

SENATE BILL NO. 275

1/29 Introduced  
1/29 Referred to State Administration  
1/30 Fiscal Note Requested  
2/05 Fiscal Note Received  
2/14 Hearing  
2/18 Committee Report-Bill Pass As Amended  
2/20 2nd Reading Pass As Amended  
2/22 3rd Reading Pass

Transmitted to House

2/27 Referred to Business & Labor  
3/14 Hearing  
Died in Committee

1 Senate BILL NO. 275  
 2 INTRODUCED BY Eck Long J. Brown  
 3 BY REQUEST OF THE BOARD OF ARCHITECTS

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS RELATING TO THE REGULATION OF THE PRACTICE OF  
 7 ARCHITECTURE; CLARIFYING CERTAIN DEFINITIONS AND EXEMPTIONS  
 8 RELATING TO THE PRACTICE; ESTABLISHING THE CONFIDENTIALITY  
 9 OF CERTAIN ARCHITECT EXAMINATION RECORDS; REQUIRING THAT THE  
 10 MONTANA LICENSE NUMBER BE CONTAINED ON AN ARCHITECT'S SEAL;  
 11 PERMITTING ONE SEAL PER ARCHITECT FIRM; AND CLARIFYING  
 12 GROUNDS FOR LICENSE DISCIPLINE; AMENDING SECTIONS 37-65-102,  
 13 37-65-103, 37-65-303, 37-65-304, 37-65-306, 37-65-308, AND  
 14 37-65-321, MCA."

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

17 Section 1. Section 37-65-102, MCA, is amended to read:  
 18 "37-65-102. Definitions. Unless the context requires  
 19 otherwise, in this chapter the following definitions apply:

20 (1) "Architect" means an individual technically and  
 21 legally qualified to practice architecture and who is  
 22 authorized under this chapter to practice architecture.

23 (2) "Board" means the board of architects provided for  
 24 in 2-15-1871.

25 (3) "Building" means a structure building of any type

1 intended primarily for human occupancy or use and includes  
 2 structural, mechanical, and electrical systems required for  
 3 such building.

4 (4) "Department" means the department of commerce  
 5 provided for in Title 2, chapter 15, part 18.

6 (5) "Practice of architecture" means any the  
 7 performance of the professional service services or-creative  
 8 work-requiring-the--application--of--advanced--knowledge--of  
 9 architectural--design;--building of planning and designing  
 10 buildings, preparation and use of space surrounding  
 11 buildings, preparation of working drawings and  
 12 specifications for the construction;--and--standards--and  
 13 involving--the--constant-exercise-of-discretion-and-judgment  
 14 in-such-activities;--in-which--the--safeguarding--of--life,  
 15 health;--or--property--is--concerned;--as--consultation,  
 16 investigation;--evaluation;--planning;--design;--or--inspection  
 17 of--construction--for--any--public--or--private--building of  
 18 buildings, or observation of construction and administration  
 19 of contracts for the construction of buildings.

20 (6) "Public building" means any building which the  
 21 state or any political subdivision thereof maintains for the  
 22 use of the public."

23 Section 2. Section 37-65-103, MCA, is amended to read:

24 "37-65-103. Exemptions. (1) Nothing contained in this  
 25 chapter shall prevent draftsmen, students, clerks of work,



1 superintendents, and other employees of those lawfully  
2 practicing as architects under the provisions of this  
3 chapter from acting under the instruction, control, or  
4 supervision of their employers or to prevent the employment  
5 of superintendents of the construction, enlargement, or  
6 structural alteration of buildings or any appurtenance  
7 thereto.

8 (2) Nothing contained in this chapter shall be  
9 construed to:

10 (a) apply to alterations to any building which do not  
11 involve changes affecting the structural safety thereof or  
12 the public health;

13 (b) prevent the preparation of details and shop  
14 drawings by persons other than architects for use in  
15 connection with the execution of their work; or

16 (c) prevent the preparation of drawings or details for  
17 fixtures, cabinetwork, furniture, or other interior  
18 appliances or equipment or for any work necessary to provide  
19 for their installation unless the same involves public  
20 health or safety.

21 ~~{3}--None-of-the-acts-enumerated-in-subsections-{1}-and~~  
22 ~~{2}-shall-be-interpreted-or-construed--as--the--practice--of~~  
23 ~~architecture-~~

24 ~~{4}{3}~~ Nothing in this chapter shall be construed to  
25 affect or prevent the following, provided that no words,

1 letters, figures, or other device shall be used in such  
2 manner as to tend to convey the impression that the person  
3 rendering such service is an architect duly registered under  
4 this chapter:

5 (a) consultants, officers, and employees of the United  
6 States while engaged solely in the practice of architecture  
7 for said government;

8 (b) professional engineers from performing  
9 architectural services which are purely incidental to their  
10 engineering practice;

11 (c) any person from planning, designing, altering,  
12 repairing, supervising, or engaging in residential  
13 construction consisting of less than eight living units  
14 regardless of size or cost or farm buildings which are not  
15 intended for use or used ~~as-a~~ by the public building;

16 (d) the planning, design, alteration, construction,  
17 repair, or supervision of construction of a building by its  
18 owner if the building is not intended for use or used ~~as--a~~  
19 by the public building."

20 Section 3. Section 37-65-303, MCA, is amended to read:

21 "37-65-303. Application -- examination -- issuance of  
22 license. (1) A person wishing to practice architecture in  
23 this state shall apply to the department for a license to do  
24 so. A person applying shall have successfully completed the  
25 requirement of prerequisites in education, and practical

1 experience, ~~and--a~~ A written examination as prescribed by  
 2 the board must be taken, but only after the applicant has  
 3 met the prerequisites and has been approved by the board for  
 4 admission to the examination. The examination must be in  
 5 substantial conformance with the standard national council  
 6 of architectural registration boards examination and grading  
 7 procedure, except as modified by board rules.

8 (2) Examination materials prepared by the board and  
 9 examinations submitted by applicants pursuant to the  
 10 requirements of this chapter are confidential and are not  
 11 public records. However, nothing in this subsection prevents  
 12 the board from reporting an applicant's score to  
 13 architectural registration boards in other jurisdictions or  
 14 to the national council of architectural registration  
 15 boards.

16 ~~†2†~~(3) After examination the department shall, if the  
 17 candidate has been found qualified, grant a license to the  
 18 candidate to practice architecture in this state, which may  
 19 only be granted on the consent of not less than two members  
 20 of the board, attested by the secretary, and have the seal  
 21 of the board attached."

22 Section 4. Section 37-65-304, MCA, is amended to read:  
 23 "37-65-304. Examination fee -- deposit of fee. (1)  
 24 Applicants for examination shall pay in advance to the  
 25 department a fee set by the board, commensurate with the

1 cost, which shall defray the entire examination expense of  
 2 the candidate. An applicant failing to pass the examination  
 3 is entitled to reexamination on parts of the examination  
 4 that he failed to pass. Reexamination may be at the next  
 5 scheduled examination and must be on payment of a reasonable  
 6 fee prescribed by the board. If the entire examination is  
 7 not successfully completed within 4 consecutive years, the  
 8 applicant must reapply and retake the entire examination.

9 (2) The money received from the applicant shall be  
 10 deposited in the state special revenue fund for the use of  
 11 the board, subject to 37-1-101(6)."

12 Section 5. Section 37-65-306, MCA, is amended to read:  
 13 "37-65-306. Annual renewal -- fee -- continuing  
 14 education. (1) A licensed architect in this state who  
 15 desires to continue the practice of his profession shall  
 16 annually during the month of July, during the time he  
 17 continues in this practice:

18 (a) pay to the department a reasonable renewal fee or  
 19 late renewal fee as prescribed by the board; and

20 (b) present evidence to the board of compliance with  
 21 any continuing education requirements imposed by the board.

22 (2) (a) The board may by rule prescribe continuing  
 23 education requirements for license renewal and late renewal.  
 24 If the board prescribes continuing education requirements,  
 25 the rules shall provide for the method of compliance, such

1 as:

2 (i) attendance at approved classroom or seminar-type  
3 instruction programs; or

4 (ii) passing an examination.

5 (b) If classroom or seminar-type instruction is  
6 required, the board shall by rule:

7 (i) make determinations as to approved programs; and

8 (ii) prescribe the number of hours required for  
9 compliance.

10 (c) If an examination is required, the board shall by  
11 rule prescribe:

12 (i) the subjects of the examination; and

13 (ii) the grade required to pass the examination."

14 Section 6. Section 37-65-308, MCA, is amended to read:

15 "37-65-308. Seal of architect. (1) Every licensed  
16 architect shall have a seal, the impression of which must  
17 contain the name of the architect, his Montana license  
18 number, his or--her place of business, and the words  
19 "Licensed Architect, State of Montana", with which he or--she  
20 shall stamp and sign all drawings and specifications issued  
21 from his or--her office for use in this state.

22 (2) When there is a partnership or other business  
23 entity of architects, the individual names and license  
24 numbers of the members may appear on one seal. All drawings  
25 and specifications prepared by an architect must be stamped

1 and signed with his seal or the seal of the firm."

2 Section 7. Section 37-65-321, MCA, is amended to read:

3 "37-65-321. ~~Revocation-----or-----suspension~~ License  
4 examination refusal -- revocation of license -- grounds --  
5 right--to--notice--and--hearing. (1) If an applicant has  
6 engaged in unprofessional conduct as defined in rules  
7 adopted by the board, the board may refuse to permit the  
8 applicant to take the examination for licensure.

9 ~~(1)~~(2) The board may revoke ~~or-suspend~~ a license or  
10 take other appropriate disciplinary action ~~if-satisfactory~~  
11 ~~proof-is-presented-to-the-board-that~~ against the licensee if  
12 he has:

13 (a) obtained his license through fraud or  
14 misrepresentation;

15 (b) ~~has been found by a court of law guilty of fraud~~  
16 ~~or deceit in related to his professional practice; or-has~~

17 (c) been convicted of a felony related to his  
18 professional practice ~~of-architecture;~~

19 ~~(c)~~(d) ~~has--committed-acts-of-gross-incompetency-or-of~~  
20 ~~recklessness been grossly incompetent or reckless in the~~  
21 ~~planning or the observation of construction of buildings; or~~

22 (e) engaged in unprofessional conduct as defined in  
23 rules adopted by the board.

24 ~~(d)--has-violated--standards--of--professional--conduct~~  
25 ~~adopted-by-the-board;~~

1       ~~{e}--has-departed, in-a-material-respect, from-approved~~  
2 ~~plans--or-specifications-without-the-consent-of-the-owner-or~~  
3 ~~his-authorized-representative;~~

4       ~~{f}--except-to-the-extent-that-the-architect-reasonably~~  
5 ~~relied-upon-the-advice-of-another-professional-in-the--field~~  
6 ~~of--building--design--and--construction,--has--violated--the~~  
7 ~~building-codes-of-this-state-or-a-political-subdivision;~~

8       ~~{g}--has-aided--or--abetted--an--unlicensed--person--to~~  
9 ~~violate-or-evade-this-chapter, or~~

10       ~~{h}--has--sealed--or--signed-plans-or-specifications-or~~  
11 ~~other--professional--work--not--prepared--under--his--direct~~  
12 ~~supervision-and-control;~~

13       ~~{2}--A--license--may-not-be-revoked-or-suspended-except~~  
14 ~~under--the--contested--case--provisions---of---the---Montana~~  
15 ~~Administrative-Procedure-Act;~~

16       ~~{3}--Charges--of--fraud,--deceit,--gross--incompetence,~~  
17 ~~negligence, or professional misconduct may be brought by any~~  
18 ~~person against any licensee. Such charges shall be in~~  
19 ~~writing, sworn to by the person making them, and filed with~~  
20 ~~the secretary of the board. All charges, unless dismissed by~~  
21 ~~the board as unfounded or trivial, shall be set for hearing~~  
22 ~~within 3 months of filing with the secretary."~~

23       NEW SECTION. Section 8. Extension of authority. Any  
24 existing authority of the board of architects to make rules  
25 on the subject of the provisions of this act is extended to

1       the provisions of this act.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 289-85

Form BD-15

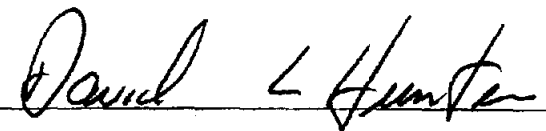
In compliance with a written request received January 31, 19 85, there is hereby submitted a Fiscal Note for S.B. 275 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to generally revise the laws relating to the practice of architecture, providing for confidentiality in examination records, clarifying certain definitions and exemptions; require license number be contained on an architect's seal; permitting one seal per architect firm; and clarifying ground for license discipline.

FISCAL IMPACT:

No fiscal impact because no new functions are specified. Rather, current activities further defined.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 5, 1985

SB275

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

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2 INTRODUCED BY ECK, LORY, J. BROWN  
3 BY REQUEST OF THE BOARD OF ARCHITECTS  
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6 LAWS RELATING TO THE REGULATION OF THE PRACTICE OF  
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8 RELATING TO THE PRACTICE; ESTABLISHING THE CONFIDENTIALITY  
9 OF CERTAIN ARCHITECT EXAMINATION RECORDS; REQUIRING THAT THE  
10 MONTANA LICENSE NUMBER BE CONTAINED ON AN ARCHITECT'S SEAL;  
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12 GROUNDS FOR LICENSE DISCIPLINE; AMENDING SECTIONS 37-65-102,  
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14 37-65-321, MCA."  
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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19 otherwise, in this chapter the following definitions apply:

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21 legally qualified to practice architecture and who is  
22 authorized under this chapter to practice architecture.

23 (2) "Board" means the board of architects provided for  
24 in 2-15-1871.

25 (3) "Building" means a structure building of any type,

1 WITH AN OCCUPANT LOAD OF 30 OR MORE PERSONS, intended  
2 primarily for human occupancy or use, EXCEPT AS PROVIDED IN  
3 37-65-103(3)(C) AND (3)(D), and includes structural,  
4 mechanical, and electrical systems required for such  
5 building.

6 (4) "Department" means the department of commerce  
7 provided for in Title 2, chapter 15, part 18.

8 (5) "Practice of architecture" means any the  
9 performance of the professional service services or creative  
10 work--requiring--the--application--of--advanced--knowledge--of  
11 architectural--design;--building of planning and designing  
12 buildings, preparation and use of space surrounding  
13 buildings, preparation of working drawings and  
14 specifications for the construction;--and--standards--and  
15 involving--the--constant--exercise--of--discretion--and--judgment  
16 in--such--activities;--in--which--the--safeguarding--of--life;  
17 health;--or--property--is--concerned;--as--consultation;  
18 investigation;--evaluation;--planning;--design;--or--inspection  
19 of--construction--for--any--public--or--private--building of  
20 buildings, or observation of construction and administration  
21 of contracts for the construction of buildings.

22 (6) "Public building" means any building--which--the  
23 state--or--any--political--subdivision--thereof--maintains--for--the  
24 use--of--the--public."

25 Section 2. Section 37-65-103, MCA, is amended to read:

**SECOND READING**  
SB 275





1 "37-65-103. Exemptions. (1) Nothing contained in this  
 2 chapter shall prevent draftsmen, students, clerks of work,  
 3 superintendents, and other employees of those lawfully  
 4 practicing as architects under the provisions of this  
 5 chapter from acting under the instruction, control, or  
 6 supervision of their employers or to prevent the employment  
 7 of superintendents of the construction, enlargement, or  
 8 structural alteration of buildings or any appurtenance  
 9 thereto.

10 (2) Nothing contained in this chapter shall be  
 11 construed to:

12 (a) apply to alterations to any building which do not  
 13 involve changes affecting the structural safety thereof or  
 14 the public health;

15 (b) prevent the preparation of details and shop  
 16 drawings by persons other than architects for use in  
 17 connection with the execution of their work; or

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 19 fixtures, cabinetwork, furniture, or other interior  
 20 appliances or equipment or for any work necessary to provide  
 21 for their installation unless the same involves public  
 22 health or safety.

23 ~~{3}--None-of-the-acts-enumerated-in-subsections-{1}-and~~  
 24 ~~{2}--shall--be--interpreted--or--construed--as--the--practice--of~~  
 25 ~~architecture.~~

1 ~~†††~~(3) Nothing in this chapter shall be construed to  
 2 affect or prevent the following, provided that no words,  
 3 letters, figures, or other device shall be used in such  
 4 manner as to tend to convey the impression that the person  
 5 rendering such service is an architect duly registered under  
 6 this chapter:

7 (a) consultants, officers, and employees of the United  
 8 States while engaged solely in the practice of architecture  
 9 for said government;

10 (b) professional engineers from performing  
 11 architectural services which are purely incidental to their  
 12 engineering practice;

13 (c) any person from planning, designing, altering,  
 14 repairing, supervising, or engaging in residential  
 15 construction consisting of less than eight living units  
 16 regardless of size or cost or farm buildings which are not  
 17 intended for use or used ~~as-a~~ by the public building;

18 (d) the planning, design, alteration, construction,  
 19 repair, or supervision of construction of a building by its  
 20 owner if the building is not intended for use or used ~~as-a~~  
 21 by the public building."

22 Section 3. Section 37-65-303, MCA, is amended to read:

23 "37-65-303. Application -- examination -- issuance of  
 24 license. (1) A person wishing to practice architecture in  
 25 this state shall apply to the department for a license to do

1 so. A person applying shall have successfully completed the  
 2 requirement of prerequisites in education, and practical  
 3 experience, and a written examination as prescribed by  
 4 the board must be taken, but only after the applicant has  
 5 met the prerequisites and has been approved by the board for  
 6 admission to the examination. The examination must be in  
 7 substantial conformance with the standard national council  
 8 of architectural registration boards examination and grading  
 9 procedure, except as modified by board rules.

10 ~~{2}--Examination materials prepared by the board and~~  
 11 ~~examinations--submitted--by--applicants--pursuant--to--the~~  
 12 ~~requirements--of--this--chapter--are--confidential--and--are--not~~  
 13 ~~public--records;--However,--nothing--in--this--subsection--prevents~~  
 14 ~~the--board--from--reporting--an--applicant's--score--to~~  
 15 ~~architectural--registration--boards--in--other--jurisdictions--or~~  
 16 ~~to--the--national--council--of--architectural--registration~~  
 17 ~~boards;~~

18 {2}{3}(2) After examination the department shall, if  
 19 the candidate has been found qualified, grant a license to  
 20 the candidate to practice architecture in this state, which  
 21 may only be granted on the consent of not less than two  
 22 members of the board, attested by the secretary, and have  
 23 the seal of the board attached."

24 Section 4. Section 37-65-304, MCA, is amended to read:  
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1 Applicants for examination shall pay in advance to the  
 2 department a fee set by the board, commensurate with the  
 3 cost, which shall defray the entire examination expense of  
 4 the candidate. An applicant failing to pass the examination  
 5 is entitled to reexamination on parts of the examination  
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 8 fee prescribed by the board. If the entire examination is  
 9 not successfully completed within 4 consecutive years, the  
 10 applicant must reapply and retake the entire examination.

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 12 deposited in the state special revenue fund for the use of  
 13 the board, subject to 37-1-101(6)."

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 15 "37-65-306. Annual renewal -- fee -- continuing  
 16 education. (1) A licensed architect in this state who  
 17 desires to continue the practice of his profession shall  
 18 annually during the month of July, during the time he  
 19 continues in this practice:

20 (a) pay to the department a reasonable renewal fee or  
 21 late renewal fee as prescribed by the board; and

22 (b) present evidence to the board of compliance with  
 23 any continuing education requirements imposed by the board.

24 (2) (a) The board may by rule prescribe continuing  
 25 education requirements for license renewal and late renewal.

1 If the board prescribes continuing education requirements,  
2 the rules shall provide for the method of compliance, such  
3 as:

4 (i) attendance at approved classroom or seminar-type  
5 instruction programs; or

6 (ii) passing an examination.

7 (b) If classroom or seminar-type instruction is  
8 required, the board shall by rule:

9 (i) make determinations as to approved programs; and

10 (ii) prescribe the number of hours required for  
11 compliance.

12 (c) If an examination is required, the board shall by  
13 rule prescribe:

14 (i) the subjects of the examination; and

15 (ii) the grade required to pass the examination."

16 Section 6. Section 37-65-308, MCA, is amended to read:

17 "37-65-308. Seal of architect. (1) Every licensed  
18 architect shall have a seal, the impression of which must  
19 contain the name of the architect, his Montana license  
20 number, his ~~or--her~~ place of business, and the words  
21 "Licensed Architect, State of Montana", with which he ~~or-she~~  
22 shall stamp and sign all drawings and specifications issued  
23 from his ~~or-her~~ office for use in this state.

24 (2) When there is a partnership or other business  
25 entity of architects, the individual names and license

1 numbers of the members may appear on one seal. All drawings  
2 and specifications prepared by an architect must be stamped  
3 and signed with his seal or the seal of the firm."

4 Section 7. Section 37-65-321, MCA, is amended to read:

5 "37-65-321. ~~Revocation---or---suspension~~ License  
6 examination refusal -- revocation of license -- grounds --  
7 right-to-notice-and-hearing RIGHT TO NOTICE AND HEARING.

8 (1) If an applicant has engaged in unprofessional conduct  
9 as defined in rules adopted by the board, the board may  
10 refuse to permit the applicant to take the examination for  
11 licensure.

12 (1)(2) The board may revoke ~~or-suspend~~ a license or  
13 take other appropriate disciplinary action ~~if-satisfactory~~  
14 ~~proof-is-presented-to-the-board-that~~ against the licensee if  
15 he has:

16 (a) obtained his license through fraud or  
17 misrepresentation;

18 (b) has been found by a court of law guilty of fraud  
19 or deceit in related to his professional practice; ~~or-has~~

20 (c) been convicted of a felony related to his  
21 professional practice ~~of-architecture;~~

22 (c)(d) ~~has--committed-acts-of-gross-incompetency-or-of~~  
23 recklessness been grossly incompetent or reckless in the  
24 planning or the observation of construction of buildings; or

25 (e) engaged in unprofessional conduct as defined in

1 rules adopted by the board.  
2 (d) ~~--has-violated--standards--of--professional--conduct~~  
3 ~~adopted-by-the-board;~~  
4 (e) ~~--has-departed,-in-a-material-respect,-from-approved~~  
5 ~~plans--or-specifications-without-the-consent-of-the-owner-or~~  
6 ~~his-authorized-representative;~~  
7 (f) ~~--except-to-the-extent-that-the-architect-reasonably~~  
8 ~~relied-upon-the-advice-of-another-professional-in-the--field~~  
9 ~~of--building--design--and--construction,-has--violated--the~~  
10 ~~building-codes-of-this-state-or-a-political-subdivision;~~  
11 (g) ~~--has-aided--or--abetted--an--unlicensed--person--to~~  
12 ~~violate-or-evade-this-chapter,-or~~  
13 (h) ~~--has--sealed--or--signed-plans-or-specifications-or~~  
14 ~~other--professional--work--not--prepared--under--his--direct~~  
15 ~~supervision-and-control;~~  
16 (2) ~~--A--license--may-not-be-revoked-or-suspended-except~~  
17 ~~under--the--contested--case--provisions--of--the--Montana~~  
18 ~~Administrative-Procedure-Act;~~  
19 (3) ~~--Charges--of--fraud,-deceit,-gross--incompetence,-~~  
20 ~~negligence,-or-professional-misconduct-may-be-brought-by-any~~  
21 ~~person-against--any--licensee,-Such--charges--shall--be--in~~  
22 ~~writing,-sworn-to-by-the-person-making-them,-and-filed-with~~  
23 ~~the-secretary-of-the-board.-All-charges,-unless-dismissed-by~~  
24 ~~the-board-as-unfounded-or-trivial,-shall-be-set-for--hearing~~  
25 ~~within-3-months-of-filing-with-the-secretary.~~

1 (3) A LICENSE MAY NOT BE REVOKED OR SUSPENDED EXCEPT  
2 UNDER THE CONTESTED CASE PROVISIONS OF THE MONTANA  
3 ADMINISTRATIVE PROCEDURE ACT."  
4 NEW SECTION. Section 8. Extension of authority. Any  
5 existing authority of the board of architects to make rules  
6 on the subject of the provisions of this act is extended to  
7 the provisions of this act.

-End-

## 1 SENATE BILL NO. 275

2 INTRODUCED BY ECK, LORY, J. BROWN

3 BY REQUEST OF THE BOARD OF ARCHITECTS

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11 PERMITTING ONE SEAL PER ARCHITECT FIRM; AND CLARIFYING  
12 GROUNDS FOR LICENSE DISCIPLINE; AMENDING SECTIONS 37-65-102,  
13 37-65-103, 37-65-303, 37-65-304, 37-65-306, 37-65-308, AND  
14 37-65-321, MCA."

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

17 Section 1. Section 37-65-102, MCA, is amended to read:

18 "37-65-102. Definitions. Unless the context requires  
19 otherwise, in this chapter the following definitions apply:20 (1) "Architect" means an individual technically and  
21 legally qualified to practice architecture and who is  
22 authorized under this chapter to practice architecture.23 (2) "Board" means the board of architects provided for  
24 in 2-15-1871.25 (3) "Building" means a structure building of any type,

1 WITH AN OCCUPANT LOAD OF 30 OR MORE PERSONS, intended  
2 primarily for human occupancy or use, EXCEPT AS PROVIDED IN  
3 37-65-103(3)(C) AND (3)(D), and includes structural,  
4 mechanical, and electrical systems required for such  
5 building.

6 (4) "Department" means the department of commerce  
7 provided for in Title 2, chapter 15, part 18.

8 (5) "Practice of architecture" means any the  
9 performance of the professional service services or creative  
10 work--requiring--the--application--of--advanced--knowledge--of  
11 architectural--design--building of planning and designing  
12 buildings, preparation and use of space surrounding  
13 buildings, preparation of working drawings and  
14 specifications for the construction--and--standards--and  
15 involving--the--constant--exercise--of--discretion--and--judgment  
16 in--such--activities--in--which--the--safeguarding--of--life,  
17 health--or--property--is--concerned--as--consultation,  
18 investigation--evaluation--planning--design--or--inspection  
19 of--construction--for--any--public--or--private--building of  
20 buildings, or observation of construction and administration  
21 of contracts for the construction of buildings.

22 (6) ~~"Public building" means any building which the~~  
23 ~~state or any political subdivision thereof maintains for the~~  
24 ~~use of the public.~~

25 (6) "PUBLIC BUILDING" MEANS ANY BUILDING WHICH THE

1 STATE OR ANY POLITICAL SUBDIVISION THEREOF MAINTAINS FOR THE  
2 USE OF THE PUBLIC."

3 Section 2. Section 37-65-103, MCA, is amended to read:  
4 "37-65-103. Exemptions. (1) Nothing contained in this  
5 chapter shall prevent draftsmen, students, clerks of work,  
6 superintendents, and other employees of those lawfully  
7 practicing as architects under the provisions of this  
8 chapter from acting under the instruction, control, or  
9 supervision of their employers or to prevent the employment  
10 of superintendents of the construction, enlargement, or  
11 structural alteration of buildings or any appurtenance  
12 thereto.

13 (2) Nothing contained in this chapter shall be  
14 construed to:

15 (a) apply to alterations to any building which do not  
16 involve changes affecting the structural safety thereof or  
17 the public health;

18 (b) prevent the preparation of details and shop  
19 drawings by persons other than architects for use in  
20 connection with the execution of their work; or

21 (c) prevent the preparation of drawings or details for  
22 fixtures, cabinetwork, furniture, or other interior  
23 appliances or equipment or for any work necessary to provide  
24 for their installation unless the same involves public  
25 health or safety.

1 ~~(3)--None-of-the-acts-enumerated-in-subsections-(1)-and~~  
2 ~~(2)-shall-be-interpreted-or-construed--as--the--practice--of~~  
3 ~~architecture:~~

4 ~~(4)~~(3) Nothing in this chapter shall be construed to  
5 affect or prevent the following, provided that no words,  
6 letters, figures, or other device shall be used in such  
7 manner as to tend to convey the impression that the person  
8 rendering such service is an architect duly registered under  
9 this chapter:

10 (a) consultants, officers, and employees of the United  
11 States while engaged solely in the practice of architecture  
12 for said government;

13 (b) professional engineers from performing  
14 architectural services which are purely incidental to their  
15 engineering practice;

16 (c) any person from planning, designing, altering,  
17 repairing, supervising, or engaging in residential  
18 construction consisting of less than eight living units  
19 regardless of size or cost or farm buildings which are not  
20 intended for use or used ~~as-a~~ by-the AS A public building  
21 BUILDING;

22 (d) the ~~planning, design, alteration, construction,~~  
23 ~~repair, or supervision of construction of a building by its~~  
24 ~~owner if the building is not intended for use or used~~ ~~as-a~~  
25 by-the AS A public building BUILDING."

1 Section 3. Section 37-65-303, MCA, is amended to read:

2 "37-65-303. Application -- examination -- issuance of  
3 license. (1) A person wishing to practice architecture in  
4 this state shall apply to the department for a license to do  
5 so. A person applying shall have successfully completed the  
6 requirement of prerequisites in education, and practical  
7 experience, and a written examination as prescribed by  
8 the board must be taken, but only after the applicant has  
9 met the prerequisites and has been approved by the board for  
10 admission to the examination. The examination must be in  
11 substantial conformance with the standard national council  
12 of architectural registration boards examination and grading  
13 procedure, except as modified by board rules.

14 ~~(2) Examination materials prepared by the board and~~  
15 ~~examinations submitted by applicants pursuant to the~~  
16 ~~requirements of this chapter are confidential and are not~~  
17 ~~public records. However, nothing in this subsection prevents~~  
18 ~~the board from reporting an applicant's score to~~  
19 ~~architectural registration boards in other jurisdictions or~~  
20 ~~to the national council of architectural registration~~  
21 ~~boards.~~

22 ~~(2)~~ (2) After examination the department shall, if  
23 the candidate has been found qualified, grant a license to  
24 the candidate to practice architecture in this state, which  
25 may only be granted on the consent of not less than two

1 members of the board, attested by the secretary, and have  
2 the seal of the board attached."

3 Section 4. Section 37-65-304, MCA, is amended to read:

4 "37-65-304. Examination fee -- deposit of fee. (1)  
5 Applicants for examination shall pay in advance to the  
6 department a fee set by the board, commensurate with the  
7 cost, which shall defray the entire examination expense of  
8 the candidate. An applicant failing to pass the examination  
9 is entitled to reexamination on parts of the examination  
10 that he failed to pass. Reexamination may be at the next  
11 scheduled examination and must be on payment of a reasonable  
12 fee prescribed by the board. If the entire examination is  
13 not successfully completed within 4 consecutive years, the  
14 applicant must reapply and retake the entire examination.

15 (2) The money received from the applicant shall be  
16 deposited in the state special revenue fund for the use of  
17 the board, subject to 37-1-101(6)."

18 Section 5. Section 37-65-306, MCA, is amended to read:

19 "37-65-306. Annual renewal -- fee -- continuing  
20 education. (1) A licensed architect in this state who  
21 desires to continue the practice of his profession shall  
22 annually during the month of July, during the time he  
23 continues in this practice:

24 (a) pay to the department a reasonable renewal fee or  
25 late renewal fee as prescribed by the board; and

1 (b) present evidence to the board of compliance with  
2 any continuing education requirements imposed by the board.

3 (2) (a) The board may by rule prescribe continuing  
4 education requirements for license renewal and late renewal.  
5 If the board prescribes continuing education requirements,  
6 the rules shall provide for the method of compliance, such  
7 as:

8 (i) attendance at approved classroom or seminar-type  
9 instruction programs; or

10 (ii) passing an examination.

11 (b) If classroom or seminar-type instruction is  
12 required, the board shall by rule:

13 (i) make determinations as to approved programs; and

14 (ii) prescribe the number of hours required for  
15 compliance.

16 (c) If an examination is required, the board shall by  
17 rule prescribe:

18 (i) the subjects of the examination; and

19 (ii) the grade required to pass the examination."

20 Section 6. Section 37-65-308, MCA, is amended to read:

21 "37-65-308. Seal of architect. (1) Every licensed  
22 architect shall have a seal, the impression of which must  
23 contain the name of the architect, his Montana license  
24 number, his or--her place of business, and the words  
25 "Licensed Architect, State of Montana", with which he or--she

1 shall stamp and sign all drawings and specifications issued  
2 from his or--her office for use in this state.

3 (2) When there is a partnership or other business  
4 entity of architects, the individual names and license  
5 numbers of the members may appear on one seal. All drawings  
6 and specifications prepared by an architect must be stamped  
7 and signed with his seal or the seal of the firm."

8 Section 7. Section 37-65-321, MCA, is amended to read:

9 "37-65-321. ~~Revocation---or---suspension~~ License  
10 ~~examination refusal -- revocation~~ of license -- grounds --  
11 ~~right-to-notice-and-hearing~~ RIGHT TO NOTICE AND HEARING.

12 (1) If an applicant has engaged in unprofessional conduct  
13 as defined in rules adopted by the board, the board may  
14 refuse to permit the applicant to take the examination for  
15 licensure.

16 ~~††(2)~~ The board may revoke or--suspend a license or  
17 take other appropriate disciplinary action ~~if-satisfactory~~  
18 ~~proof-is-presented-to-the-board-that~~ against the licensee if  
19 he has:

20 (a) obtained his license through fraud or  
21 misrepresentation;

22 (b) has been found by a court of law guilty of fraud  
23 or deceit in related to his professional practice; or--has

24 (c) been convicted of a felony related to his  
25 professional practice ~~of-architecture;~~



1       ~~(c)(d)~~ has--committed-acts-of-gross-incompetency-or-of  
 2       recklessness been grossly incompetent or reckless in the  
 3       planning or the observation of construction of buildings; or  
 4       ~~(e)~~ engaged in unprofessional conduct as defined in  
 5       rules adopted by the board.

6       ~~(d)~~--has-violated--standards--of--professional--conduct  
 7       adopted-by-the-board;

8       ~~(e)~~--has-departed,-in-a-material-respect,-from-approved  
 9       plans--or-specifications-without-the-consent-of-the-owner-or  
 10       his-authorized-representative;

11       ~~(f)~~--except-to-the-extent-that-the-architect-reasonably  
 12       relied-upon-the-advice-of-another-professional-in-the--field  
 13       of--building--design--and--construction,-has--violated--the  
 14       building-codes-of-this-state-or-a-political-subdivision;

15       ~~(g)~~--has-aided--or--abetted--an--unlicensed--person--to  
 16       violate-or-evade-this-chapter;-or

17       ~~(h)~~--has--sealed--or--signed-plans-or-specifications-or  
 18       other--professional--work--not--prepared--under--his--direct  
 19       supervision-and-control;

20       ~~(2)~~--A--license--may-not-be-revoked-or-suspended-except  
 21       under--the--contested--case--provisions--of--the--Montana  
 22       Administrative-Procedure-Act;

23       ~~(3)~~--Charges--of--fraud,-deceit,-gross--incompetency,  
 24       negligence,-or-professional-misconduct-may-be-brought-by-any  
 25       person-against-any-licensee.-Such-charges-shall-be-in

1       writing,-sworn-to-by-the-person-making-them,-and-filed-with  
 2       the-secretary-of-the-board.-All-charges,-unless-dismissed-by  
 3       the-board-as-unfounded-or-trivial,-shall-be-set-for--hearing  
 4       within-3-months-of-filing-with-the-secretary-

5       (3) A LICENSE MAY NOT BE REVOKED OR SUSPENDED EXCEPT  
 6       UNDER THE CONTESTED CASE PROVISIONS OF THE MONTANA  
 7       ADMINISTRATIVE PROCEDURE ACT."

8       NEW SECTION. Section 8. Extension of authority. Any  
 9       existing authority of the board of architects to make rules  
 10       on the subject of the provisions of this act is extended to  
 11       the provisions of this act.

-End-