

House BILL NO. 148

INTRODUCED BY

Gene W. ... Brainerd

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF PROFESSIONAL ENGINEER AND LAND SURVEYOR LICENSURE; CHANGING THE TERM "ENGINEER-IN-TRAINING" TO "ENGINEER INTERN"; CHANGING THE TERM "LAND SURVEYOR-IN-TRAINING" TO "LAND SURVEYOR INTERN"; PROHIBITING LOCAL GOVERNMENTS FROM IMPOSING FEES OR EXAMINATION REQUIREMENTS ON LICENSEES; ESTABLISHING SEMESTER HOUR REQUIREMENTS FOR REGISTRANTS; REMOVING THE DURATION REQUIREMENT FOR PROFESSIONAL LAND SURVEYOR EXAMINATIONS; REQUIRING APPLICANTS WHO FAIL THE EXAMINATIONS TWICE TO WAIT 1 YEAR BEFORE TAKING A THIRD EXAMINATION; PROHIBITING APPLICANTS WHO FAIL THE EXAMINATIONS THREE TIMES FROM TAKING IT AGAIN EXCEPT UNDER SPECIAL CIRCUMSTANCES; REMOVING THE DURATION REQUIREMENT FOR EXAMINATIONS TAKEN BY LAND SURVEYORS FROM OTHER STATES; CLARIFYING REQUIREMENTS PERTAINING TO PARTNERSHIPS AND CORPORATIONS; REMOVING THE 6-MONTH DEADLINE FOR INVESTIGATION OF CHARGES; AND AMENDING SECTIONS 37-67-101, 37-67-303, 37-67-304, 37-67-305, 37-67-307, 37-67-308, 37-67-310, 37-67-311, 37-67-312, 37-67-313, 37-67-314, 37-67-320, AND 37-67-331, MCA."

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

Section 1. Section 37-67-101, MCA, is amended to read:

"37-67-101. Definitions. As used in this chapter, the following definitions apply:

- (1) "Board" means the board of professional engineers and professional land surveyors provided for in 2-15-1873.
- (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
- (3) "~~Engineer in training~~" "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.
- (4) "~~Land surveyor in training~~" "Land surveyor intern" means a person who has qualified for,

1 taken, and passed an examination on the basic disciplines of land surveying as provided in this chapter.

2 (5) (a) "Practice of engineering" means:

3 (i) any service or creative work the adequate performance of which requires engineering education,
4 training, and experience in the application of special knowledge of the mathematical, physical, and
5 engineering sciences to ~~such~~ the services or creative work as consultation, investigation, evaluation,
6 planning and design of engineering works and systems, planning the use of water, teaching of advanced
7 engineering subjects, engineering surveys, and the inspection of construction for the purpose of ~~assuring~~
8 ensuring compliance with drawings and specifications;

9 (ii) any of ~~which~~ the functions described in subsection (5)(a)(i) that embrace ~~embraces such the~~
10 services or work, either public or private, in connection with any utilities, structures, buildings, machines,
11 equipment, processes, work systems, projects, and industrial or consumer products or equipment of
12 mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life,
13 health, or property ~~and including such~~.

14 (b) The term includes other professional services ~~as may be~~ necessary to the planning, progress,
15 and completion of any engineering services.

16 (c) The term does not include the work ordinarily performed by persons who operate or maintain
17 machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

18 (6) "Practice of land surveying" means any service or work, the performance of which requires the
19 application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

20 (a) the principles of property boundary law to the recovery and preservation of evidence pertaining
21 to earlier land surveys;

22 (b) teaching of land surveying subjects;

23 (c) measurement and allocation of lines, angles, elevations, and coordinate systems;

24 (d) location of natural and ~~manmade~~ constructed features in the air, on the surface of the earth,
25 within underground workings, and on the beds of bodies of water, including ~~such~~ work for the
26 determination of areas and volumes;

27 (e) monumenting of property boundaries;

28 (f) platting and layout of lands and the subdivisions ~~thereof~~ of land, including the alignment and
29 grades of streets and roads ~~therein~~ in subdivisions; and

30 (g) preparation and perpetuation of maps, plats, field note records, and property descriptions.

1 (7) "Professional engineer" means a person who, by reason of his special knowledge and use of
 2 the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis
 3 and design acquired by engineering education and engineering experience, is qualified to practice
 4 engineering and who has been ~~duly~~ registered and licensed as a professional engineer by the board.

5 (8) "Professional land surveyor" means a person who:

6 (a) has been ~~duly~~ registered and licensed as a land surveyor by the board; ~~and~~

7 (b) is a professional specialist in the technique, analysis, and application of measuring land;

8 (c) is skilled and educated in the principles of mathematically related physical and applied sciences,
 9 ~~and~~ relevant requirements of law for adequate evidence, and all requisites to the surveying of real property;
 10 and

11 (d) is engaged in the practice of land surveying as ~~herein~~ defined in this section.

12 (9) "Responsible charge" means direct charge and control and personal supervision either of
 13 engineering work or of land surveying, ~~as the case may be~~. Only a professional engineer or a
 14 professional land ~~surveyors~~ surveyor may legally assume responsible charge under this chapter."

15
 16 **Section 2.** Section 37-67-303, MCA, is amended to read:

17 "**37-67-303. Application -- contents -- fees.** (1) Applications for registration ~~shall~~ must be on forms
 18 prescribed by the board and furnished by the department, ~~shall~~ must contain statements made under oath
 19 showing the applicant's education and a detailed summary of ~~his~~ the applicant's technical work, and ~~shall~~
 20 must contain the required references.

21 (2) The fee for ~~engineer-in-training~~ engineer intern is as prescribed by the board ~~and shall~~, must
 22 accompany the application, and ~~shall~~ must include the cost of one examination. No additional fee is required
 23 for issuance of a certificate.

24 (3) The application fee for registration as a professional engineer is as prescribed by the board for
 25 those holding an ~~engineer-in-training~~ engineer intern certificate validated for Montana. For those holding
 26 a valid ~~engineer-in-training~~ engineer intern certificate from some other state, the application fee is as
 27 prescribed by the board, which includes cost of verification of ~~engineer-in-training~~ engineer intern
 28 certification and one examination. Upon approval of application for registration as a professional engineer,
 29 an additional fee equal to the existing renewal fee must be paid before issuance of a certificate as a
 30 professional engineer.

1 (4) The department, subject to approval by the board, may, on approval of the application, payment
 2 of a fee as prescribed by the board, and payment of an additional fee equal to the appropriate renewal fee,
 3 issue a certificate of registration as a professional engineer to a person who holds a certificate of
 4 qualification or registration issued to ~~him~~ the person by the committee on national engineering certification
 5 of the national council of ~~engineering~~ examiners for engineering and surveying or by a state, territory, or
 6 possession of the United States or by another country if the applicant's qualifications meet the requirements
 7 of this chapter and the rules of the board.

8 (5) The fee for land ~~surveyor-in-training~~ surveyor intern is as prescribed by the board, which ~~shall~~
 9 must accompany the application and ~~shall~~ must include the cost of one examination. No additional fee is
 10 required for issuance of a certificate.

11 (6) The application fee for registration as a professional land surveyor is as prescribed by the board
 12 for those holding a land ~~surveyor-in-training~~ surveyor intern certificate validated in Montana. For those
 13 holding a valid land ~~surveyor-in-training~~ surveyor intern certificate from some other state, the application
 14 fee is as prescribed by the board, which includes cost of verification of the certification. Upon approval of
 15 application for registration as a professional land surveyor, an additional fee equal to the existing renewal
 16 fee must be paid before issuance of a certificate as a professional land surveyor.

17 (7) The application fee for registration as both a professional engineer and professional land
 18 surveyor is as prescribed by the board for those holding ~~engineer-in-training~~ engineer intern and land
 19 ~~surveyor-in-training~~ surveyor intern certificates validated in Montana. For those holding valid
 20 ~~engineer-in-training~~ engineer intern and land ~~surveyor-in-training~~ surveyor intern certificates from another
 21 ~~state jurisdiction~~, the application fee is as prescribed by the board. The fee ~~shall~~ must accompany the
 22 application. Upon approval of application for registration as a professional engineer and professional land
 23 surveyor, an additional fee equal to the existing renewal fee must be paid before issuance of a certificate.

24 (8) If the board denies issuance of a certificate of registration to any applicant, the initial fee
 25 deposited ~~shall~~ must be retained as an application fee."
 26

27 **Section 3.** Section 37-67-304, MCA, is amended to read:

28 "**37-67-304. ~~Municipality may~~ Local government not to impose fee or examination. ~~No A~~**
 29 registration or license fee or ~~tax~~ examination may not be imposed by a ~~municipality~~ local government or by
 30 ~~any other political subdivision of the state~~ on a person registered under this chapter to practice engineering

1 or land surveying."

2

3 **Section 4.** Section 37-67-305, MCA, is amended to read:

4 **"37-67-305. General qualifications of applicants for registration as professional engineer or**
 5 **~~engineer-in-training~~ engineer intern.** To be eligible for admission to an examination for professional engineer
 6 or ~~engineer-in-training~~ engineer intern, an applicant must be of good character and reputation. The applicant
 7 must submit five references with ~~his~~ the application for registration as a professional engineer; ~~three~~ Three
 8 references ~~shall~~ must be from professional engineers with personal knowledge of ~~his~~ the applicant's
 9 engineering experience. In the case of an application for certification as an ~~engineer-in-training~~ engineer
 10 intern, the applicant ~~must~~ shall submit three character references."

11

12 **Section 5.** Section 37-67-307, MCA, is amended to read:

13 **"37-67-307. Qualifications of applicant for registration as ~~engineer-in-training~~ engineer intern.** The
 14 following ~~shall~~ must be considered as minimum evidence that the applicant is qualified for certification as
 15 an ~~engineer-in-training~~ engineer intern:

16 (1) A graduate of an engineering or engineering technology curriculum of 4 years or more,
 17 approved by the board as being of satisfactory standing, ~~shall~~ must be admitted to an 8-hour written
 18 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 19 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 20 qualified.

21 (2) A graduate of a related science curriculum of 4 years or more, other than engineering or
 22 engineering technology, with a specific record of 4 or more years of progressive experience on engineering
 23 projects of a grade and character satisfactory to the board ~~shall~~ must be admitted to an 8-hour written
 24 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 25 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 26 qualified."

27

28 **Section 6.** Section 37-67-308, MCA, is amended to read:

29 **"37-67-308. General qualifications of applicants for registration as professional land surveyor or**
 30 **~~land surveyor-in-training~~ surveyor intern.** (1) To be eligible for admission to an examination for professional

1 land surveyor or land ~~surveyor-in-training~~ surveyor intern, an applicant must be of good character and
 2 reputation. The applicant shall submit five references with ~~his~~ the application for registration as a
 3 professional land surveyor, ~~three~~ Three of ~~which~~ the references ~~shall~~ must be from professional land
 4 surveyors having personal knowledge of ~~his~~ the applicant's land surveying experience. In the case of an
 5 application for certification as a land ~~surveyor-in-training~~ surveyor intern, the applicant shall submit three
 6 references, one of whom ~~shall~~ must be from a professional land surveyor having personal knowledge of the
 7 applicant's land surveying experience.

8 (2) The evaluation of a land surveyor applicant's qualifications involves a consideration of ~~his~~ the
 9 applicant's education, technical and land surveying experience, exhibits of land surveying projects which
 10 ~~he~~ the applicant has been in charge of, recommendations by references, and a reviewing of these
 11 categories. The board may require an interview if it considers one necessary."
 12

13 **Section 7.** Section 37-67-310, MCA, is amended to read:

14 **"37-67-310. Qualifications of applicant for registration as land ~~surveyor-in-training~~ surveyor intern.**
 15 ~~One of the following shall be considered as minimum evidence to the board that the applicant is qualified~~
 16 ~~for registration as a land surveyor-in-training~~ To qualify for registration as a land surveyor intern, an
 17 applicant must present as evidence to the board at least one of the following:

18 (1) ~~have~~ a bachelor of science degree in a board-approved curriculum that must contain a minimum
 19 of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices, and ~~have~~
 20 evidence of having passed the written examinations required by the board;

21 (2) ~~have~~ at least 2 years of formal education in an approved curriculum that must contain a
 22 minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices,
 23 above high school level, with at least 60 semester or 90 quarter credit hours or equivalent semester hours
 24 passed, or the equivalent approved by the board, and ~~have~~ evidence of having passed the written
 25 examinations required by the board;

26 (3) ~~have~~ a bachelor of science degree in a board-approved curriculum and ~~present~~ evidence
 27 satisfactory to the board that, in addition ~~thereto~~, ~~he~~ the applicant has had at least 2 years of combined
 28 office and field experience in land surveying, with a minimum of 1 year in charge of land surveying projects
 29 under the supervision of a professional land surveyor, and ~~have~~ evidence of having passed the written
 30 examinations required by the board; or

1 (4) ~~present~~ evidence satisfactory to the board that ~~he~~ the applicant has had at least 6 years of
2 combined office and field experience in land surveying, with a minimum of 4 years of experience in charge
3 of land surveying projects ~~in Montana~~, under the supervision of a professional land surveyor, and ~~has~~
4 evidence of having passed the examinations required by the board."

5
6 **Section 8.** Section 37-67-311, MCA, is amended to read:

7 **"37-67-311. Examinations.** Examination requirements are as follows:

8 (1) The examinations ~~shall~~ must be held at times and places as the board directs. The board shall
9 determine the acceptable grade on examinations.

10 (2) Written examinations may be taken only after the applicant has met the other minimum
11 requirements as given in 37-67-305 through 37-67-310 and has been approved by the board for admission
12 to the examinations as follows:

13 (a) The examination on engineering fundamentals consists of an 8-hour examination on the
14 fundamentals of engineering. Passing the examination qualifies the examinee for an ~~engineer-in-training~~
15 engineer intern certificate ~~provided he~~ if the examinee has met all other requirements for certification
16 required by this chapter.

17 (b) The examination on principles and practice of engineering consists of an 8-hour examination
18 on applied engineering. Passing this examination qualifies the examinee for registration as a professional
19 engineer ~~provided he~~ if the examinee has met the other requirements for registration required by this
20 chapter.

21 (c) The examinations for land ~~surveyor-in-training~~ surveyor intern consist of two 4-hour
22 examinations, designated as parts I and II, on the basic disciplines of land surveying. Passing these
23 examinations qualifies the examinee for a land ~~surveyor-in-training~~ surveyor intern certificate ~~provided he~~
24 the examinee has met all other requirements for certificates required by this chapter.

25 (d) The requirements and examinations for professional land surveyor consist of being a land
26 ~~surveyor-in-training~~ surveyor intern, and of two ~~4-hour~~ examinations, designated as parts III and IV, on the
27 applied disciplines of land surveying, and of an examination specifically related to land surveying in
28 Montana. Passing these examinations qualifies the examinee for registration as a professional land surveyor
29 ~~provided he~~ if the examinee has met the other requirements for registration required by this chapter.

30 (3) A candidate failing one examination may apply for reexamination, which may be granted upon

1 payment of a fee established by the board. Before readmission to the examination in the event of a second
 2 failure, the examinee must ~~appear before the board with evidence of having acquired the necessary~~
 3 ~~additional knowledge to qualify~~ shall wait 1 year before a third examination.

4 (4) A candidate failing three examinations may not be allowed readmission to the examination. The
 5 candidate may apply for a special circumstance waiver from the board to be readmitted to the examination."
 6

7 **Section 9.** Section 37-67-312, MCA, is amended to read:

8 **"37-67-312. Licensure of professional engineers without examination by comity or endorsement.**

9 (1) A person holding a certificate of registration to engage in the practice of engineering issued to ~~him~~ the
 10 person by a proper authority of a state, territory, or possession of the United States, the District of
 11 Columbia, or any foreign country, based on requirements that do not conflict with the ~~provision~~ provisions
 12 of this chapter and that were of a standard not lower than that specified in the applicable registration act
 13 in effect in this state at the time the certificate was issued, may upon application be registered without
 14 further examination.

15 (2) A person holding a certificate of qualification issued by the committee on national engineering
 16 certification of the national council of ~~engineering~~ examiners for engineering and surveying, and whose
 17 qualifications meet the requirements of this chapter, may upon application be registered without further
 18 examination."
 19

20 **Section 10.** Section 37-67-313, MCA, is amended to read:

21 **"37-67-313. Comity consideration for land surveyors from other states.** A person holding a
 22 certificate of registration to engage in the practice of land surveying issued by a proper authority of a state,
 23 territory, or possession of the United States or the District of Columbia, based on requirements that do not
 24 conflict with the provisions of this chapter and that were of a standard not lower than that specified in the
 25 applicable registration act in effect in this state at the time the certificate was issued, will be given comity
 26 consideration. However, ~~he~~ the person may be asked to meet the conditions for taking ~~and take such~~
 27 examinations and to take them as the board ~~deems~~ considers necessary to determine ~~his~~ the person's
 28 qualifications, ~~but in~~ In any event, ~~he~~ the person shall ~~be required to pass a written examination of not less~~
 29 ~~than 8 hours' duration, which shall include~~ that includes questions on laws, procedures, and practices
 30 pertaining to the practice of land surveying in this state."

1 **Section 11.** Section 37-67-314, MCA, is amended to read:

2 **"37-67-314. Issuance of certificates -- seal of professional engineer or professional land surveyor**
 3 **-- enrollment card for ~~trainees~~ interns.** (1) The department shall issue to any applicant who, in the opinion
 4 of the board, has met the requirements of this chapter a certificate of registration giving the registrant
 5 proper authority to engage in the practice his profession of engineering or the practice of land surveying
 6 and to assume responsible charge of engineering or land surveying projects in this state. The certificate of
 7 registration for a professional engineer ~~shall~~ must carry the designation "professional engineer" and for a
 8 professional land surveyor, "professional land surveyor". It ~~shall~~ must give the full name and serial number
 9 of the registrant ~~with his serial number~~ and ~~shall~~ must be signed by the ~~chairman~~ presiding officer and the
 10 secretary under the seal of the board.

11 (2) This certificate ~~shall be~~ is prima facie evidence that the named person ~~named thereon~~ is entitled
 12 to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while
 13 the certificate of registration remains unrevoked or unexpired.

14 (3) Each registrant ~~hereunder~~ may, upon registration, obtain a seal of a design authorized by the
 15 board, bearing the registrant's name, serial number, and the legend "professional engineer" ~~and/or~~ or
 16 "professional land surveyor". Plans, specifications, plats, drawings, reports, design information, and
 17 calculations prepared by a registrant must when issued be signed with a written signature, dated, and
 18 stamped with the seal or a seal facsimile. It is unlawful for a registrant to affix or permit ~~his~~ the seal and
 19 signature or seal facsimile to be affixed to any plans, specifications, plats, drawings, reports, design
 20 information, or calculations after the expiration of a certificate or for projects for which the registrant was
 21 not in responsible charge.

22 (4) The department shall issue to any applicant who, in the opinion of the board, has met the
 23 requirements of this chapter an enrollment card as ~~engineer-in-training~~ an engineer intern or land
 24 ~~surveyor-in-training~~ surveyor intern, ~~which indicates~~ The enrollment card must indicate that his the
 25 applicant's name and status has been recorded ~~as such in~~ with the board ~~office~~. The ~~engineer-in-training~~
 26 ~~or land-surveyor-in-training~~ enrollment card does not authorize the holder to practice as a professional
 27 engineer or professional land surveyor."

28

29 **Section 12.** Section 37-67-320, MCA, is amended to read:

30 **"37-67-320. ~~Practice by Firms, partnerships, and corporations~~ requirements -- exceptions.** (1)

1 ~~The practice of or offer to practice engineering or land surveying by registered professional engineers or~~
2 ~~registered professional land surveyors organized as a partnership or incorporated as a professional~~
3 ~~corporation under the provisions of the professional corporations law of this state or under the provisions~~
4 ~~of a similar law of any other state is permitted in this state if all the partners of the partnership or each~~
5 ~~officer and shareholder of the professional corporation are registered under or exempt from this chapter.~~

6 ~~(2) The practice of or offer to practice engineering or land surveying by a partnership other than~~
7 ~~one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted~~
8 ~~in this state if:~~

9 ~~(a) all officers, employees, and agents of a partnership or corporation who will perform the practice~~
10 ~~of engineering or land surveying within this state for the partnership or corporation are registered under this~~
11 ~~chapter;~~

12 ~~(b) each person in responsible charge of the activities of a partnership or corporation, which~~
13 ~~activities constitute the practice of engineering or land surveying, is a professional engineer or professional~~
14 ~~land surveyor registered in this state or a person authorized to practice engineering or land surveying as~~
15 ~~provided in this chapter;~~

16 ~~(c) the partnership or corporation has been issued a certificate of authorization by the board as~~
17 ~~provided in subsection (3);~~

18 ~~(d) the partnership or corporation is jointly and severally responsible with and for the conduct or~~
19 ~~acts of its agents, employees, or officers concerning any professional engineering or land surveying services~~
20 ~~performed or to be executed in this state; an individual practicing engineering or land surveying is not~~
21 ~~relieved of the responsibility for his conduct or acts performed by reason of his employment by or~~
22 ~~relationship with the partnership or corporation; and~~

23 ~~(e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers~~
24 ~~or documents involving the practice of engineering or land surveying, when issued, are dated and bear the~~
25 ~~seals and signatures of the professional engineers or professional land surveyors registered under this~~
26 ~~chapter by whom or under whose responsible charge they were prepared.~~

27 ~~(3) A partnership or corporation desiring a certificate of authorization or the renewal thereof shall~~
28 ~~file a written application with the board listing the names and addresses of all partners of the partnership~~
29 ~~or officers and directors of the corporation and the names and addresses of all employees who are~~
30 ~~registered to practice engineering or land surveying in this state and who are or will be in responsible charge~~

1 ~~of any engineering or land surveying in this state by the partnership or corporation, together with any other~~
 2 ~~information the board requires. Upon the receipt of an application and of a fee in an amount established~~
 3 ~~by the board for the initial certificate or biennial renewal thereof, the board shall issue to the partnership~~
 4 ~~or corporation a certificate of authorization or a renewal thereof, which certificate of authorization may not~~
 5 ~~be transferred. If the board finds an error in an application or that facts exist which would entitle the board~~
 6 ~~to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change~~
 7 ~~occurs in the information submitted on the application of a partnership or corporation within the term of~~
 8 ~~the authorization, the partnership or corporation shall file with the board a written report listing the change~~
 9 ~~within 30 days after the change occurs. The provisions of this chapter concerning issuance, expiration,~~
 10 ~~renewal, and reissuance of certificates of registration of individuals, except for 37-67-315(2), apply to~~
 11 ~~certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or~~
 12 ~~corporations are subject to disciplinary proceedings and penalties and the board may reprimand them or~~
 13 ~~revoke, suspend, or refuse to renew their certificates of authorization for cause in the same manner and~~
 14 ~~to the same extent as provided in 37-67-331. "Registrant" and "certificate of registration" in 37-67-331~~
 15 ~~include any partnership or corporation holding a certificate of authorization issued under this subsection and~~
 16 ~~to such certificate of authorization. A firm, partnership, or corporation:~~

17 (a) may engage in the practice of engineering in this state if any member of the firm, partnership,
 18 or corporation who is in responsible charge of engineering or land surveying work performed in this state
 19 is a professional engineer or a professional land surveyor, as appropriate;

20 (b) must have a professional engineer or professional land surveyor in residence who is in
 21 responsible charge of the engineering or land surveying work conducted in the office or place of business
 22 if the firm, partnership, or corporation is engaged in the practice of engineering or the practice of land
 23 surveying; and

24 (c) shall obtain a certificate of authorization from the board before engaging in the practice of
 25 engineering or the practice of land surveying.

26 (2) The provisions of subsection (1) do not apply to firms, partnerships, or corporations that are
 27 engaged in the practice of engineering or the practice of land surveying for their own benefit and do not
 28 practice or offer engineering or land surveying services to others."

29

30 **Section 13.** Section 37-67-331, MCA, is amended to read:

1 **"37-67-331. Revocation, suspension, or refusal to renew certificate -- grounds -- procedure --**
 2 **reinstatement.** (1) The board may reprimand or revoke, suspend, or refuse to renew the certificate of a
 3 registrant found ~~guilty of~~ responsible for:

4 (a) fraud or deceit in obtaining a certificate of registration;

5 (b) gross negligence, incompetency, or misconduct in the practice of engineering or land surveying
 6 as a registered professional engineer or professional land surveyor;

7 (c) a felony;

8 (d) a violation of rules for professional conduct for professional engineers and professional land
 9 surveyors adopted by the board;

10 (e) ~~if a professional land surveyor, failure~~ failing to comply with the Corner Recordation Act if the
 11 person is a professional land surveyor.

12 (2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct
 13 against a registrant. The charges ~~shall~~ must be made by affidavit, ~~and~~ subscribed and sworn to by the
 14 person making them, and filed with the department. The charges ~~shall~~ must be investigated by the board
 15 ~~and, unless the board dismisses the charges after investigation as unfounded or trivial, it shall act on the~~
 16 ~~charges within 6 months after the date on which the charges were made. The board is considered to have~~
 17 ~~acted on the charges if it has given notice by mail to the licensee of its intent to revoke, suspend, or refuse~~
 18 ~~to renew his license and the notice contains the facts or conduct which warrant the intended action. For~~
 19 purposes of investigation under this section, the board may require that a registrant meet with ~~it~~ the board.

20 (3) The board may require a registrant to take a written or oral examination, or both, in a
 21 proceeding to reprimand or to revoke, suspend, or refuse to renew the certificate of registration.

22 (4) If, after a hearing, five or more members of the board vote in favor of sustaining the charges,
 23 the board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration of the
 24 registered professional engineer or professional land surveyor.

25 (5) The board, for reasons it considers sufficient, may reissue a certificate of registration to a
 26 person whose certificate has been revoked if five or more members of the board vote in favor of the
 27 reissuance."
 28

29 NEW SECTION. **Section 14. Code commissioner instructions.** Whenever the term
 30 "engineer-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th

1 legislature, the code commissioner shall change the term to "engineer intern". Whenever the term "land
2 surveyor-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th
3 legislature, the code commissioner shall change the term to "land surveyor intern".

4 -END-

HOUSE BILL NO. 148

INTRODUCED BY MCGEE, BRAINARD

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF PROFESSIONAL ENGINEER AND LAND SURVEYOR LICENSURE; CHANGING THE TERM "ENGINEER-IN-TRAINING" TO "ENGINEER INTERN"; CHANGING THE TERM "LAND SURVEYOR-IN-TRAINING" TO "LAND SURVEYOR INTERN"; PROHIBITING LOCAL GOVERNMENTS FROM IMPOSING FEES OR EXAMINATION REQUIREMENTS ON LICENSEES; ESTABLISHING SEMESTER HOUR REQUIREMENTS FOR REGISTRANTS; REMOVING THE DURATION REQUIREMENT FOR PROFESSIONAL LAND SURVEYOR EXAMINATIONS; REQUIRING APPLICANTS WHO FAIL THE EXAMINATIONS TWICE TO WAIT 1 YEAR BEFORE TAKING A THIRD EXAMINATION; PROHIBITING APPLICANTS WHO FAIL THE EXAMINATIONS THREE TIMES FROM TAKING IT AGAIN EXCEPT UNDER SPECIAL CIRCUMSTANCES; REMOVING THE DURATION REQUIREMENT FOR EXAMINATIONS TAKEN BY LAND SURVEYORS FROM OTHER STATES; CLARIFYING REQUIREMENTS PERTAINING TO PARTNERSHIPS AND CORPORATIONS; REMOVING THE 6-MONTH DEADLINE FOR INVESTIGATION OF CHARGES; AND AMENDING SECTIONS 37-67-101, 37-67-303, 37-67-304, 37-67-305, 37-67-307, 37-67-308, 37-67-310, 37-67-311, 37-67-312, 37-67-313, 37-67-314, 37-67-320, AND 37-67-331, MCA."

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

Section 1. Section 37-67-101, MCA, is amended to read:

"37-67-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of professional engineers and professional land surveyors provided for in 2-15-1873.

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

(3) ~~"Engineer-in-training"~~ "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.

(4) ~~"Land surveyor-in-training"~~ "Land surveyor intern" means a person who has qualified for,

1 taken, and passed an examination on the basic disciplines of land surveying as provided in this chapter.

2 (5) (a) "Practice of engineering" means:

3 (i) any service or creative work the adequate performance of which requires engineering education,
4 training, and experience in the application of special knowledge of the mathematical, physical, and
5 engineering sciences to ~~such~~ the services or creative work as consultation, investigation, evaluation,
6 planning and design of engineering works and systems, planning the use of water, teaching of advanced
7 engineering subjects, engineering surveys, and the inspection of construction for the purpose of ~~assuring~~
8 ensuring compliance with drawings and specifications;

9 (ii) any of ~~which~~ the functions described in subsection (5)(a)(i) that embrace ~~embraces such the~~
10 services or work, either public or private, in connection with any utilities, structures, buildings, machines,
11 equipment, processes, work systems, projects, and industrial or consumer products or equipment of
12 mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life,
13 health, or property ~~and including such~~.

14 (b) The term includes other professional services ~~as may be~~ necessary to the planning, progress,
15 and completion of any engineering services.

16 (c) The term does not include the work ordinarily performed by persons who operate or maintain
17 machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

18 (6) "Practice of land surveying" means any service or work, the performance of which requires the
19 application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

20 (a) the principles of property boundary law to the recovery and preservation of evidence pertaining
21 to earlier land surveys;

22 (b) teaching of land surveying subjects;

23 (c) measurement and allocation of lines, angles, elevations, and coordinate systems;

24 (d) location of natural and ~~manmade~~ constructed features in the air, on the surface of the earth,
25 within underground workings, and on the beds of bodies of water, including ~~such~~ work for the
26 determination of areas and volumes;

27 (e) monumenting of property boundaries;

28 (f) platting and layout of lands and the subdivisions ~~thereof~~ of land, including the alignment and
29 grades of streets and roads ~~therein~~ in subdivisions; and

30 (g) preparation and perpetuation of maps, plats, field note records, and property descriptions.

1 (7) "Professional engineer" means a person who, by reason of ~~his~~ special knowledge and use of
 2 the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis
 3 and design acquired by engineering education and engineering experience, is qualified to practice
 4 engineering and who has been ~~duly~~ registered and licensed as a professional engineer by the board.

5 (8) "Professional land surveyor" means a person who:

6 (a) has been ~~duly~~ registered and licensed as a land surveyor by the board; ~~and~~

7 (b) is a professional specialist in the technique, analysis, and application of measuring land; ~~and~~

8 (c) is skilled and educated in the principles of mathematically related physical and applied sciences,
 9 ~~and~~ relevant requirements of law for adequate evidence, and all requisites to the surveying of real property;
 10 and

11 (d) is engaged in the practice of land surveying as ~~herein~~ defined in this section.

12 (9) "Responsible charge" means direct charge and control and personal supervision either of
 13 engineering work or of land surveying, ~~as the case may be~~. Only a professional engineers engineer or a
 14 professional land ~~surveyors~~ surveyor may legally assume responsible charge under this chapter."
 15

16 **Section 2.** Section 37-67-303, MCA, is amended to read:

17 "**37-67-303. Application -- contents -- fees.** (1) Applications for registration ~~shall~~ must be on forms
 18 prescribed by the board and furnished by the department, ~~shall~~ must contain statements made under oath
 19 showing the applicant's education and a detailed summary of ~~his~~ the applicant's technical work, and ~~shall~~
 20 must contain the required references.

21 (2) The fee for ~~engineer-in-training~~ engineer intern is as prescribed by the board ~~and shall,~~ must
 22 accompany the application, and ~~shall~~ must include the cost of one examination. No additional fee is required
 23 for issuance of a certificate.

24 (3) The application fee for registration as a professional engineer is as prescribed by the board for
 25 those holding an ~~engineer-in-training~~ engineer intern certificate validated for Montana. For those holding
 26 a valid ~~engineer-in-training~~ engineer intern certificate from some other state, the application fee is as
 27 prescribed by the board, which includes cost of verification of ~~engineer-in-training~~ engineer intern
 28 certification and one examination. Upon approval of application for registration as a professional engineer,
 29 an additional fee equal to the existing renewal fee must be paid before issuance of a certificate as a
 30 professional engineer.

1 (4) The department, subject to approval by the board, may, on approval of the application, payment
 2 of a fee as prescribed by the board, and payment of an additional fee equal to the appropriate renewal fee,
 3 issue a certificate of registration as a professional engineer to a person who holds a certificate of
 4 qualification or registration issued to ~~him~~ the person by the committee on national engineering certification
 5 of the national council of ~~engineering~~ examiners for engineering and surveying or by a state, territory, or
 6 possession of the United States or by another country if the applicant's qualifications meet the requirements
 7 of this chapter and the rules of the board.

8 (5) The fee for land ~~surveyor-in-training~~ surveyor intern is as prescribed by the board, which ~~shall~~
 9 must accompany the application and ~~shall~~ must include the cost of one examination. No additional fee is
 10 required for issuance of a certificate.

11 (6) The application fee for registration as a professional land surveyor is as prescribed by the board
 12 for those holding a land ~~surveyor-in-training~~ surveyor intern certificate validated in Montana. For those
 13 holding a valid land ~~surveyor-in-training~~ surveyor intern certificate from some other state, the application
 14 fee is as prescribed by the board, which includes cost of verification of the certification. Upon approval of
 15 application for registration as a professional land surveyor, an additional fee equal to the existing renewal
 16 fee must be paid before issuance of a certificate as a professional land surveyor.

17 (7) The application fee for registration as both a professional engineer and professional land
 18 surveyor is as prescribed by the board for those holding ~~engineer-in-training~~ engineer intern and land
 19 ~~surveyor-in-training~~ surveyor intern certificates validated in Montana. For those holding valid
 20 ~~engineer-in-training~~ engineer intern and land ~~surveyor-in-training~~ surveyor intern certificates from another
 21 ~~state jurisdiction~~, the application fee is as prescribed by the board. The fee ~~shall~~ must accompany the
 22 application. Upon approval of application for registration as a professional engineer and professional land
 23 surveyor, an additional fee equal to the existing renewal fee must be paid before issuance of a certificate.

24 (8) If the board denies issuance of a certificate of registration to any applicant, the initial fee
 25 deposited ~~shall~~ must be retained as an application fee."

26
 27 **Section 3.** Section 37-67-304, MCA, is amended to read:

28 "**37-67-304. ~~Municipality may~~ Local government not to impose fee or examination.** ~~No A~~
 29 registration or license fee or ~~tax~~ examination may not be imposed by a ~~municipality~~ local government ~~or by~~
 30 ~~any other political subdivision of the state~~ on a person registered under this chapter to practice engineering

1 or land surveying."

2

3 **Section 4.** Section 37-67-305, MCA, is amended to read:

4 **"37-67-305. General qualifications of applicants for registration as professional engineer or**
 5 **~~engineer-in-training~~ engineer intern.** To be eligible for admission to an examination for professional engineer
 6 or ~~engineer-in-training~~ engineer intern, an applicant must be of good character and reputation. The applicant
 7 must submit five references with ~~his~~ the application for registration as a professional engineer; ~~three~~ Three
 8 references ~~shall~~ must be from professional engineers with personal knowledge of ~~his~~ the applicant's
 9 engineering experience. In the case of an application for certification as an ~~engineer-in-training~~ engineer
 10 intern, the applicant ~~must~~ shall submit three character references."

11

12 **Section 5.** Section 37-67-307, MCA, is amended to read:

13 **"37-67-307. Qualifications of applicant for registration as ~~engineer-in-training~~ engineer intern.** The
 14 following ~~shall~~ must be considered as minimum evidence that the applicant is qualified for certification as
 15 an ~~engineer-in-training~~ engineer intern:

16 (1) A graduate of an engineering or engineering technology curriculum of 4 years or more,
 17 approved by the board as being of satisfactory standing, ~~shall~~ must be admitted to an 8-hour written
 18 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 19 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 20 qualified.

21 (2) A graduate of a related science curriculum of 4 years or more, other than engineering or
 22 engineering technology, with a specific record of 4 or more years of progressive experience on engineering
 23 projects of a grade and character satisfactory to the board ~~shall~~ must be admitted to an 8-hour written
 24 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 25 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 26 qualified."

27

28 **Section 6.** Section 37-67-308, MCA, is amended to read:

29 **"37-67-308. General qualifications of applicants for registration as professional land surveyor or**
 30 **~~land surveyor-in-training~~ surveyor intern.** (1) To be eligible for admission to an examination for professional

1 land surveyor or land ~~surveyor in training~~ surveyor intern, an applicant must be of good character and
 2 reputation. The applicant shall submit five references with ~~his~~ the application for registration as a
 3 professional land surveyor~~72~~. ~~three~~ Three of ~~which the~~ references ~~shall~~ must be from professional land
 4 surveyors having personal knowledge of ~~his~~ the applicant's land surveying experience. In the case of an
 5 application for certification as a land ~~surveyor in training~~ surveyor intern, the applicant shall submit three
 6 references, one of whom ~~shall~~ must be from a professional land surveyor having personal knowledge of the
 7 applicant's land surveying experience.

8 (2) The evaluation of a land surveyor applicant's qualifications involves a consideration of ~~his~~ the
 9 applicant's education, technical and land surveying experience, exhibits of land surveying projects which
 10 ~~he~~ the applicant has been in charge of, recommendations by references, and a reviewing of these
 11 categories. The board may require an interview if it considers one necessary."
 12

13 **Section 7.** Section 37-67-310, MCA, is amended to read:

14 **"37-67-310. Qualifications of applicant for registration as land ~~surveyor in training~~ surveyor intern.**
 15 ~~One of the following shall be considered as minimum evidence to the board that the applicant is qualified~~
 16 ~~for registration as a land surveyor in training~~ To qualify for registration as a land surveyor intern, an
 17 applicant must present as evidence to the board at least one of the following:

18 (1) ~~have~~ a bachelor of science degree in a board-approved curriculum that must contain a minimum
 19 of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices~~7~~, and ~~have~~
 20 evidence of having passed the written examinations required by the board;

21 (2) ~~have~~ at least 2 years of formal education in an approved curriculum that must contain a
 22 minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices,
 23 above high school level~~2~~, with at least 60 semester or 90 quarter credit hours or equivalent semester hours
 24 passed, or the equivalent approved by the board, and ~~have~~ evidence of having passed the written
 25 examinations required by the board;

26 (3) ~~have~~ a bachelor of science degree in a board-approved curriculum and ~~present~~ evidence
 27 satisfactory to the board that, in addition ~~thereto~~, ~~he~~ the applicant has had at least 2 years of combined
 28 office and field experience in land surveying, with a minimum of 1 year in charge of land surveying projects
 29 under the supervision of a professional land surveyor, and ~~have~~ evidence of having passed the written
 30 examinations required by the board; or

1 (4) ~~present~~ evidence satisfactory to the board that ~~he~~ the applicant has had at least 6 years of
 2 combined office and field experience in land surveying, with a minimum of 4 years of experience in charge
 3 of land surveying projects in ~~Montana~~, under the supervision of a professional land surveyor, and ~~has~~
 4 evidence of having passed the examinations required by the board."
 5

6 **Section 8.** Section 37-67-311, MCA, is amended to read:

7 "**37-67-311. Examinations.** Examination requirements are as follows:

8 (1) The examinations ~~shall~~ must be held at times and places as the board directs. The board shall
 9 determine the acceptable grade on examinations.

10 (2) Written examinations may be taken only after the applicant has met the other minimum
 11 requirements as given in 37-67-305 through 37-67-310 and has been approved by the board for admission
 12 to the examinations as follows:

13 (a) The examination on engineering fundamentals consists of an 8-hour examination on the
 14 fundamentals of engineering. Passing the examination qualifies the examinee for an ~~engineer-in-training~~
 15 engineer intern certificate ~~provided he~~ if the examinee has met all other requirements for certification
 16 required by this chapter.

17 (b) The examination on principles and practice of engineering consists of an 8-hour examination
 18 on applied engineering. Passing this examination qualifies the examinee for registration as a professional
 19 engineer ~~provided he~~ if the examinee has met the other requirements for registration required by this
 20 chapter.

21 (c) The examinations for land ~~surveyor-in-training~~ surveyor intern consist of two 4-hour
 22 examinations, designated as parts I and II, on the basic disciplines of land surveying. Passing these
 23 examinations qualifies the examinee for a land ~~surveyor-in-training~~ surveyor intern certificate ~~provided he~~
 24 the examinee has met all other requirements for certificates required by this chapter.

25 (d) The requirements and examinations for professional land surveyor consist of being a land
 26 ~~surveyor-in-training~~ surveyor intern, ~~and~~ of two ~~4-hour~~ examinations, designated as parts III and IV, on the
 27 applied disciplines of land surveying, and of an examination specifically related to land surveying in
 28 Montana. Passing these examinations qualifies the examinee for registration as a professional land surveyor
 29 ~~provided he~~ if the examinee has met the other requirements for registration required by this chapter.

30 (3) A candidate failing one examination may apply for reexamination, which may be granted upon

1 payment of a fee established by the board. Before readmission to the examination in the event of a second
 2 failure, the examinee must ~~appear before the board with evidence of having acquired the necessary~~
 3 ~~additional knowledge to qualify~~ shall wait 1 year before a third examination.

4 (4) A candidate failing three examinations may not be allowed readmission to the examination. The
 5 candidate may apply for a special circumstance waiver from the board to be readmitted to the examination."

6
 7 **Section 9.** Section 37-67-312, MCA, is amended to read:

8 **"37-67-312. Licensure of professional engineers without examination by comity or endorsement.**

9 (1) A person holding a certificate of registration to engage in the practice of engineering issued to ~~him~~ the
 10 person by a proper authority of a state, territory, or possession of the United States, the District of
 11 Columbia, or any foreign country, based on requirements that do not conflict with the ~~provision~~ provisions
 12 of this chapter and that were of a standard not lower than that specified in the applicable registration act
 13 in effect in this state at the time the certificate was issued, may upon application be registered without
 14 further examination.

15 (2) A person holding a certificate of qualification issued by the committee on national engineering
 16 certification of the national council of ~~engineering~~ examiners for engineering and surveying, and whose
 17 qualifications meet the requirements of this chapter, may upon application be registered without further
 18 examination."

19
 20 **Section 10.** Section 37-67-313, MCA, is amended to read:

21 **"37-67-313. Comity consideration for land surveyors from other states.** A person holding a
 22 certificate of registration to engage in the practice of land surveying issued by a proper authority of a state,
 23 territory, or possession of the United States or the District of Columbia, based on requirements that do not
 24 conflict with the provisions of this chapter and that were of a standard not lower than that specified in the
 25 applicable registration act in effect in this state at the time the certificate was issued, will be given comity
 26 consideration. However, ~~he~~ the person may be asked to meet the conditions for taking ~~and take such~~
 27 ~~examinations and to take them~~ as the board ~~deems~~ considers necessary to determine ~~his~~ the person's
 28 ~~qualifications;~~ but in In any event, ~~he~~ the person shall ~~be required to~~ pass a written examination ~~of not less~~
 29 ~~than 8 hours' duration, which shall include~~ that includes questions on laws, procedures, and practices
 30 pertaining to the practice of land surveying in this state."

1 **Section 11.** Section 37-67-314, MCA, is amended to read:

2 "**37-67-314. Issuance of certificates -- seal of professional engineer or professional land surveyor**
 3 -- **enrollment card for ~~trainees~~ interns**. (1) The department shall issue to any applicant who, in the opinion
 4 of the board, has met the requirements of this chapter a certificate of registration giving the registrant
 5 proper authority to engage in the practice ~~his profession of engineering or the practice of land surveying~~
 6 and to assume responsible charge of engineering or land surveying projects in this state. The certificate of
 7 registration for a professional engineer ~~shall~~ must carry the designation "professional engineer" and for a
 8 professional land surveyor, "professional land surveyor". It ~~shall~~ must give the full name and serial number
 9 of the registrant ~~with his serial number~~ and ~~shall~~ must be signed by the ~~chairman~~ presiding officer and the
 10 secretary under the seal of the board.

11 (2) This certificate ~~shall be~~ is prima facie evidence that the named person ~~named thereon~~ is entitled
 12 to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while
 13 the certificate of registration remains unrevoked or unexpired.

14 (3) Each registrant ~~hereunder~~ may, upon registration, obtain a seal of a design authorized by the
 15 board, bearing the registrant's name, serial number, and the legend "professional engineer" ~~and/or or~~
 16 "professional land surveyor". Plans, specifications, plats, drawings, reports, design information, and
 17 calculations prepared by a registrant must when issued be signed with a written signature, dated, and
 18 stamped with the seal or a seal facsimile. It is unlawful for a registrant to affix or permit ~~his~~ the seal and
 19 signature or seal facsimile to be affixed to any plans, specifications, plats, drawings, reports, design
 20 information, or calculations after the expiration of a certificate or for projects for which the registrant was
 21 not in responsible charge.

22 (4) The department shall issue to any applicant who, in the opinion of the board, has met the
 23 requirements of this chapter an enrollment card as ~~engineer-in-training~~ an engineer intern or land
 24 ~~surveyor-in-training~~ surveyor intern, ~~which indicates~~ The enrollment card must indicate that his the
 25 applicant's name and status has been recorded ~~as such in~~ with the board ~~office~~. The ~~engineer-in-training~~
 26 ~~or land surveyor-in-training~~ enrollment card does not authorize the holder to practice as a professional
 27 engineer or professional land surveyor."
 28

29 **Section 12.** Section 37-67-320, MCA, is amended to read:

30 "**37-67-320. Practice by Firms, partnerships, and corporations -- requirements -- exceptions**. (1)

1 ~~The practice of or offer to practice engineering or land surveying by registered professional engineers or~~
2 ~~registered professional land surveyors organized as a partnership or incorporated as a professional~~
3 ~~corporation under the provisions of the professional corporations law of this state or under the provisions~~
4 ~~of a similar law of any other state is permitted in this state if all the partners of the partnership or each~~
5 ~~officer and shareholder of the professional corporation are registered under or exempt from this chapter.~~

6 ~~(2) The practice of or offer to practice engineering or land surveying by a partnership other than~~
7 ~~one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted~~
8 ~~in this state if:~~

9 ~~(a) all officers, employees, and agents of a partnership or corporation who will perform the practice~~
10 ~~of engineering or land surveying within this state for the partnership or corporation are registered under this~~
11 ~~chapter;~~

12 ~~(b) each person in responsible charge of the activities of a partnership or corporation, which~~
13 ~~activities constitute the practice of engineering or land surveying, is a professional engineer or professional~~
14 ~~land surveyor registered in this state or a person authorized to practice engineering or land surveying as~~
15 ~~provided in this chapter;~~

16 ~~(c) the partnership or corporation has been issued a certificate of authorization by the board as~~
17 ~~provided in subsection (3);~~

18 ~~(d) the partnership or corporation is jointly and severally responsible with and for the conduct or~~
19 ~~acts of its agents, employees, or officers concerning any professional engineering or land surveying services~~
20 ~~performed or to be executed in this state; an individual practicing engineering or land surveying is not~~
21 ~~relieved of the responsibility for his conduct or acts performed by reason of his employment by or~~
22 ~~relationship with the partnership or corporation; and~~

23 ~~(e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers~~
24 ~~or documents involving the practice of engineering or land surveying, when issued, are dated and bear the~~
25 ~~seals and signatures of the professional engineers or professional land surveyors registered under this~~
26 ~~chapter by whom or under whose responsible charge they were prepared.~~

27 ~~(3) A partnership or corporation desiring a certificate of authorization or the renewal thereof shall~~
28 ~~file a written application with the board listing the names and addresses of all partners of the partnership~~
29 ~~or officers and directors of the corporation and the names and addresses of all employees who are~~
30 ~~registered to practice engineering or land surveying in this state and who are or will be in responsible charge~~

1 ~~of any engineering or land surveying in this state by the partnership or corporation, together with any other~~
 2 ~~information the board requires. Upon the receipt of an application and of a fee in an amount established~~
 3 ~~by the board for the initial certificate or biennial renewal thereof, the board shall issue to the partnership~~
 4 ~~or corporation a certificate of authorization or a renewal thereof, which certificate of authorization may not~~
 5 ~~be transferred. If the board finds an error in an application or that facts exist which would entitle the board~~
 6 ~~to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change~~
 7 ~~occurs in the information submitted on the application of a partnership or corporation within the term of~~
 8 ~~the authorization, the partnership or corporation shall file with the board a written report listing the change~~
 9 ~~within 30 days after the change occurs. The provisions of this chapter concerning issuance, expiration,~~
 10 ~~renewal, and reissuance of certificates of registration of individuals, except for 37-67-315(2), apply to~~
 11 ~~certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or~~
 12 ~~corporations are subject to disciplinary proceedings and penalties and the board may reprimand them or~~
 13 ~~revoke, suspend, or refuse to renew their certificates of authorization for cause in the same manner and~~
 14 ~~to the same extent as provided in 37-67-331. "Registrant" and "certificate of registration" in 37-67-331~~
 15 ~~include any partnership or corporation holding a certificate of authorization issued under this subsection and~~
 16 ~~to such certificate of authorization~~ A firm, partnership, or corporation:

17 (a) may engage in the practice of engineering in this state if any member of the firm, partnership,
 18 or corporation who is in responsible charge of engineering or land surveying work performed in this state
 19 is a professional engineer or a professional land surveyor, as appropriate;

20 (b) must have a professional engineer or professional land surveyor in residence who is in
 21 responsible charge of the engineering or land surveying work conducted in the office or place of business
 22 if the firm, partnership, or corporation is engaged in the practice of engineering or the practice of land
 23 surveying; and

24 (c) shall obtain a certificate of authorization from the board before engaging in the practice of
 25 engineering or the practice of land surveying.

26 (2) The provisions of subsection (1) do not apply to firms, partnerships, or corporations that are
 27 engaged in the practice of engineering or the practice of land surveying for their own benefit and do not
 28 practice or offer engineering or land surveying services to others."

29

30 **Section 13.** Section 37-67-331, MCA, is amended to read:

1 **"37-67-331. Revocation, suspension, or refusal to renew certificate -- grounds -- procedure --**
 2 **reinstatement.** (1) The board may reprimand or revoke, suspend, or refuse to renew the certificate of a
 3 registrant found ~~guilty of~~ responsible for:

4 (a) fraud or deceit in obtaining a certificate of registration;

5 (b) gross negligence, incompetency, or misconduct in the practice of engineering or land surveying
 6 as a registered professional engineer or professional land surveyor;

7 (c) a felony;

8 (d) a violation of rules for professional conduct for professional engineers and professional land
 9 surveyors adopted by the board;

10 (e) ~~if a professional land surveyor, failure~~ failing to comply with the Corner Recordation Act if the
 11 person is a professional land surveyor.

12 (2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct
 13 against a registrant. The charges ~~shall~~ must be made by affidavit, ~~and~~ subscribed and sworn to by the
 14 person making them, and filed with the department. The charges ~~shall~~ must be investigated by the board
 15 ~~and, unless the board dismisses the charges after investigation as unfounded or trivial, it shall act on the~~
 16 ~~charges within 6 months after the date on which the charges were made. The board is considered to have~~
 17 ~~acted on the charges if it has given notice by mail to the licensee of its intent to revoke, suspend, or refuse~~
 18 ~~to renew his license and the notice contains the facts or conduct which warrant the intended action. For~~
 19 purposes of investigation under this section, the board may require that a registrant meet with ~~it~~ the board.

20 (3) The board may require a registrant to take a written or oral examination, or both, in a
 21 proceeding to reprimand or to revoke, suspend, or refuse to renew the certificate of registration.

22 (4) If, after a hearing, five or more members of the board vote in favor of sustaining the charges,
 23 the board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration of the
 24 registered professional engineer or professional land surveyor.

25 (5) The board, for reasons it considers sufficient, may reissue a certificate of registration to a
 26 person whose certificate has been revoked if five or more members of the board vote in favor of the
 27 reissuance."

28

29 NEW SECTION. **Section 14. Code commissioner instructions.** Whenever the term
 30 "engineer-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th

1 legislature, the code commissioner shall change the term to "engineer intern". Whenever the term "land
2 surveyor-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th
3 legislature, the code commissioner shall change the term to "land surveyor intern".

4 -END-

1 HOUSE BILL NO. 148

2 INTRODUCED BY MCGEE, BRAINARD

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF PROFESSIONAL ENGINEER
6 AND LAND SURVEYOR LICENSURE; CHANGING THE TERM "ENGINEER-IN-TRAINING" TO "ENGINEER
7 INTERN"; CHANGING THE TERM "LAND SURVEYOR-IN-TRAINING" TO "LAND SURVEYOR INTERN";
8 PROHIBITING LOCAL GOVERNMENTS FROM IMPOSING FEES OR EXAMINATION REQUIREMENTS ON
9 LICENSEES; ESTABLISHING SEMESTER HOUR REQUIREMENTS FOR REGISTRANTS; REMOVING THE
10 DURATION REQUIREMENT FOR PROFESSIONAL LAND SURVEYOR EXAMINATIONS; REQUIRING
11 APPLICANTS WHO FAIL THE EXAMINATIONS TWICE TO WAIT 1 YEAR BEFORE TAKING A THIRD
12 EXAMINATION; PROHIBITING APPLICANTS WHO FAIL THE EXAMINATIONS THREE TIMES FROM TAKING
13 IT AGAIN EXCEPT UNDER SPECIAL CIRCUMSTANCES; REMOVING THE DURATION REQUIREMENT FOR
14 EXAMINATIONS TAKEN BY LAND SURVEYORS FROM OTHER STATES; CLARIFYING REQUIREMENTS
15 PERTAINING TO PARTNERSHIPS AND CORPORATIONS; REMOVING THE 6-MONTH DEADLINE FOR
16 INVESTIGATION OF CHARGES; AND AMENDING SECTIONS 37-67-101, 37-67-303, 37-67-304,
17 37-67-305, 37-67-307, 37-67-308, 37-67-310, 37-67-311, 37-67-312, 37-67-313, 37-67-314,
18 37-67-320, AND 37-67-331, MCA."

19

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

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

1 HOUSE BILL NO. 148

2 INTRODUCED BY MCGEE, BRAINARD

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF PROFESSIONAL ENGINEER
6 AND LAND SURVEYOR LICENSURE; CHANGING THE TERM "ENGINEER-IN-TRAINING" TO "ENGINEER
7 INTERN"; CHANGING THE TERM "LAND SURVEYOR-IN-TRAINING" TO "LAND SURVEYOR INTERN";
8 PROHIBITING LOCAL GOVERNMENTS FROM IMPOSING FEES OR EXAMINATION REQUIREMENTS ON
9 LICENSEES; ESTABLISHING SEMESTER HOUR REQUIREMENTS FOR REGISTRANTS; REMOVING THE
10 DURATION REQUIREMENT FOR PROFESSIONAL LAND SURVEYOR EXAMINATIONS; REQUIRING
11 APPLICANTS WHO FAIL THE EXAMINATIONS TWICE TO WAIT 1 YEAR BEFORE TAKING A THIRD
12 EXAMINATION; PROHIBITING APPLICANTS WHO FAIL THE EXAMINATIONS THREETHIMES FROM TAKING
13 IT AGAIN EXCEPT UNDER SPECIAL CIRCUMSTANCES; REMOVING THE DURATION REQUIREMENT FOR
14 EXAMINATIONS TAKEN BY LAND SURVEYORS FROM OTHER STATES; CLARIFYING REQUIREMENTS
15 PERTAINING TO PARTNERSHIPS AND CORPORATIONS; REMOVING THE 6-MONTH DEADLINE FOR
16 INVESTIGATION OF CHARGES; AND AMENDING SECTIONS 37-67-101, 37-67-303, 37-67-304,
17 37-67-305, 37-67-307, 37-67-308, 37-67-310, 37-67-311, 37-67-312, 37-67-313, 37-67-314,
18 37-67-320, AND 37-67-331, MCA."

19

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

21

22 **Section 1.** Section 37-67-101, MCA, is amended to read:23 **"37-67-101. Definitions.** As used in this chapter, the following definitions apply:24 (1) "Board" means the board of professional engineers and professional land surveyors provided
25 for in 2-15-1873.

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

27 (3) ~~"Engineer-in-training"~~ "Engineer intern" means a person who complies with the requirements
28 for education, experience, and character and has passed an examination in the fundamental engineering
29 subjects, as provided in this chapter.30 (4) ~~"Land-surveyor-in-training"~~ "Land surveyor intern" means a person who has qualified for,

1 taken, and passed an examination on the basic disciplines of land surveying as provided in this chapter.

2 (5) (a) "Practice of engineering" means:

3 (i) any service or creative work the adequate performance of which requires engineering education,
4 training, and experience in the application of special knowledge of the mathematical, physical, and
5 engineering sciences to ~~such~~ the services or creative work as consultation, investigation, evaluation,
6 planning and design of engineering works and systems, planning the use of water, teaching of advanced
7 engineering subjects, engineering surveys, and the inspection of construction for the purpose of ~~assuring~~
8 ensuring compliance with drawings and specifications;

9 (ii) any of ~~which~~ the functions described in subsection (5)(a)(i) that embrace ~~embraces such the~~
10 services or work, either public or private, in connection with any utilities, structures, buildings, machines,
11 equipment, processes, work systems, projects, and industrial or consumer products or equipment of
12 mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life,
13 health, or property ~~and including such~~.

14 (b) ~~The term includes~~ other professional services ~~as may be~~ necessary to the planning, progress,
15 and completion of any engineering services.

16 (c) The term does not include the work ordinarily performed by persons who operate or maintain
17 machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

18 (6) "Practice of land surveying" means any service or work, the performance of which requires the
19 application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

20 (a) the principles of property boundary law to the recovery and preservation of evidence pertaining
21 to earlier land surveys;

22 (b) teaching of land surveying subjects;

23 (c) measurement and allocation of lines, angles, elevations, and coordinate systems;

24 (d) location of natural and ~~manmade~~ constructed features in the air, on the surface of the earth,
25 within underground workings, and on the beds of bodies of water, including ~~such~~ work for the
26 determination of areas and volumes;

27 (e) monumenting of property boundaries;

28 (f) platting and layout of lands and the subdivisions ~~thereof~~ of land, including the alignment and
29 grades of streets and roads ~~therein~~ in subdivisions; and

30 (g) preparation and perpetuation of maps, plats, field note records, and property descriptions.

1 (7) "Professional engineer" means a person who, by reason of ~~his~~ special knowledge and use of
 2 the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis
 3 and design acquired by engineering education and engineering experience, is qualified to practice
 4 engineering and who has been ~~duly~~ registered and licensed as a professional engineer by the board.

5 (8) "Professional land surveyor" means a person who:

6 (a) has been ~~duly~~ registered and licensed as a land surveyor by the board; ~~and~~

7 (b) is a professional specialist in the technique, analysis, and application of measuring land;

8 (c) is skilled and educated in the principles of mathematically related physical and applied sciences,
 9 ~~and~~ relevant requirements of law for adequate evidence, and all requisites to the surveying of real property;
 10 and

11 (d) is engaged in the practice of land surveying as ~~herein~~ defined in this section.

12 (9) "Responsible charge" means direct charge and control and personal supervision either of
 13 engineering work or of land surveying, ~~as the case may be~~. Only a professional ~~engineers~~ engineer or a
 14 professional land ~~surveyors~~ surveyor may legally assume responsible charge under this chapter."

15
 16 **Section 2.** Section 37-67-303, MCA, is amended to read:

17 "**37-67-303. Application -- contents -- fees.** (1) Applications for registration ~~shall~~ must be on forms
 18 prescribed by the board and furnished by the department, ~~shall~~ must contain statements made under oath
 19 showing the applicant's education and a detailed summary of ~~his~~ the applicant's technical work, and ~~shall~~
 20 must contain the required references.

21 (2) The fee for ~~engineer-in-training~~ engineer intern is as prescribed by the board ~~and shall~~, must
 22 accompany the application, and ~~shall~~ must include the cost of one examination. No additional fee is required
 23 for issuance of a certificate.

24 (3) The application fee for registration as a professional engineer is as prescribed by the board for
 25 those holding an ~~engineer-in-training~~ engineer intern certificate validated for Montana. For those holding
 26 a valid ~~engineer-in-training~~ engineer intern certificate from some other state, the application fee is as
 27 prescribed by the board, which includes cost of verification of ~~engineer-in-training~~ engineer intern
 28 certification and one examination. Upon approval of application for registration as a professional engineer,
 29 an additional fee equal to the existing renewal fee must be paid before issuance of a certificate as a
 30 professional engineer.

1 (4) The department, subject to approval by the board, may, on approval of the application, payment
 2 of a fee as prescribed by the board, and payment of an additional fee equal to the appropriate renewal fee,
 3 issue a certificate of registration as a professional engineer to a person who holds a certificate of
 4 qualification or registration issued to ~~him~~ the person by the committee on national engineering certification
 5 of the national council of ~~engineering~~ examiners for engineering and surveying or by a state, territory, or
 6 possession of the United States or by another country if the applicant's qualifications meet the requirements
 7 of this chapter and the rules of the board.

8 (5) The fee for land ~~surveyor-in-training~~ surveyor intern is as prescribed by the board, which ~~shall~~
 9 must accompany the application and ~~shall~~ must include the cost of one examination. No additional fee is
 10 required for issuance of a certificate.

11 (6) The application fee for registration as a professional land surveyor is as prescribed by the board
 12 for those holding a land ~~surveyor-in-training~~ surveyor intern certificate validated in Montana. For those
 13 holding a valid land ~~surveyor-in-training~~ surveyor intern certificate from some other state, the application
 14 fee is as prescribed by the board, which includes cost of verification of the certification. Upon approval of
 15 application for registration as a professional land surveyor, an additional fee equal to the existing renewal
 16 fee must be paid before issuance of a certificate as a professional land surveyor.

17 (7) The application fee for registration as both a professional engineer and professional land
 18 surveyor is as prescribed by the board for those holding ~~engineer-in-training~~ engineer intern and land
 19 ~~surveyor-in-training~~ surveyor intern certificates validated in Montana. For those holding valid
 20 ~~engineer-in-training~~ engineer intern and land ~~surveyor-in-training~~ surveyor intern certificates from another
 21 state jurisdiction, the application fee is as prescribed by the board. The fee ~~shall~~ must accompany the
 22 application. Upon approval of application for registration as a professional engineer and professional land
 23 surveyor, an additional fee equal to the existing renewal fee must be paid before issuance of a certificate.

24 (8) If the board denies issuance of a certificate of registration to any applicant, the initial fee
 25 deposited ~~shall~~ must be retained as an application fee."

26
 27 **Section 3.** Section 37-67-304, MCA, is amended to read:

28 "**37-67-304. ~~Municipality may~~ Local government not to impose fee or examination. No A**
 29 registration or license fee or ~~tax~~ examination may not be imposed by a ~~municipality~~ local government ~~or by~~
 30 ~~any other political subdivision of the state~~ on a person registered under this chapter to practice engineering

1 or land surveying."

2

3 **Section 4.** Section 37-67-305, MCA, is amended to read:

4 **"37-67-305. General qualifications of applicants for registration as professional engineer or**
 5 **~~engineer-in-training~~ engineer intern.** To be eligible for admission to an examination for professional engineer
 6 or ~~engineer-in-training~~ engineer intern, an applicant must be of good character and reputation. The applicant
 7 must submit five references with ~~his~~ the application for registration as a professional engineer, ~~three~~ Three
 8 references ~~shall~~ must be from professional engineers with personal knowledge of ~~his~~ the applicant's
 9 engineering experience. In the case of an application for certification as an ~~engineer-in-training~~ engineer
 10 intern, the applicant ~~must~~ shall submit three character references."

11

12 **Section 5.** Section 37-67-307, MCA, is amended to read:

13 **"37-67-307. Qualifications of applicant for registration as ~~engineer-in-training~~ engineer intern.** The
 14 following ~~shall~~ must be considered as minimum evidence that the applicant is qualified for certification as
 15 an ~~engineer-in-training~~ engineer intern:

16 (1) A graduate of an engineering or engineering technology curriculum of 4 years or more,
 17 approved by the board as being of satisfactory standing, ~~shall~~ must be admitted to an 8-hour written
 18 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 19 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 20 qualified.

21 (2) A graduate of a related science curriculum of 4 years or more, other than engineering or
 22 engineering technology, with a specific record of 4 or more years of progressive experience on engineering
 23 projects of a grade and character satisfactory to the board ~~shall~~ must be admitted to an 8-hour written
 24 examination in the fundamentals of engineering. Upon passing ~~such~~ the examination, the applicant ~~shall~~
 25 must be certified or enrolled as an ~~engineer-in-training~~ engineer intern if ~~he~~ the applicant is otherwise
 26 qualified."

27

28 **Section 6.** Section 37-67-308, MCA, is amended to read:

29 **"37-67-308. General qualifications of applicants for registration as professional land surveyor or**
 30 **~~land surveyor-in-training~~ surveyor intern.** (1) To be eligible for admission to an examination for professional

1 land surveyor or land ~~surveyor-in-training~~ surveyor intern, an applicant must be of good character and
 2 reputation. The applicant shall submit five references with ~~his~~ the application for registration as a
 3 professional land surveyor, ~~three~~ Three of ~~which~~ the references ~~shall~~ must be from professional land
 4 surveyors having personal knowledge of ~~his~~ the applicant's land surveying experience. In the case of an
 5 application for certification as a land ~~surveyor-in-training~~ surveyor intern, the applicant shall submit three
 6 references, one of whom ~~shall~~ must be from a professional land surveyor having personal knowledge of the
 7 applicant's land surveying experience.

8 (2) The evaluation of a land surveyor applicant's qualifications involves a consideration of ~~his~~ the
 9 applicant's education, technical and land surveying experience, exhibits of land surveying projects which
 10 ~~he~~ the applicant has been in charge of, recommendations by references, and a reviewing of these
 11 categories. The board may require an interview if it considers one necessary."

12
 13 **Section 7.** Section 37-67-310, MCA, is amended to read:

14 **"37-67-310. Qualifications of applicant for registration as land ~~surveyor-in-training~~ surveyor intern.**

15 ~~One of the following shall be considered as minimum evidence to the board that the applicant is qualified~~
 16 ~~for registration as a land surveyor-in-training~~ To qualify for registration as a land surveyor intern, an
 17 applicant must present as evidence to the board at least one of the following:

18 (1) ~~have~~ a bachelor of science degree in a board-approved curriculum that must contain a minimum
 19 of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices, and ~~have~~
 20 evidence of having passed the written examinations required by the board;

21 (2) ~~have~~ at least 2 years of formal education in an approved curriculum that must contain a
 22 minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices,
 23 above high school level, with at least 60 semester or 90 quarter credit hours or equivalent semester hours
 24 passed, or the equivalent approved by the board, and ~~have~~ evidence of having passed the written
 25 examinations required by the board;

26 (3) ~~have~~ a bachelor of science degree in a board-approved curriculum and ~~present~~ evidence
 27 satisfactory to the board that, in addition ~~thereto~~, ~~he~~ the applicant has had at least 2 years of combined
 28 office and field experience in land surveying, with a minimum of 1 year in charge of land surveying projects
 29 under the supervision of a professional land surveyor, and ~~have~~ evidence of having passed the written
 30 examinations required by the board; or

1 (4) ~~present~~ evidence satisfactory to the board that ~~he~~ the applicant has had at least 6 years of
2 combined office and field experience in land surveying, with a minimum of 4 years of experience in charge
3 of land surveying projects ~~in Montana~~, under the supervision of a professional land surveyor, and ~~has~~
4 evidence of having passed the examinations required by the board."
5

6 **Section 8.** Section 37-67-311, MCA, is amended to read:

7 **"37-67-311. Examinations.** Examination requirements are as follows:

8 (1) The examinations ~~shall~~ must be held at times and places as the board directs. The board shall
9 determine the acceptable grade on examinations.

10 (2) Written examinations may be taken only after the applicant has met the other minimum
11 requirements as given in 37-67-305 through 37-67-310 and has been approved by the board for admission
12 to the examinations as follows:

13 (a) The examination on engineering fundamentals consists of an 8-hour examination on the
14 fundamentals of engineering. Passing the examination qualifies the examinee for an ~~engineer-in-training~~
15 engineer intern certificate ~~provided he~~ if the examinee has met all other requirements for certification
16 required by this chapter.

17 (b) The examination on principles and practice of engineering consists of an 8-hour examination
18 on applied engineering. Passing this examination qualifies the examinee for registration as a professional
19 engineer ~~provided he~~ if the examinee has met the other requirements for registration required by this
20 chapter.

21 (c) The examinations for land ~~surveyor-in-training~~ surveyor intern consist of two 4-hour
22 examinations, designated as parts I and II, on the basic disciplines of land surveying. Passing these
23 examinations qualifies the examinee for a land ~~surveyor-in-training~~ surveyor intern certificate ~~provided he~~
24 the examinee has met all other requirements for certificates required by this chapter.

25 (d) The requirements and examinations for professional land surveyor consist of being a land
26 ~~surveyor-in-training~~ surveyor intern, ~~and~~ of two 4-hour examinations, designated as parts III and IV, on the
27 applied disciplines of land surveying, ~~and~~ of an examination specifically related to land surveying in
28 Montana. Passing these examinations qualifies the examinee for registration as a professional land surveyor
29 ~~provided he~~ if the examinee has met the other requirements for registration required by this chapter.

30 (3) A candidate failing one examination may apply for reexamination, which may be granted upon

1 payment of a fee established by the board. Before readmission to the examination in the event of a second
 2 failure, the examinee must ~~appear before the board with evidence of having acquired the necessary~~
 3 ~~additional knowledge to qualify~~ shall wait 1 year before a third examination.

4 (4) A candidate failing three examinations may not be allowed readmission to the examination. The
 5 candidate may apply for a special circumstance waiver from the board to be readmitted to the examination."
 6

7 **Section 9.** Section 37-67-312, MCA, is amended to read:

8 **"37-67-312. Licensure of professional engineers without examination by comity or endorsement.**

9 (1) A person holding a certificate of registration to engage in the practice of engineering issued to ~~him~~ the
 10 person by a proper authority of a state, territory, or possession of the United States, the District of
 11 Columbia, or any foreign country, based on requirements that do not conflict with the ~~provision~~ provisions
 12 of this chapter and that were of a standard not lower than that specified in the applicable registration act
 13 in effect in this state at the time the certificate was issued, may upon application be registered without
 14 further examination.

15 (2) A person holding a certificate of qualification issued by the committee on national engineering
 16 certification of the national council of ~~engineering~~ examiners for engineering and surveying, and whose
 17 qualifications meet the requirements of this chapter, may upon application be registered without further
 18 examination."
 19

20 **Section 10.** Section 37-67-313, MCA, is amended to read:

21 **"37-67-313. Comity consideration for land surveyors from other states.** A person holding a
 22 certificate of registration to engage in the practice of land surveying issued by a proper authority of a state,
 23 territory, or possession of the United States or the District of Columbia, based on requirements that do not
 24 conflict with the provisions of this chapter and that were of a standard not lower than that specified in the
 25 applicable registration act in effect in this state at the time the certificate was issued, will be given comity
 26 consideration. However, ~~he~~ the person may be asked to meet the conditions for taking ~~and take such~~
 27 ~~examinations and to take them~~ as the board deems considers necessary to determine ~~his~~ the person's
 28 qualifications, ~~but in~~ In any event, ~~he~~ the person shall ~~be required to pass a written examination of not less~~
 29 ~~than 8 hours' duration, which shall include~~ that includes questions on laws, procedures, and practices
 30 pertaining to the practice of land surveying in this state."

1 **Section 11.** Section 37-67-314, MCA, is amended to read:

2 **"37-67-314. Issuance of certificates -- seal of professional engineer or professional land surveyor**
 3 **-- enrollment card for ~~trainees~~ interns.** (1) The department shall issue to any applicant who, in the opinion
 4 of the board, has met the requirements of this chapter a certificate of registration giving the registrant
 5 proper authority to engage in the practice his profession of engineering or the practice of land surveying
 6 and to assume responsible charge of engineering or land surveying projects in this state. The certificate of
 7 registration for a professional engineer ~~shall~~ must carry the designation "professional engineer" and for a
 8 professional land surveyor, "professional land surveyor". It ~~shall~~ must give the full name and serial number
 9 of the registrant ~~with his serial number~~ and ~~shall~~ must be signed by the ~~chairman~~ presiding officer and the
 10 secretary under the seal of the board.

11 (2) This certificate ~~shall be~~ is prima facie evidence that the named person ~~named thereon~~ is entitled
 12 to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while
 13 the certificate of registration remains unrevoked or unexpired.

14 (3) Each registrant ~~hereunder~~ may, upon registration, obtain a seal of a design authorized by the
 15 board, bearing the registrant's name, serial number, and the legend "professional engineer" ~~and/or~~ or
 16 "professional land surveyor". Plans, specifications, plats, drawings, reports, design information, and
 17 calculations prepared by a registrant must when issued be signed with a written signature, dated, and
 18 stamped with the seal or a seal facsimile. It is unlawful for a registrant to affix or permit ~~his~~ the seal and
 19 signature or seal facsimile to be affixed to any plans, specifications, plats, drawings, reports, design
 20 information, or calculations after the expiration of a certificate or for projects for which the registrant was
 21 not in responsible charge.

22 (4) The department shall issue to any applicant who, in the opinion of the board, has met the
 23 requirements of this chapter an enrollment card as ~~engineer-in-training~~ an engineer intern or land
 24 ~~surveyor-in-training~~ surveyor intern, ~~which indicates~~ The enrollment card must indicate that his the
 25 applicant's name and status has been recorded ~~as such in~~ with the board ~~office~~. The ~~engineer-in-training~~
 26 ~~or land surveyor-in-training~~ enrollment card does not authorize the holder to practice as a professional
 27 engineer or professional land surveyor."
 28

29 **Section 12.** Section 37-67-320, MCA, is amended to read:

30 **"37-67-320. Practice by Firms, partnerships, and corporations -- requirements -- exceptions.** (1)

1 ~~The practice of or offer to practice engineering or land surveying by registered professional engineers or~~
2 ~~registered professional land surveyors organized as a partnership or incorporated as a professional~~
3 ~~corporation under the provisions of the professional corporations law of this state or under the provisions~~
4 ~~of a similar law of any other state is permitted in this state if all the partners of the partnership or each~~
5 ~~officer and shareholder of the professional corporation are registered under or exempt from this chapter.~~

6 ~~(2) The practice of or offer to practice engineering or land surveying by a partnership other than~~
7 ~~one provided for in subsection (1) or by a corporation, other than a professional corporation, is permitted~~
8 ~~in this state if:~~

9 ~~(a) all officers, employees, and agents of a partnership or corporation who will perform the practice~~
10 ~~of engineering or land surveying within this state for the partnership or corporation are registered under this~~
11 ~~chapter;~~

12 ~~(b) each person in responsible charge of the activities of a partnership or corporation, which~~
13 ~~activities constitute the practice of engineering or land surveying, is a professional engineer or professional~~
14 ~~land surveyor registered in this state or a person authorized to practice engineering or land surveying as~~
15 ~~provided in this chapter;~~

16 ~~(c) the partnership or corporation has been issued a certificate of authorization by the board as~~
17 ~~provided in subsection (3);~~

18 ~~(d) the partnership or corporation is jointly and severally responsible with and for the conduct of~~
19 ~~acts of its agents, employees, or officers concerning any professional engineering or land surveying services~~
20 ~~performed or to be executed in this state; an individual practicing engineering or land surveying is not~~
21 ~~relieved of the responsibility for his conduct or acts performed by reason of his employment by or~~
22 ~~relationship with the partnership or corporation; and~~

23 ~~(e) all final drawings, specifications, plans, reports, or other engineering or land surveying papers~~
24 ~~or documents involving the practice of engineering or land surveying, when issued, are dated and bear the~~
25 ~~seals and signatures of the professional engineers or professional land surveyors registered under this~~
26 ~~chapter by whom or under whose responsible charge they were prepared.~~

27 ~~(3) A partnership or corporation desiring a certificate of authorization or the renewal thereof shall~~
28 ~~file a written application with the board listing the names and addresses of all partners of the partnership~~
29 ~~or officers and directors of the corporation and the names and addresses of all employees who are~~
30 ~~registered to practice engineering or land surveying in this state and who are or will be in responsible charge~~

1 ~~of any engineering or land surveying in this state by the partnership or corporation, together with any other~~
2 ~~information the board requires. Upon the receipt of an application and of a fee in an amount established~~
3 ~~by the board for the initial certificate or biennial renewal thereof, the board shall issue to the partnership~~
4 ~~or corporation a certificate of authorization or a renewal thereof, which certificate of authorization may not~~
5 ~~be transferred. If the board finds an error in an application or that facts exist which would entitle the board~~
6 ~~to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change~~
7 ~~occurs in the information submitted on the application of a partnership or corporation within the term of~~
8 ~~the authorization, the partnership or corporation shall file with the board a written report listing the change~~
9 ~~within 30 days after the change occurs. The provisions of this chapter concerning issuance, expiration,~~
10 ~~renewal, and reissuance of certificates of registration of individuals, except for 37-67-315(2), apply to~~
11 ~~certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or~~
12 ~~corporations are subject to disciplinary proceedings and penalties and the board may reprimand them or~~
13 ~~revoke, suspend, or refuse to renew their certificates of authorization for cause in the same manner and~~
14 ~~to the same extent as provided in 37-67-331. "Registrant" and "certificate of registration" in 37-67-331~~
15 ~~include any partnership or corporation holding a certificate of authorization issued under this subsection and~~
16 ~~to such certificate of authorization.~~ A firm, partnership, or corporation:

17 (a) may engage in the practice of engineering in this state if any member of the firm, partnership,
18 or corporation who is in responsible charge of engineering or land surveying work performed in this state
19 is a professional engineer or a professional land surveyor, as appropriate;

20 (b) must have a professional engineer or professional land surveyor in residence who is in
21 responsible charge of the engineering or land surveying work conducted in the office or place of business
22 if the firm, partnership, or corporation is engaged in the practice of engineering or the practice of land
23 surveying; and

24 (c) shall obtain a certificate of authorization from the board before engaging in the practice of
25 engineering or the practice of land surveying.

26 (2) The provisions of subsection (1) do not apply to firms, partnerships, or corporations that are
27 engaged in the practice of engineering or the practice of land surveying for their own benefit and do not
28 practice or offer engineering or land surveying services to others."

29

30 **Section 13. Section 37-67-331, MCA, is amended to read:**

- 1 **"37-67-331. Revocation, suspension, or refusal to renew certificate -- grounds -- procedure --**
 2 **reinstatement.** (1) The board may reprimand or revoke, suspend, or refuse to renew the certificate of a
 3 registrant found ~~guilty of~~ responsible for:
- 4 (a) fraud or deceit in obtaining a certificate of registration;
- 5 (b) gross negligence, incompetency, or misconduct in the practice of engineering or land surveying
 6 as a registered professional engineer or professional land surveyor;
- 7 (c) a felony;
- 8 (d) a violation of rules for professional conduct for professional engineers and professional land
 9 surveyors adopted by the board;
- 10 (e) ~~if a professional land surveyor, failure~~ failing to comply with the Corner Recordation Act if the
 11 person is a professional land surveyor.
- 12 (2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct
 13 against a registrant. The charges ~~shall~~ must be made by affidavit, ~~and~~ subscribed and sworn to by the
 14 person making them, and filed with the department. The charges ~~shall~~ must be investigated by the board
 15 ~~and, unless the board dismisses the charges after investigation as unfounded or trivial, it shall act on the~~
 16 ~~charges within 6 months after the date on which the charges were made. The board is considered to have~~
 17 ~~acted on the charges if it has given notice by mail to the licensee of its intent to revoke, suspend, or refuse~~
 18 ~~to renew his license and the notice contains the facts or conduct which warrant the intended action. For~~
 19 purposes of investigation under this section, the board may require that a registrant meet with ~~it~~ the board.
- 20 (3) The board may require a registrant to take a written or oral examination, or both, in a
 21 proceeding to reprimand or to revoke, suspend, or refuse to renew the certificate of registration.
- 22 (4) If, after a hearing, five or more members of the board vote in favor of sustaining the charges,
 23 the board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration of the
 24 registered professional engineer or professional land surveyor.
- 25 (5) The board, for reasons it considers sufficient, may reissue a certificate of registration to a
 26 person whose certificate has been revoked if five or more members of the board vote in favor of the
 27 reissuance."

28

29 NEW SECTION. **Section 14. Code commissioner instructions.** Whenever the term
 30 "engineer-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th

1 legislature, the code commissioner shall change the term to "engineer intern". Whenever the term "land
2 surveyor-in-training" appears in the Montana Code Annotated or in legislation enacted by the 54th
3 legislature, the code commissioner shall change the term to "land surveyor intern".

4 -END-