LEE

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE FUNCTION OF LICENSING PUBLIC CONTRACTORS FROM THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF COMMERCE; CHANGING THE LICENSE FEE FOR EACH CLASS OF LICENSE; CHANGING THE CONTRACT VALUE LIMIT FOR A CLASS B LICENSE; REQUIRING A PUBLIC CONTRACTOR TO BE LICENSED IN A FIELD OF CONTRACTING; INCLUDING FAILURE TO PERFORM QUALITY WORK AS GROUNDS FOR LICENSE SUSPENSION; AMENDING SECTIONS 15-50-101 THROUGH 15-50-105, 15-50-204 THROUGH 15-50-206, 15-50-211 THROUGH 15-50-213, AND 15-50-302, MCA."

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

Section 1. Section 15-50-101, MCA, is amended to read:

"15-50-101. Definitions. (1) The following words, terms, and phrases in this chapter are, for the purposes hereof, defined as follows:

(1) "Department", unless the context clearly indicates otherwise, means the department of commerce as provided in 2-15-1801.

(2) "Field of contracting" includes but is not limited to the distinct fields of general contracting, mechanical contracting, electrical contracting, and plumbing, heating,

and air conditioning contracting.

(3) A "public contractor", within the meaning of this chapter, shall include includes any person who submits a proposal to or enters into a contract for performing a public construction work in the state with the federal government, or state of Montana, or with any board, commission, or department thereof, or with any board of county commissioners or with any city or town council, or with any agency of any thereof of them, or with any other public board, body, commission, or agency authorized to let or award contracts for any public work when the contract cost, value, or price thereof exceeds the sum of \$1,000.

(4) The term "public contractor" includes subcontractors undertaking to perform the work within their field of contracting and within the limits of their class of license covered by the original contract or any part thereof, the contract cost, value, or price of which exceeds the sum of \$1,000.

(5) "Gross receipts" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross

receipts shall not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectable accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

~~{2}--The department of revenue--is--hereby--constituted the--"registrar"--for--the--purpose--of--this--chapter--"~~

Section 2. Section 15-50-102, MCA, is amended to read:

"15-50-102. Administrative powers of department. The department of revenue is empowered to employ such assistance and to procure such records, supplies, and equipment as may be necessary to carry out the provisions of this chapter."

Section 3. Section 15-50-103, MCA, is amended to read:

"15-50-103. Rules. The department of--revenue shall establish rules necessary for the effective implementation of the provisions of this chapter."

Section 4. Section 15-50-104, MCA, is amended to read:

"15-50-104. Records. The registrar department shall maintain in--said--registrar's--office at Helena, Montana, open to public inspection during office hours, a complete indexed record of all applications and all licenses issued and all certificates of renewal and of cancellations or suspensions thereof and shall furnish a certified copy of any license issued, of renewal certificates, or of the cancellations or

suspensions thereof, upon receipt of the sum of \$1, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein."

Section 5. Section 15-50-105, MCA, is amended to read:

"15-50-105. Disposal of fees. All moneys collected hereunder shall be deposited by the registrar department with the state treasurer, who shall credit them to the general fund of the state."

Section 6. Section 15-50-204, MCA, is amended to read:

"15-50-204. Classes of licenses ~~--FEES.~~ (1) ~~There~~ Within each field of contracting there shall be three classes of licenses issued under the provisions of this chapter, and such classes of licenses are hereby designated as Classes A, B, and C. Any applicant for a license under the provisions hereof shall specify in his application ~~the~~ field and the class of license applied for.

(2) In any field of contracting:

~~{2}(a)~~ The ~~the~~ holder of a Class A license shall be entitled to engage in the public contracting business within the state without any limitation as to the value of a single public contract project; subject, however, to such prequalification requirements as may be imposed by the public body or bodies referred to in 15-50-101~~{1}(a)~~{1}. At the time of making the application for such license, the applicant shall pay to the registrar department a fee in the

1 sum of \$200 \$250.

2 (3)(b) The the holder of a Class B license shall be  
3 entitled to engage in the public contracting business within  
4 the state but shall not be entitled to engage in the  
5 construction of any single public contract project of a  
6 value in excess of \$50,000 \$100,000 and shall pay to the  
7 registrar department as a license fee the sum of \$100 \$150  
8 for such Class B license at the time of making application  
9 therefor.

10 (4)(c) The the holder of a Class C license shall be  
11 entitled to engage in the public contracting business within  
12 the state but shall not be entitled to engage in the  
13 construction of any single public contract project of a  
14 value in excess of \$25,000 and shall pay to the registrar  
15 department as a license fee the sum of \$10 \$100 at the time  
16 of making application therefor.

17 (11) IF A HOLDER OF A LICENSE FOR ANY CLASS WITHIN A  
18 FIELD OF CONTRACTING APPLIES FOR ANOTHER LICENSE FOR THE  
19 SAME CLASS BUT WITHIN A DIFFERENT FIELD OF CONTRACTING, HE  
20 SHALL PAY A FEE EQUAL TO 25% OF THE FEE FOR THE APPROPRIATE  
21 CLASS OF LICENSE AS PROVIDED IN SUBSECTION (2) TO BE  
22 LICENSED IN THE ADDITIONAL FIELD. IF AN APPLICANT FOR A  
23 LICENSE FOR ANY CLASS WITHIN A FIELD OF CONTRACTING AT THE  
24 SAME TIME APPLIES FOR A LICENSE FOR THE SAME CLASS BUT  
25 WITHIN A DIFFERENT FIELD OF CONTRACTING, HE SHALL PAY THE

1 FEE FOR THE APPROPRIATE CLASS OF LICENSE AS PROVIDED IN  
2 SUBSECTION (2) TO BE LICENSED IN ONE OF THE FIELDS OF  
3 CONTRACTING PLUS 25% OF THE FEE FOR THE SAME CLASS TO BE  
4 LICENSED IN THE OTHER FIELD."

5 Section 7. Section 15-50-205, MCA, is amended to read:  
6 "15-50-205. Additional license tax imposed. (1) In  
7 addition to the fees enumerated above, each public  
8 contractor shall pay to the state department of revenue an  
9 additional license fee in a sum equal to 1% of the gross  
10 receipts from public contracts during the income year for  
11 which the license is issued; provided, however, that the  
12 additional license fee hereby imposed shall not be paid upon  
13 or collectable from the gross receipts from any public  
14 contract which has been let to bid upon which bids have  
15 been awarded or which has been executed by a public body  
16 and a public contractor on February 28, 1967.

17 (2) The additional license fee shall be computed upon  
18 the basis of the entire contract for each separate contract  
19 let by any of the public bodies as specified in  
20 15-50-101(1)(a)(3)."

21 Section 8. Section 15-50-206, MCA, is amended to read:  
22 "15-50-206. Withholding license fee from payments --  
23 refunds. (1) The prime contractor shall withhold the  
24 additional 1% license fee from payments to his  
25 subcontractors and inform the department of revenue on

1 prescribed forms of the amount of the additional 1% license  
 2 fee in his account to be allocated and transferred to the  
 3 subcontractor. The notification to transfer portions of the  
 4 additional 1% license fee must be filed within 30 days after  
 5 each payment is made to subcontractors. If any prime  
 6 contractor fails to file the required allocation and  
 7 transfer report at the time required by or under the  
 8 provisions of this chapter, a penalty computed at the rate  
 9 of 10% of the additional 1% license fee withheld from  
 10 subcontractors shall be due from the prime contractor.

11 (2) The state, county, city, or any agency or  
 12 department thereof, as described in 15-50-101~~(1)(a)~~<sup>(1)(a)</sup> for  
 13 whom the contractor is performing public work shall  
 14 withhold, in addition to other amounts withheld as provided  
 15 by law, 1% of all payments due the contractor and shall  
 16 transmit such moneys to the department of revenue. In the  
 17 event that the 1% of gross receipts is not withheld as  
 18 provided, the contractor shall make payment of these amounts  
 19 to the department within 30 days after the date on which the  
 20 contractor receives each increment of payment for work  
 21 performed by the contractor.

22 (3) Any overpayment of the 1% of gross receipts  
 23 withheld or paid by any contractor hereunder shall be  
 24 refunded by the department of revenue at the end of the  
 25 income year upon written application therefor."

1 Section 9. Section 15-50-211, MCA, is amended to read:  
 2 "15-50-211. Application for license -- contents. To  
 3 obtain a license under this chapter, the applicant shall  
 4 submit on such forms as the ~~registrar department~~ shall  
 5 prescribe an application, under oath, which shall contain a  
 6 statement of the applicant's experience and qualifications  
 7 as a contractor; the value and character of contract work  
 8 completed and for whom performed during 5 years prior to the  
 9 filing of such application; and a complete financial  
 10 statement on such forms and disclosing such information as  
 11 shall be required by the ~~registrar department~~. Such  
 12 application shall also contain such other information as may  
 13 be requested by the ~~registrar department~~ under such rules as  
 14 may be adopted by ~~said-registrar the department~~ and which  
 15 will assist ~~said-registrar the department~~ in determining the  
 16 applicant's fitness to act in the capacity of a public  
 17 contractor as defined in this chapter. Such application  
 18 shall also contain a statement that the applicant desires  
 19 the issuance of a license under the terms of this chapter  
 20 and shall specify the field of contracting and the class of  
 21 license applied for."

22 Section 10. Section 15-50-212, MCA, is amended to  
 23 read:

24 "15-50-212. Investigation of applicant -- issuance of  
 25 license. It shall be the duty of the ~~registrar department~~ to

1 investigate and determine the applicant's fitness to act in  
 2 the capacity of public contractor as defined in this  
 3 chapter, and no license shall be issued to such applicant  
 4 until the expiration of 10 days from and after the filing of  
 5 such application. The license so issued in pursuance of the  
 6 first application shall entitle the licensee to act as a  
 7 public contractor within this state, subject to the  
 8 limitations of such license, until the expiration of the  
 9 then-current calendar year."

10 Section 11. Section 15-50-213, MCA, is amended to  
 11 read:

12 "15-50-213. Renewal -- waiting period after  
 13 cancellation. (1) Any license issued under the provisions of  
 14 this chapter may be renewed for each successive calendar  
 15 year by obtaining from the ~~registrar department~~ a  
 16 certificate of renewal thereof. For the purpose of obtaining  
 17 such certificate of renewal, the licensee shall file with  
 18 the ~~registrar department~~ an application therefor, stating  
 19 the ~~field of contracting and~~ class of license applied for  
 20 and containing ~~at least~~ the same information as that  
 21 required in the application for the original license. The  
 22 application for such certificate of renewal must be made to  
 23 the ~~registrar department~~ on or before March 1 of each  
 24 successive calendar year, and such renewal certificate shall  
 25 be good for the then-current calendar year.

1 (2) At the time of filing the application for a  
 2 certificate of renewal, the applicant shall pay to the  
 3 ~~registrar department~~ a license fee equal to 50% of the  
 4 license fee for the original license, provided that if any  
 5 applicant for a certificate of renewal shall apply for a  
 6 renewal under a different ~~field of~~ class from the license  
 7 theretofore issued to him, such new license shall be issued  
 8 only upon the same showing and under the same terms and  
 9 conditions and upon payment of the same fee required for the  
 10 issuance of an original license.

11 (3) All certificates of renewal wherein the applicant  
 12 does not apply for a change in the ~~field of~~ class of license  
 13 shall be issued by the ~~registrar department~~ to the applicant  
 14 forthwith when the application is filed and the license  
 15 renewal fee paid.

16 (4) After cancellation of a license, such licensee  
 17 shall not be relicensed during the current calendar year in  
 18 which the offense was committed."

19 Section 12. Section 15-50-302, MCA, is amended to  
 20 read:

21 "15-50-302. Complaints against licensee -- grounds --  
 22 investigation -- hearing -- suspension of license --  
 23 appeals. (1) Any person or other organization may file a  
 24 duly verified complaint with the ~~registrar department~~  
 25 charging that the licensee is guilty of one or more of the

following acts or omissions:

(a) abandonment of any contract without legal excuse;

(b) diversion of funds or property received under express agreement for prosecution or completion of a specific contract under this chapter or for a specified purpose in the prosecution or completion of any contract and their application or use for any other contract, obligation, or purpose with intent to defraud or deceive creditors or the owner;

(c) the doing of any willful fraudulent act by the licensee as a public contractor in consequence of which another is substantially injured;

(d) the making of any false statement in any application for a license or renewal thereof;

(e) the failure to comply with the provisions of 10-1-112 requiring preference of products manufactured or produced in this state by Montana industry and labor;

~~fff--the-failure-to-perform-work-that-meets--generally-accepted-standards-of-construction-quality.~~

(2) Upon the filing of such complaint, the registrar shall investigate the charge and within 60 days after the filing of such complaint shall render and file said-registrar's a decision, with said--registrar's the reasons therefor. If the registrar's department's decision be that the licensee has been guilty of any of such acts or

omissions, said--registrar the department shall suspend the contractor's license. At any time within 20 days thereafter, the complainant or the contractor may petition the registrar department for a rehearing. In the order granting or denying such rehearing, the registrar department shall set forth a statement of the particular grounds and reasons for said registrar's the department's actions on such petition and shall mail a copy of such order to the parties who have appeared in support of or in opposition to the petition for rehearing. If a rehearing be granted, the registrar department shall set the matter for further hearing on due notice to the parties and, within 30 days after submission of the matter, serve said--registrar's the department's decision after rehearing in like manner as an original decision.

(3) The filing of such petition for rehearing as to the registrar's department's actions in suspending or canceling such license shall suspend the operation of such action and permit the licensee to continue to do business as a public contractor pending final determination of the controversy.

(4) Within 30 days after the decision on rehearing, any party aggrieved by such decision of the registrar department may appeal therefrom to the district court in and for the county in which the licensee under this chapter

1 resides or does business as a public contractor by serving  
2 upon the registrar ~~department~~ a notice of such appeal. The  
3 matter shall thereupon be heard de novo by the district  
4 court. An appeal may be taken from the decision of the  
5 district court in the same manner as appeals in other civil  
6 cases.

7 (5) In all cases where the licensee has filed his  
8 notice of appeal from the decision of the registrar  
9 ~~department~~ or from the decision of the district court, such  
10 licensee shall be entitled to continue to do business as a  
11 public contractor pending final decision of the  
12 controversy."

-End-