

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 423

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO PUBLIC ACCOUNTANCY; ENACTING THE 1999 PUBLIC  
ACCOUNTANCY ACT; CREATING A BOARD; PROVIDING POWERS AND  
DUTIES; PROVIDING FOR LICENSURE; CREATING A FUND; PRESCRIBING  
FEES; PRESCRIBING PENALTIES; REPEALING THE FORMER PUBLIC  
ACCOUNTANCY ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"1999 Public Accountancy Act".

Section 2. PURPOSE.--The purpose of the 1999 Public  
Accountancy Act is to protect the public interest by  
regulating the practice of public accountancy.

Section 3. DEFINITIONS.--As used in the 1999 Public  
Accountancy Act:

A. "attest" means to provide the following

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 financial statement services:

2 (1) an audit or other engagement performed in  
3 accordance with the statements on auditing standards;

4 (2) a review of a financial statement or  
5 compilation of a financial statements performed in accordance  
6 with the statement on standards for accounting and review  
7 services; and

8 (3) an examination of prospective financial  
9 information performed in accordance with the statements on  
10 standards for attestation engagements;

11 B. "board" means the New Mexico public accountancy  
12 board;

13 C. "certificate" means the legal recognition  
14 issued to identify a certified public accountant or a  
15 registered public accountant pursuant to the 1999 Public  
16 Accountancy Act or prior law;

17 D. "certified public accountant" means a person  
18 certified by this state or by another state to practice public  
19 accountancy and use the designation;

20 E. "director" means the executive director of the  
21 board;

22 F. "firm" means a sole proprietorship,  
23 professional corporation, partnership, limited liability  
24 company or other legal business entity that practices public  
25 accountancy;

underscored material = new  
[bracketed material] = delete

1           G. "licensee" means a certified public accountant,  
2 certified public accountant firm, registered public accountant  
3 or registered public accountant firm;

4           H. "peer review" means a study, appraisal or  
5 review of one or more aspects of the professional work of a  
6 firm by a certified public accountant who is not affiliated  
7 with the firm being reviewed;

8           I. "permit" means the annual authority granted to  
9 practice as a certified public accountant firm or a registered  
10 public accountant firm;

11           J. "public accountancy" means the performance of  
12 one or more kinds of services involving accounting or auditing  
13 skills, including the issuance of reports on financial  
14 statements, the performance of one or more kinds of  
15 management, financial advisory or consulting services, the  
16 preparation of tax returns or the furnishing of advice on tax  
17 matters;

18           K. "registered public accountant" means a person  
19 who is registered by the board to practice public accountancy  
20 and use the designation;

21           L. "report", when used with reference to financial  
22 statements, means an opinion, report or other form of language  
23 that states or implies assurance as to the reliability of a  
24 financial statement and that includes or is accompanied by a  
25 statement or implication that the person issuing it has

underscored material = new  
[bracketed material] = delete

1 special knowledge or competence in accounting or auditing.  
2 "Report" includes any form of language that disclaims an  
3 opinion when such form of language is conventionally  
4 understood to imply an assurance as to the reliability of the  
5 financial statements referred to or special competence of the  
6 person issuing the language, and includes any other form of  
7 language that is conventionally understood to imply such  
8 assurance or special knowledge or competence;

9 M "specialty designation" means a designation  
10 indicating professional competence in a specialized area of  
11 practice; and

12 N. "substantial equivalency" means a determination  
13 by the board that the education, examination and experience  
14 requirements for certification of another jurisdiction are  
15 comparable to or exceed the corresponding requirements of the  
16 1999 Public Accountancy Act.

17 Section 4. BOARD CREATED--TERMS--OFFICERS--MEETINGS--  
18 REIMBURSEMENT.--

19 A. The "New Mexico public accountancy board" is  
20 created, composed of seven members appointed by the governor  
21 who are citizens of the United States and residents of New  
22 Mexico. Four members of the board shall be certified public  
23 accountants who have practiced for no fewer than three  
24 calendar years immediately preceding their appointment to the  
25 board. Three members shall represent the public and shall not

underscored material = new  
[bracketed material] = delete

1 have ever held a certificate or permit to practice public  
2 accountancy in any state and shall not have ever had a  
3 significant financial interest, direct or indirect, in the  
4 public accountancy profession or in a firm. Public members  
5 shall have professional or practical experience in the use of  
6 accounting services and financial statements, so as to be  
7 qualified to make judgments about the qualifications and  
8 conduct of persons subject to the provisions of the 1999  
9 Public Accountancy Act.

10 B. Members of the board shall serve for terms of  
11 three years or less, staggered in such a manner that the terms  
12 of not more than three members expire on January 1 of each  
13 year; provided that members appointed and serving pursuant to  
14 prior law on the effective date of the 1999 Public Accountancy  
15 Act shall serve the remainder of their terms. A vacancy on  
16 the board shall be filled by appointment by the governor for  
17 the unexpired term. Upon the expiration of a member's term of  
18 office, he shall continue to serve until his successor has  
19 been appointed and qualified. A professional member of the  
20 board whose certificate is suspended or revoked shall  
21 automatically cease to be a member of the board. The governor  
22 may remove a member of the board for neglect of duty or other  
23 just cause.

24 C. The board shall elect annually from among its  
25 members a chairman and such other officers as the board

underscored material = new  
[bracketed material] = delete

1 determines. The board shall meet at such times and places as  
2 fixed by the board. A majority of the board constitutes a  
3 quorum.

4 D. Members of the board may receive per diem and  
5 travel expenses as provided in the Per Diem and Mileage Act,  
6 but shall receive no other compensation, perquisite or  
7 allowance.

8 Section 5. BOARD--POWERS AND DUTIES.--

9 A. The board may:

10 (1) employ an executive director and such  
11 other personnel as it deems necessary to carry out its duties;

12 (2) appoint committees or persons to advise  
13 or assist it in carrying out the provisions of the 1999 Public  
14 Accountancy Act;

15 (3) retain its own counsel to advise and  
16 assist it in addition to advice and assistance provided by the  
17 attorney general;

18 (4) contract, sue and be sued and have and  
19 use a seal;

20 (5) cooperate with the appropriate  
21 authorities in other states in investigation and enforcement  
22 concerning violations of the 1999 Public Accountancy Act and  
23 comparable acts of other states; and

24 (6) adopt and file in accordance with the  
25 Uniform Licensing Act and the State Rules Act rules to carry

underscored material = new  
[bracketed material] = delete

1 out the provisions of the 1999 Public Accountancy Act,  
2 including rules governing the administration and enforcement  
3 of the 1999 Public Accountancy Act and the conduct of  
4 certificate and permit holders.

5 B. The board shall maintain a registry of the  
6 names and addresses of all certificate and permit holders.

7 Section 6. FUND CREATED. --

8 A. The "public accountancy fund" is created in the  
9 state treasury. All money received by the board and interest  
10 earned on investment of the fund shall be credited to the  
11 fund.

12 B. Payments from the public accountancy fund shall  
13 be made upon warrants of the secretary of finance and  
14 administration pursuant to vouchers issued by the director in  
15 accordance with the budget approved by the department of  
16 finance and administration.

17 C. Money in the fund shall be used only to pay the  
18 expenses of carrying out the provisions of the 1999 Public  
19 Accountancy Act and rules adopted pursuant to that act.

20 Section 7. QUALIFICATIONS FOR A CERTIFICATE AS A  
21 CERTIFIED PUBLIC ACCOUNTANT. --

22 A. An applicant for a certified public accountant  
23 certificate shall complete the application form provided by  
24 the board and demonstrate to the board's satisfaction that he:

25 (1) is of good moral character and lacks a

underscored material = new  
[bracketed material] = delete

1 history of dishonest or felonious acts; and

2 (2) meets the education, experience and  
3 examination requirements of the board.

4 B. The board may refuse to grant a certificate on  
5 the ground that the applicant failed to satisfy the  
6 requirement of good moral character.

7 C. The education requirement for a certificate,  
8 which must be met before an applicant is eligible to apply for  
9 examination, is:

10 (1) between July 1, 1999 and June 30, 2004, a  
11 baccalaureate or higher degree or its equivalent conferred by  
12 a college or university acceptable to the board, with thirty  
13 semester hours in accounting or equivalent as determined by  
14 the board; and

15 (2) after July 1, 2004, at least one hundred  
16 fifty semester hours of college education, including a  
17 baccalaureate or higher degree or its equivalent conferred by  
18 a college or university acceptable to the board, the total  
19 educational program to include an accounting concentration or  
20 equivalent as determined by the board.

21 D. The examination for certification shall be held  
22 at least twice a year and shall test the applicant's knowledge  
23 of the subjects of accounting and auditing and such other  
24 related subjects as prescribed by the board. The time for  
25 holding the examination shall be determined by the board and



underscored material = new  
[bracketed material] = delete

1 may be changed from time to time. The board shall prescribe  
2 the methods of applying for and conducting the examination,  
3 including methods for grading papers; provided, however, that  
4 the board shall to the extent possible provide that the  
5 examination, the grading of the examination and the passing  
6 grades are uniform with examinations of all other states. The  
7 board may use all or any part of the uniform certified public  
8 accountant examination and advisory grading service of the  
9 American institute of certified public accountants and may  
10 contract with third parties to perform administrative services  
11 with respect to the examination.

12 E. An applicant must pass all sections of the  
13 examination in order to qualify for a certificate. A passing  
14 grade for each section shall be seventy-five. If he passes  
15 two or more but not all sections in an examination sitting, he  
16 shall be given credit for those sections and need not sit for  
17 re-examination in those sections; provided that:

18 (1) at that sitting he wrote all sections of  
19 the examination for which he does not have credit;

20 (2) he made a minimum grade of fifty on each  
21 section taken at that sitting;

22 (3) he passes the remaining sections of the  
23 examination within six consecutive examinations given after  
24 the one at which the first sections were credited;

25 (4) at each subsequent sitting at which he

underscored material = new  
[bracketed material] = delete

1 seeks to pass an additional section, the applicant writes all  
2 sections for which he does not have credit; and

3 (5) in order to receive credit for passing  
4 additional sections in such subsequent sitting, the applicant  
5 makes a minimum grade of fifty on sections taken at that  
6 sitting.

7 F. An applicant shall be given credit for  
8 examination sections passed in another state if such credit  
9 would have been given in New Mexico.

10 G. The board may waive or defer requirements of  
11 this section regarding the circumstances in which sections of  
12 the examination must be passed, upon a showing that, by reason  
13 of circumstances beyond the applicant's control, he was unable  
14 to meet the requirement.

15 H. An applicant for initial issuance of a  
16 certified public accountant certificate shall show that he has  
17 had at least one year of experience. This experience shall  
18 include providing service or advice involving the use of  
19 accounting, attest, management advisory, financial advisory,  
20 tax or consulting skills as verified by a certified public  
21 accountant who meets requirements prescribed by the board.  
22 The experience is acceptable if it was gained through  
23 employment in government, industry, academia or public  
24 practice.

25 Section 8. ISSUANCE AND RENEWAL OF CERTIFICATE--

. 124349. 1

underscored material = new  
[bracketed material] = delete

1 MAINTENANCE OF COMPETENCY. --

2 A. The board shall grant or renew a certificate  
3 upon application and demonstration that the applicant's  
4 qualifications are in accordance with the 1999 Public  
5 Accountancy Act or that they are eligible under the  
6 substantial equivalency standard provided in that act. The  
7 holder of a certificate issued pursuant to this section may  
8 only provide attest services in a certified public accountant  
9 firm that holds a permit issued pursuant to that act.

10 B. The board may establish by rule for the  
11 issuance of biennial certificates and permits, and may  
12 prescribe the expiration date of certificates and permits.

13 C. The board shall grant or deny an application  
14 for certification no later than one hundred twenty days after  
15 the complete application is filed.

16 D. If an applicant appeals the decision of the  
17 board to deny a certificate, the board may issue a provisional  
18 certificate for no longer than ninety days while the board  
19 reconsiders its decision.

20 E. To renew a certificate, a certificate holder  
21 shall provide satisfactory proof to the board of continuing  
22 professional education that is designed to maintain  
23 competency. Continuing professional education courses shall  
24 comply with board rules. The board may create an exception to  
25 the requirement to maintain continuing professional education

underscored material = new  
[bracketed material] = delete

1 for certificate holders who do not provide services to the  
2 public. A certificate holder granted such an exception must  
3 place the word "inactive" or "retired" adjacent to his  
4 certified public accountant title or registered public  
5 accountant title on a business card, letterhead or other  
6 document or device, except for a board-issued certificate.

7 F. An applicant for initial issuance or renewal of  
8 a certificate pursuant to this section shall list all foreign  
9 and domestic jurisdictions in which the applicant has applied  
10 for or holds a designation to practice public accountancy.  
11 The applicant shall also list any past denial, revocation or  
12 suspension of a certificate, license or permit. An applicant  
13 or certificate holder shall notify the board in writing,  
14 within thirty days of the occurrence of any issuance, denial,  
15 revocation or suspension of a designation or commencement of a  
16 disciplinary or enforcement action by any jurisdiction.

17 Section 9. SPECIALTY DESIGNATIONS. --The board shall  
18 adopt rules allowing the use of specialty designations by  
19 certificate holders. Specialty designations shall be  
20 consistent with designations prescribed by national or  
21 regional accreditation bodies offering the designations  
22 pursuant to a prescribed course of study, experience or  
23 examination.

24 Section 10. CERTIFICATES ISSUED TO HOLDERS OF A  
25 CERTIFICATE, LICENSE OR PERMIT ISSUED BY ANOTHER STATE. --

underscored material = new  
[bracketed material] = delete

1           A. If an applicant does not qualify for  
2 reciprocity pursuant to the substantial equivalency standard,  
3 the board may issue a certificate to a holder of a  
4 certificate, license or permit issued by another state upon a  
5 showing that the applicant:

6                   (1) passed the examination required for  
7 issuance of his certificate with grades that would have been  
8 passing grades at the time in New Mexico;

9                   (2) passed the examination upon which his  
10 out-of-state certificate was based and has four years of  
11 experience acceptable to the board or meets equivalent  
12 requirements prescribed by board rule, within the ten years  
13 immediately preceding the application; and

14                   (3) if the applicant's certificate, license  
15 or permit was issued more than four years prior to  
16 application, he has fulfilled the board's requirements of  
17 continuing professional education.

18           B. A person licensed by another state who wishes  
19 to establish his principal place of business in New Mexico  
20 shall apply to the board for a certificate prior to  
21 establishing the business. The board may issue a certificate  
22 to the person if he provides proof from a board-approved  
23 national qualification appraisal service that his certified  
24 public accountant qualifications are substantially equivalent  
25 to the certified public accountant certification requirements

underscored material = new  
[bracketed material] = delete

1 of the 1999 Public Accountancy Act.

2 C. The board may issue a certificate to a holder  
3 of a substantially equivalent foreign designation; provided  
4 that:

5 (1) the foreign authority that granted the  
6 designation makes similar provision to allow a person who  
7 holds a valid certificate issued by New Mexico to obtain such  
8 foreign authority's comparable designation;

9 (2) the foreign designation:

10 (a) was duly issued by a foreign  
11 authority that regulates the practice of public accountancy  
12 and the foreign designation has not expired or been revoked or  
13 suspended;

14 (b) entitles the holder to issue  
15 reports upon financial statements; and

16 (c) was issued upon the basis of  
17 educational, examination and experience requirements  
18 established by the foreign authority or by law; and

19 (3) the applicant:

20 (a) received the designation based on  
21 educational and examination standards substantially equivalent  
22 to those in effect in New Mexico at the time the foreign  
23 designation was granted;

24 (b) completed an experience requirement  
25 in the jurisdiction that granted the foreign designation that

underscored material = new  
[bracketed material] = delete

1 is substantially equivalent to the requirement provided for in  
2 the 1999 Public Accountancy Act or has completed four years of  
3 professional experience in New Mexico or meets equivalent  
4 requirements prescribed by the board within the ten years  
5 immediately preceding the application; and

6 (c) passed a uniform qualifying  
7 examination on national standards and an examination on the  
8 laws, rules and code of ethical conduct in effect in New  
9 Mexico that is acceptable to the board.

10 D. An applicant for initial issuance or renewal of  
11 a certificate pursuant to this section shall list all foreign  
12 and domestic jurisdictions in which the applicant has applied  
13 for or holds a designation to practice public accountancy.  
14 The applicant shall also list any past denial, revocation or  
15 suspension of a certificate, license or permit. An applicant  
16 or certificate holder shall notify the board in writing,  
17 within thirty days of the occurrence of any issuance, denial,  
18 revocation or suspension of a designation or commencement of a  
19 disciplinary or enforcement action by any jurisdiction.

20 E. The board has the sole authority to interpret  
21 the application of the provisions of this section.

22 Section 11. REGISTERED PUBLIC ACCOUNTANTS AND  
23 FIRMS OF REGISTERED PUBLIC ACCOUNTANTS. --

24 A. A person who on July 1, 1999 holds a  
25 certificate as a registered public accountant issued pursuant

underscored material = new  
[bracketed material] = delete

1 to prior New Mexico law shall be entitled to have his  
2 certificate renewed upon fulfillment of the continuing  
3 professional education requirements, application and payment  
4 of fees prescribed for certificate renewal.

5 B. A registered public accountant firm holding a  
6 permit issued pursuant to prior New Mexico law shall be  
7 entitled to have its permit renewed pursuant to the  
8 requirements for permit renewal for a certified public  
9 accountant firm in the 1999 Public Accountancy Act.

10 C. As long as a registered public accountant and a  
11 registered public accountant firm hold a valid certificate and  
12 permit, they shall be entitled to perform attest services to  
13 the same extent as a certified public accountant and certified  
14 public accountant firm. In addition, they shall be entitled  
15 to use the titles "registered public accountant" and  
16 "registered public accountants", but no other title.

17 Section 12. FIRM PERMITS TO PRACTICE, ATTEST EXPERIENCE,  
18 PEER REVIEW. --

19 A. The board may grant or renew a permit to  
20 practice as a firm to an applicant that demonstrates its  
21 qualification for the permit. A firm must hold a permit  
22 issued pursuant to the provisions of the 1999 Public  
23 Accountancy Act in order to provide attest services or use the  
24 title "certified public accountant", "CPA", "certified public  
25 accountant firm", "CPA firm", "registered public accountant",

. 124349. 1



underscored material = new  
[bracketed material] = delete

1 "RPA", "registered public accountant firm" or "RPA firm".

2 B. Permits shall be issued and renewed for periods  
3 not more than two years, expiring on June 30.

4 C. The board shall grant or deny an application  
5 for a permit no later than ninety days after the complete  
6 application is filed.

7 D. If an applicant appeals the decision of the  
8 board to deny a permit, the board may issue a provisional  
9 permit for no longer than ninety days while the board  
10 reconsiders its decision.

11 E. An applicant for initial issuance or renewal of  
12 a permit shall demonstrate that:

13 (1) a minimum of sixty percent majority of  
14 the ownership of the firm, in terms of financial interests,  
15 profits, losses, dividends, distributions, options,  
16 redemptions and voting rights of all partners, officers,  
17 shareholders, members or managers, belongs to holders of a  
18 certificate who are licensed in some state. Such partners,  
19 officers, shareholders, members or managers, whose principal  
20 place of business is in New Mexico, and who perform  
21 professional services in New Mexico, must hold a valid  
22 certificate. The firm and all owners must comply with the  
23 1999 Public Accountancy Act. A firm may include owners who  
24 are not certificate holders; provided that:

25 (a) the firm designates a New Mexico

underscored material = new  
[bracketed material] = delete

1 certificate holder who is responsible for the proper  
2 registration of the firm and identifies that individual to the  
3 board;

4 (b) all owners who are not certificate  
5 holders are active individual participants in the certified  
6 public accountant firm or registered public accountant firm or  
7 affiliated entities; and

8 (c) the firm complies with the 1999  
9 Public Accountancy Act; and

10 (2) an individual certificate holder who is  
11 responsible for supervising attest services or signs or  
12 authorizes someone to sign the accountant's report on the  
13 financial statements on behalf of the firm meets the  
14 experience requirements set out in the professional standards  
15 for such services.

16 F. An applicant for initial issuance or renewal of  
17 a permit shall be required to register each office of the firm  
18 within New Mexico with the board and to show that all attest  
19 services rendered in this state are under the charge of a  
20 person holding a valid certificate issued pursuant to the 1999  
21 Public Accountancy Act or the corresponding provision of prior  
22 law or by some other state.

23 G. An applicant for initial issuance or renewal of  
24 a permit shall list all foreign and domestic jurisdictions in  
25 which it has applied for or holds permits as a certified

underscored material = new  
[bracketed material] = delete

1 public accountant firm and list any past denial, revocation or  
2 suspension of a permit by any jurisdiction. Each permit  
3 holder or applicant shall notify the board in writing, within  
4 thirty days of the occurrence of a change in the identities of  
5 partners, officers, shareholders, members or managers whose  
6 principal place of business is in this state, a change in the  
7 number or location of offices within this state, a change in  
8 the identity of the persons in charge of such offices and any  
9 issuance, denial, revocation or suspension of a permit by  
10 another jurisdiction.

11 H. A firm that falls out of compliance with the  
12 provisions of the 1999 Public Accountancy Act due to changes  
13 in firm ownership or personnel shall take corrective action to  
14 bring the firm back into compliance as quickly as possible.  
15 The board may grant a reasonable period of time for a firm to  
16 take the corrective action. Failure to bring the firm back  
17 into compliance within a reasonable period shall result in the  
18 suspension or revocation of the firm permit.

19 I. As a condition to permit renewal, the board  
20 shall require the applicant to undergo a peer review conducted  
21 in accordance with board rules. The review shall include a  
22 verification that a person in the firm who is responsible for  
23 supervising attest services and signs or authorizes someone to  
24 sign the accountant's report on the financial statements on  
25 behalf of the firm meets the experience requirements set out

underscored material = new  
[bracketed material] = delete

1 in the professional standards for the services.

2 J. If a partner, shareholder or member is a legal  
3 business entity, that legal business entity must be a firm.

4 Section 13. APPOINTMENT OF SECRETARY OF STATE AS  
5 AGENT. -- Application for a certificate or permit by a person or  
6 firm that is domiciled outside of New Mexico shall constitute  
7 appointment of the secretary of state as the applicant's  
8 agent, upon whom process may be served in an action or  
9 proceeding against the applicant or certificate holder arising  
10 out of a transaction or operation connected with or incidental  
11 to services performed within New Mexico.

12 Section 14. ENFORCEMENT AGAINST HOLDERS OF CERTIFICATES  
13 AND PERMITS. --

14 A. After providing a person due process in  
15 accordance with the Uniform Licensing Act, the board may take  
16 corrective action following a finding that an applicant,  
17 certificate holder or permit holder has violated the 1999  
18 Public Accountancy Act.

19 B. The board may deny an application for a  
20 certificate or permit or revoke a certificate or permit issued  
21 pursuant to the 1999 Public Accountancy Act or corresponding  
22 provisions of prior law; suspend a certificate or permit, or  
23 refuse to renew a certificate or permit for a period of not  
24 more than five years; reprimand, censure or limit the scope of  
25 practice of any licensee; impose an administrative fine not to

underscored material = new  
[bracketed material] = delete

1 exceed two thousand dollars (\$2,000); or place a certificate  
2 or permit holder on probation, all with or without terms,  
3 conditions and limitations for:

4 (1) fraud or deceit in obtaining a  
5 certificate or permit;

6 (2) cancellation, revocation, suspension or  
7 refusal to renew a license or practice rights for disciplinary  
8 reasons in any other state;

9 (3) failure on the part of a certificate or  
10 permit holder to comply with the requirements for issuance or  
11 renewal of the certificate or permit or to report changes to  
12 the board;

13 (4) revocation or suspension of the right to  
14 practice before any state or federal agency;

15 (5) dishonesty, fraud or gross negligence in  
16 the performance of a service as a certificate or permit holder  
17 or in the filing or failure to file the certificate or permit  
18 holder's own income tax returns;

19 (6) violation of a provision of 1999 Public  
20 Accountancy Act or professional standards;

21 (7) violation of a rule of professional  
22 conduct;

23 (8) conviction of a felony or of a crime, an  
24 element of which is dishonesty or fraud, pursuant to the laws  
25 of the United States, New Mexico or of another state if the

underscored material = new  
[bracketed material] = delete

1 acts involved would have constituted a crime pursuant to the  
2 laws of New Mexico;

3 (9) conduct reflecting adversely upon the  
4 certificate or permit holder's fitness to perform services; or

5 (10) making a false or misleading statement  
6 or verification in support of an application for a certificate  
7 or permit filed by another.

8 C. The board may require of a certificate or  
9 permit holder:

10 (1) a peer review conducted in such fashion  
11 as the board may specify; or

12 (2) satisfactory completion of such  
13 continuing professional education programs as the board may  
14 specify.

15 Section 15. ENFORCEMENT PROCEDURES--INVESTIGATIONS.--

16 A. Upon receipt of a complaint or other  
17 information suggesting a violation of the 1999 Public  
18 Accountancy Act, the board may conduct an investigation to  
19 determine whether there is probable cause to institute a  
20 proceeding against a person or firm. An investigation is not  
21 required when a determination of probable cause can be made  
22 without investigation. To aid the investigation, the board or  
23 the board's chairman may issue a subpoena to compel a witness  
24 to testify or to produce evidence.

25 B. The board may designate a person to serve as

underscored material = new  
[bracketed material] = delete

1 investigating officer to conduct an investigation. The  
2 investigating officer shall file a report with the board upon  
3 completion of an investigation. The board shall find probable  
4 cause or lack of probable cause upon the basis of the report  
5 or shall return the report to the investigating officer for  
6 further investigation.

7 C. Upon a finding of probable cause, if the  
8 subject of the investigation is a certificate or permit  
9 holder, the board shall direct that a complaint be issued in  
10 accordance with the 1999 Public Accountancy Act. If the  
11 subject of the investigation is not a certificate or permit  
12 holder, the board shall take appropriate action as provided in  
13 that act. Upon a finding of no probable cause, the board  
14 shall close the matter.

15 D. The board may review the publicly available  
16 professional work of a certificate or permit holder without  
17 any requirement of a formal complaint or suspicion of  
18 impropriety on the part of a particular certificate or permit  
19 holder. In the event that such review reveals reasonable  
20 grounds for a more specific investigation, the board may  
21 proceed pursuant to the 1999 Public Accountancy Act.

22 Section 16. ENFORCEMENT PROCEDURES--HEARINGS BY THE  
23 BOARD. --

24 A. Hearings by the board shall be conducted in  
25 accordance with the provisions of the Uniform Licensing Act.

underscored material = new  
[bracketed material] = delete

1           B. In a case when the board renders a decision  
2 imposing discipline against a certificate or permit holder  
3 pursuant to the 1999 Public Accountancy Act, the board shall  
4 examine its records to determine whether the certificate or  
5 permit holder holds a certificate or permit in any other  
6 state; and, if so, the board shall notify the board of  
7 accountancy of the other state of its decision, by mail,  
8 within forty-five days of rendering the decision. The board  
9 may also furnish information relating to a proceeding  
10 resulting in disciplinary action to another public authority  
11 and to private professional organizations having a  
12 disciplinary interest in the certificate or permit holder.  
13 When an appeal pursuant to New Mexico law is in progress, the  
14 notification and furnishing of information to a disciplinary  
15 authority shall await the resolution of such appeal. If  
16 resolution is in favor of the certificate or permit holder, no  
17 automatic notification or furnishing of information shall be  
18 made.

19           Section 17. REINSTATEMENT. --

20           A. When the board has suspended or revoked a  
21 certificate or permit, or refused to renew a certificate or  
22 permit, the board may modify the suspension or reissue the  
23 certificate or permit. The board shall specify the manner in  
24 which the application shall be made, the time within which it  
25 shall be made and the circumstance in which a hearing will be



underscored material = new  
[bracketed material] = delete

1 held.

2 B. Before reissuing or terminating the suspension  
3 of a certificate or permit, the board may require that the  
4 applicant complete specified continuing professional  
5 education, and the board may make the reinstatement of a  
6 certificate or permit conditional and subject to satisfactory  
7 completion of a peer review conducted in such fashion as the  
8 board may specify.

9 Section 18. UNLAWFUL ACTS. --

10 A. Except as provided in Subsection H of this  
11 section, only a certificate and permit holder may issue a  
12 report on financial statements of any other person, firm,  
13 organization or governmental unit or otherwise offer to render  
14 or render any attest service. This restriction does not  
15 prohibit an act of a public official or public employee in the  
16 performance of that person's duties as such.

17 B. A certificate and permit holder who performs a  
18 service shall do so pursuant to the standards related to that  
19 service, such as the statements on auditing standards, the  
20 statement on standards for accounting and review services, the  
21 statements on standards for attestation engagements and other  
22 such standards adopted by the board or developed for general  
23 application by a recognized national accountancy organization  
24 such as the American institute of certified public  
25 accountants.

underscored material = new  
[bracketed material] = delete

1 C. Only a valid certificate holder shall use or  
2 assume the title "certified public accountant" or the  
3 abbreviation "CPA" or any other title, designation, word,  
4 letter, abbreviation, sign, card or device tending to indicate  
5 that the person is a certified public accountant.

6 D. A firm shall not provide an attest service or  
7 assume or use the title "certified public accountant", or the  
8 abbreviation "CPA" or any other title, designation, words,  
9 letter, abbreviation, sign, card or device tending to indicate  
10 that the firm is a certified public accountant firm unless the  
11 firm holds a valid permit issued pursuant to the 1999 Public  
12 Accountancy Act, and ownership of the firm is in accord with  
13 the provisions of that act.

14 E. A person shall not assume or use the title  
15 "registered public accountant" or the abbreviation "RPA" or  
16 any other title, designation, word, letter, abbreviation,  
17 sign, card or device tending to indicate that the person is a  
18 registered public accountant unless that person holds a valid  
19 certificate issued pursuant to the 1999 Public Accountancy  
20 Act.

21 F. A firm shall not provide attest services or  
22 assume or use the title "registered public accountant" or the  
23 abbreviation "RPA" or any other title, designation, word,  
24 letter, abbreviation, sign, card or device tending to indicate  
25 that the firm is a registered public accountant firm unless

underscored material = new  
[bracketed material] = delete

1 the firm holds a valid permit issued pursuant to the 1999  
2 Public Accountancy Act, and ownership of the firm is in accord  
3 with the provisions of that act.

4 G. A person or firm not holding a valid  
5 certificate or permit issued pursuant to the 1999 Public  
6 Accountancy Act shall not assume or use the title "certified  
7 accountant", "public accountant", "chartered accountant",  
8 "enrolled accountant", "licensed accountant", "registered  
9 accountant", "accredited accountant" or any other title or  
10 designation likely to be confused with the titles "certified  
11 public accountant" or "registered public accountant", or use  
12 any of the abbreviations "CA", "PA", "LA", "RA", "AA" or  
13 similar abbreviation likely to be confused with the  
14 abbreviations "CPA" or "RPA". The title "enrolled agent" or  
15 "EA" may only be used by persons so designated by the internal  
16 revenue service.

17 H. The 1999 Public Accountancy Act does not  
18 prohibit:

19 (1) an officer, partner, shareholder, member  
20 or employee of any firm or organization from affixing his own  
21 signature to any statement or report in reference to the  
22 financial affairs of his firm or organization with any wording  
23 designating the position, title or office that he holds within  
24 the firm or organization;

25 (2) an act of a public official or employee

underscored material = new  
[bracketed material] = delete

1 in the performance of his duties; except that the state  
2 auditor and his auditing staff are considered to be in the  
3 practice of public accounting; or

4 (3) the performance by a person of another  
5 service, including management, financial advisory or  
6 consulting services, the preparation of a tax return or the  
7 furnishing of advice on a tax matter and the preparation of a  
8 financial statement without the issuance of a report.

9 I. A person or accountant who prepares a financial  
10 accounting and related statements and who is not the holder of  
11 a certificate or a permit or registration issued pursuant to  
12 the provisions of the 1999 Public Accountancy Act shall  
13 include the following statement prominently on each page of  
14 any financial accounting, related statement and accompanying  
15 compilation or review transmittal letter: "The preparer of  
16 this statement is not the holder of a certificate or of a  
17 permit or registration issued under the Public Accountancy  
18 Act. "

19 J. A person holding a certificate or firm holding  
20 a permit issued pursuant to the 1999 Public Accountancy Act  
21 shall not use a professional or firm name or designation that  
22 is misleading about the legal form of the firm or about a  
23 person who is a partner, officer, member, manager or  
24 shareholder of the firm or about any other matter. The name  
25 of one or more former partner, member, manager or shareholder

underscored material = new  
[bracketed material] = delete

1 may be included in the name of a firm or its successor.

2 K. The provisions of this section do not apply to  
3 a person or firm holding a certification, designation, degree  
4 or license granted in a foreign country entitling the holder  
5 to engage in the practice of public accountancy or its  
6 equivalent in such country, whose activities in New Mexico are  
7 limited to the provision of professional services to a person  
8 or firm who is a resident of, government of or business entity  
9 of the country in which the person holds the entitlement, who  
10 performs no attest service and who issues no report with  
11 respect to the financial statement of another person, firm or  
12 governmental unit in New Mexico, and who does not use in New  
13 Mexico a title or designation other than the one under which  
14 the person practices in the other country, followed by a  
15 translation of the title or designation into English, if it is  
16 in a different language, and by the name of the other country.

17 L. A holder of a certificate or permit issued  
18 pursuant to the 1999 Public Accountancy Act shall not perform  
19 an attest service in a firm that does not hold a valid permit  
20 issued pursuant to that act.

21 M Nothing in this section shall prohibit a  
22 practicing attorney or firm of attorneys from preparing or  
23 presenting records or documents customarily prepared by an  
24 attorney or firm of attorneys in connection with the  
25 attorney's professional work in the practice of law.

underscored material = new  
[bracketed material] = delete

1 N. A certificate or permit holder shall not  
2 recommend or refer to a client a product or service for a  
3 commission during the period he is engaged to perform an  
4 attest service for that client or during the time period of  
5 the financial statements represented in such attest service.  
6 This provision does not apply to a compilation when the  
7 compilation report discloses the lack of independence.

8 O. A certificate or permit holder that is not  
9 prohibited by the provisions of Subsection N of this section  
10 from performing a service for or receiving a commission and  
11 that is paid or expects to be paid a commission shall  
12 disclose, in writing, that fact to a person or entity to whom  
13 the licensee recommends or refers a product or service to  
14 which the commission relates.

15 P. A certificate or permit holder that accepts a  
16 fee for recommending or referring a service of a certificate  
17 or permit holder to a person or entity or that pays a referral  
18 fee to obtain a client shall disclose that fact to the client  
19 in writing.

20 Q. A contingent fee is a fee established for the  
21 performance of a service pursuant to an arrangement in which  
22 no fee will be charged unless a specified finding or result is  
23 attained or in which the amount of the fee is otherwise  
24 dependent upon the finding or result of such service. A  
25 certificate or permit holder shall not pay or receive from a

. 124349. 1

underscored material = new  
[bracketed material] = delete

1 client a contingent fee for a professional service performed  
2 during the period he is engaged to perform an attest service  
3 for that client or during the time period of the financial  
4 statements represented in such attest service. This provision  
5 does not apply to a compilation when the compilation report  
6 discloses a lack of independence.

7 R. A certificate or permit holder shall not  
8 prepare an original or amended tax return or claim for a tax  
9 refund for a contingent fee for a client.

10 S. A fee is not regarded as being contingent if  
11 fixed by courts or another public authority, or, in a tax  
12 matter, if determined based on the result of judicial  
13 proceeding or the finding of a governmental agency. A  
14 certificate or permit holder's fee may vary depending on the  
15 complexity of services rendered.

16 T. A prohibition set forth in this section does  
17 not apply to any transaction in which there is no disclosure  
18 of financial statements prepared by the licensee and the  
19 acceptance of the commission or contingent fee does not impair  
20 the independence of the licensee.

21 Section 19. CRIMINAL PENALTIES. --

22 A. When the board has reason to believe that a  
23 person or firm has knowingly engaged in an act or practice  
24 that violates the provisions of the 1999 Public Accountancy  
25 Act, the board may bring its information to the attention of

underscored material = new  
[bracketed material] = delete

1 the district attorney or other appropriate law enforcement  
2 officer of any jurisdiction who may bring a criminal  
3 proceeding.

4 B. A person or firm that knowingly violates a  
5 provision of the 1999 Public Accountancy Act is guilty of a  
6 misdemeanor and upon conviction shall be subject to a fine of  
7 not more than one thousand dollars (\$1,000) or by a definite  
8 term of imprisonment not to exceed six months or both.

9 Section 20. SINGLE ACT EVIDENCE OF PRACTICE. --In an  
10 action brought pursuant to the provisions of the 1999 Public  
11 Accountancy Act, evidence of the commission of a single act  
12 prohibited by that act shall be sufficient to justify a  
13 penalty, injunction, restraining order or conviction,  
14 respectively, without evidence of a general course of conduct.

15 Section 21. CONFIDENTIAL COMMUNICATIONS. --Except by  
16 permission of the client for whom a certificate or permit  
17 holder performs a service or the heir, successor or personal  
18 representative of the client, a certificate holder shall not  
19 voluntarily disclose information communicated to him by the  
20 client relating to and in connection with a service rendered  
21 to the client by him. Such information shall be deemed  
22 confidential; provided that nothing in this section shall  
23 prohibit the disclosure of information required to be  
24 disclosed by a standard of the public accounting profession in  
25 reporting on the examination of a financial statement or



underscored material = new  
[bracketed material] = delete

1 prohibit disclosure in a court proceeding, in an investigation  
2 or proceeding pursuant to the 1999 Public Accountancy Act, in  
3 an ethical investigation conducted by a private professional  
4 organization or in the course of a peer review, or to another  
5 person active in the organization performing a service for  
6 that client on a need-to-know basis or to a person in the  
7 entity who needs this information for the sole purpose of  
8 assuring quality control.

9 Section 22. WORKING PAPERS-- CLIENT RECORDS. --

10 A. A statement, record, schedule, working paper or  
11 memorandum made by a certificate or permit holder incident to  
12 rendering a service to a client shall be the property of the  
13 certificate or permit holder in the absence of an express  
14 agreement between him and the client to the contrary, except  
15 the report submitted by him to the client and except for a  
16 record that is part of the client's records. No such item  
17 shall be sold, transferred or bequeathed without the consent  
18 of the client or the client's personal representative, except  
19 to a partner, stockholder or member of the firm or any  
20 combined or merged firm or successor in interest to the  
21 certificate or permit holder. Nothing in this section shall  
22 prohibit any temporary transfer of a work paper or other  
23 material necessary in the course of carrying out a peer review  
24 or as otherwise interfering with the disclosure of information  
25 pursuant to the 1999 Public Accountancy Act.

underscored material = new  
[bracketed material] = delete

1           B. A certificate or permit holder shall furnish to  
2 a client or former client, upon request and reasonable notice:

3                 (1) a copy of his working paper, to the  
4 extent that such working paper includes a record that would  
5 ordinarily constitute part of the client's record and is not  
6 otherwise available to the client; and

7                 (2) an accounting or other record belonging  
8 to, or obtained from or on behalf of, the client that he  
9 removed from the client's premises or received for the  
10 client's account; he may make and retain a copy of a document  
11 of the client when they form the basis for work done by him.

12           Section 23. PRACTICE PRIVILEGE AND DISCIPLINE FOR A  
13 CERTIFICATE HOLDER FROM A STATE WHOSE ACCOUNTANCY STATUTE IS  
14 SUBSTANTIALLY EQUIVALENT. --

15           A. A person whose principal place of business is  
16 not in New Mexico and who has a valid certificate or license  
17 as a certified public accountant from a state that the board-  
18 approved qualification appraisal service has verified to be in  
19 substantial equivalence with the certified public accountant  
20 requirements of the New Mexico 1999 Public Accountancy Act  
21 shall be presumed to have qualifications substantially  
22 equivalent to New Mexico's requirements. A person may also  
23 obtain from the board-approved qualification appraisal service  
24 verification that his certified public accountant  
25 qualifications are substantially equivalent to New Mexico's

underscored material = new  
[bracketed material] = del ete

1 certified public accountant licensure requirements. The  
2 person shall have all the privileges of certificate holders of  
3 New Mexico without the need to obtain a New Mexico certificate  
4 or permit; provided, however, the person shall notify the  
5 board of his intent to enter the state under this provision.

6 B. A certificate or permit holder of another state  
7 exercising the privilege afforded by the provisions of this  
8 section consents, as a condition of the grant of this  
9 privilege:

10 (1) to the personal and subject matter  
11 jurisdiction of the board;

12 (2) to comply with the provisions of the 1999  
13 Public Accountancy Act; and

14 (3) to the appointment of the state board  
15 that issued its certificate or license as its agent, upon whom  
16 process may be served in an action or proceeding by the New  
17 Mexico public accountancy board against it.

18 C. A certificate or permit holder of New Mexico  
19 that offers or renders a service or uses its certified public  
20 accountant title in another state shall be subject to  
21 disciplinary action in New Mexico for an act committed in  
22 another state for which it would be subject to discipline for  
23 an act committed in the other state. The board shall  
24 investigate any complaint made by the board of accountancy of  
25 another state.

. 124349. 1

underscored material = new  
[bracketed material] = delete

1           Section 24. FEES. --The board may collect or provide for  
2 a third party to collect from certificate holders, permit  
3 holders, applicants and others:

4           A. for examination, a fee not to exceed three  
5 hundred fifty dollars (\$350) per examination application;

6           B. for certificate issuance or renewal, a fee not  
7 to exceed three hundred fifty dollars (\$350) per year;  
8 provided, however, the board may charge a biennial fee of not  
9 more than twice the annual fee;

10          C. for firm permits, a fee not to exceed two  
11 hundred fifty dollars (\$250) per year; provided, however, the  
12 board may charge a biennial fee of not more than twice the  
13 annual fee;

14          D. for incomplete or delinquent continuing  
15 education reports, certificate or permit renewals, a fee not  
16 to exceed one hundred fifty dollars (\$150) each;

17          E. for preparing and providing licensure and  
18 examination information to others, a fee not to exceed one  
19 hundred dollars (\$100) per report;

20          F. reasonable administrative fees for such  
21 services as research, record copies, duplicate or replacement  
22 certificates or permits;

23          G. for certificate reinstatement, a fee not to  
24 exceed three hundred fifty dollars (\$350), plus past due fees  
25 and penalties;

underscored material = new  
[bracketed material] = delete

1           H. for waiver to comply with continuing  
2 professional education requirements and to enter retired or  
3 inactive status, a fee not to exceed seventy-five dollars  
4 (\$75.00) per application; and

5           I. for reentry into active certificate status and  
6 to comply with continuing education, a fee not to exceed  
7 seventy-five dollars (\$75.00) per application.

8           Section 25. ACCOUNTING SCHOLARSHIPS. --

9           A. The board may establish a scholarship program  
10 to assist students attending New Mexico colleges and  
11 universities with emphasis on assistance to students in their  
12 fifth year of attendance who are specifically pursuing a one-  
13 hundred-fifty-hour program for certified public accountants.

14           B. Accounting scholarships shall be awarded  
15 without regard to race, creed, color or economic  
16 circumstances.

17           C. The accounting scholarship program:

18                   (1) may be funded by an amount or percentage  
19 of the fee of each certificate or permit issued;

20                   (2) shall include criteria and guidelines for  
21 granting assistance to students;

22                   (3) may designate an agency, committee, group  
23 or organization to administer, advertise, operate or review  
24 the program; and

25                   (4) may be established in a manner consistent

underscored material = new  
[bracketed material] = delete

1 with Section 501 of the Internal Revenue Code of 1986 to  
2 facilitate direct contributions to the public accountancy  
3 fund.

4 D. Money held to the benefit of the accounting  
5 scholarship program shall be placed in a depository designated  
6 by the board.

7 Section 26. CRIMINAL OFFENDER ELIGIBILITY. --Except as  
8 otherwise provided in the 1999 Public Accountancy Act, the  
9 provisions of the Criminal Offender Employment Act shall  
10 govern any consideration or criminal records required or  
11 permitted by the 1999 Public Accountancy Act.

12 Section 27. TERMINATION OF AGENCY LIFE--DELAYED  
13 REPEAL. --The New Mexico public accountancy board is terminated  
14 on July 1, 2005 pursuant to the provisions of the Sunset Act.  
15 The board shall continue to operate according to the  
16 provisions of the 1999 Public Accountancy Act until July 1,  
17 2006. Effective July 1, 2006, the 1999 Public Accountancy Act  
18 is repealed.

19 Section 28. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,  
20 MONEY, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND  
21 STATUTORY REFERENCES. --

22 A. On July 1, 1999, all personnel, money,  
23 appropriations, property, records and other things of value  
24 belonging to the New Mexico state board of public accountancy  
25 shall be transferred to the New Mexico public accountancy

underscored material = new  
[bracketed material] = delete

1 board. All contracts, including certificates and  
2 registrations, in effect for the New Mexico state board of  
3 public accountancy shall be binding on the New Mexico public  
4 accountancy board. All references in law to the New Mexico  
5 state board of public accountancy shall be construed as  
6 references to the New Mexico public accountancy board.

7 B. Nothing in the 1999 Public Accountancy Act  
8 shall invalidate or affect any action taken or any proceeding  
9 instituted pursuant to a law in effect prior to the effective  
10 date of that act. A disciplinary action taken by the board  
11 and any delinquency fee or penalty owed pursuant to the Public  
12 Accountancy Act shall remain in effect and due unless reviewed  
13 and rescinded by the board pursuant to procedures provided in  
14 the Uniform Licensing Act and the 1999 Public Accountancy Act.

15 C. A certificate, permit or firm registration  
16 issued pursuant to the Public Accountancy Act that is current  
17 on the effective date of the 1999 Public Accountancy Act shall  
18 remain current until June 30, 2000.

19 D. A rule in effect as of June 30, 1999, and not  
20 in direct conflict with the 1999 Public Accountancy Act, shall  
21 remain in effect until amended or repealed by the New Mexico  
22 public accountary board.

23 Section 29. REPEAL. -- Sections 61-28A-1 through 61-28A-28  
24 NMSA 1978 (being Laws 1992, Chapter 10, Sections 1 through 26  
25 and 28 and Laws 1993, Chapter 83, Section 6, as amended) are

underscored material = new  
[bracketed material] = del ete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

repealed.

Section 30. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1999.

- 40 -



1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 March 10, 1999

7  
8 Mr. President:

9  
10 Your CORPORATIONS & TRANSPORTATION COMMITTEE,  
11 to whom has been referred

12  
13 SENATE BILL 423

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO NOT PASS, but that

17  
18  
19 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE

20 SUBSTITUTE FOR SENATE BILL 423

21  
22 DO PASS, and thence referred to the FINANCE COMMITTEE.

23  
24 Respectfully submitted,

25  
. 124349. 1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Roman M. Maes, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief

Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Aragon, Kidd, Robinson

Absent: None

S0423CT1

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE  
2 FOR SENATE BILL 423

3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST**  
4 **SESSION, 1999**

5  
6  
7  
8  
9  
10  
11 AN ACT

12 RELATING TO PUBLIC ACCOUNTANCY; ENACTING THE 1999 PUBLIC  
13 ACCOUNTANCY ACT; CREATING A BOARD; PROVIDING POWERS AND  
14 DUTIES; PROVIDING FOR LICENSURE; CREATING A FUND; PRESCRIBING  
15 FEES; PRESCRIBING PENALTIES; REPEALING THE FORMER PUBLIC  
16 ACCOUNTANCY ACT; MAKING AN APPROPRIATION.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW  
19 MEXICO:

20 Section 1. SHORT TITLE. -- This act may be cited as  
21 the "1999 Public Accountancy Act".

22 Section 2. PURPOSE. -- The purpose of the 1999 Public  
23 Accountancy Act is to protect the public interest by  
24 regulating the practice of public accountancy.

25 Section 3. DEFINITIONS. -- As used in the 1999 Public

. 128439. 3

underscored material = new  
[bracketed material] = del ete

1 Accountancy Act:

2 A. "attest" means to provide the following  
3 financial statement services:

4 (1) an audit or other engagement performed  
5 in accordance with the statements on auditing standards;

6 (2) a review of a financial statement  
7 performed in accordance with the statement on standards for  
8 accounting and review services; and

9 (3) an examination of prospective financial  
10 information performed in accordance with the statements on  
11 standards for attestation engagements;

12 B. "board" means the New Mexico public  
13 accountancy board;

14 C. "certificate" means the legal recognition  
15 issued to identify a certified public accountant or a  
16 registered public accountant pursuant to the 1999 Public  
17 Accountancy Act or prior law;

18 D. "certified public accountant" means a person  
19 certified by this state or by another state to practice public  
20 accountancy and use the designation;

21 E. "director" means the executive director of  
22 the board;

23 F. "firm" means a sole proprietorship,  
24 professional corporation, partnership, limited liability  
25 company, limited liability partnership or other legal business

1 entity that practices public accountancy;

2 G. "licensee" means a certified public  
3 accountant, certified public accountant firm, registered  
4 public accountant or registered public accountant firm;

5 H. "peer review" means a study, appraisal or  
6 review of one or more aspects of the professional work of a  
7 firm by a certified public accountant who is not affiliated  
8 with the firm being reviewed;

9 I. "permit" means the annual authority granted  
10 to practice as a certified public accountant firm or a  
11 registered public accountant firm;

12 J. "person" means a licensee;

13 K. "practice" means performing or offering to  
14 perform public accountancy for a client or potential client by  
15 a person holding himself out to the public as a permit holder  
16 or registered firm;

17 L. "public accountancy" means the performance  
18 of one or more kinds of services involving accounting or  
19 auditing skills, including the issuance of reports on  
20 financial statements, the performance of one or more kinds of  
21 management, financial advisory or consulting services, the  
22 preparation of tax returns or the furnishing of advice on tax  
23 matters;

24 M "registered public accountant" means a  
25 person who is registered by the board to practice public

. 128439. 3

1 accountancy and use the designation;

2 N. "report" means an opinion or other writing  
3 that:

4 (1) states or implies assurance as to the  
5 reliability of any financial statements;

6 (2) includes or is accompanied by a  
7 statement or implication that the person issuing it has  
8 special knowledge or competency in accounting or auditing  
9 indicated by the use of names, titles or abbreviations likely  
10 to be understood to identify the author of the report as a  
11 licensee; and

12 (3) includes the following types of reports  
13 as they are defined by board rule:

14 (a) a review report; or

15 (b) an audit report;

16 O. "specialty designation" means a designation  
17 indicating professional competence in a specialized area of  
18 practice; and

19 P. "substantial equivalency" means a  
20 determination by the board that the education, examination and  
21 experience requirements for certification of another  
22 jurisdiction are comparable to or exceed the corresponding  
23 requirements of the 1999 Public Accountancy Act.

24 Section 4. BOARD CREATED- - TERMS- - OFFICERS- - MEETINGS-  
25 - REIMBURSEMENT. - -

1           A. The "New Mexico public accountancy board" is  
2 created, composed of seven members appointed by the governor  
3 who are citizens of the United States and residents of New  
4 Mexico. Four members of the board shall be certified public  
5 accountants or registered public accountants who have  
6 practiced for at least five calendar years immediately  
7 preceding their appointment to the board. Three members shall  
8 represent the public and shall not have ever held a  
9 certificate or permit to practice public accountancy in any  
10 state and shall not have ever had a significant financial  
11 interest, direct or indirect, in the public accountancy  
12 profession or in a firm. Public members shall have  
13 professional or practical experience in the use of accounting  
14 services and financial statements, so as to be qualified to  
15 make judgments about the qualifications and conduct of persons  
16 subject to the provisions of the 1999 Public Accountancy Act.

17           B. Members of the board shall serve for terms  
18 of three years or less, staggered in such a manner that the  
19 terms of not more than three members expire on January 1 of  
20 each year; provided that members appointed and serving  
21 pursuant to prior law on the effective date of the 1999 Public  
22 Accountancy Act shall serve the remainder of their terms. A  
23 vacancy on the board shall be filled by appointment by the  
24 governor for the unexpired term. Upon the expiration of a  
25 member's term of office, he shall continue to serve until his

1 successor has been appointed and qualified. A professional  
2 member of the board whose certificate is suspended or revoked  
3 shall automatically cease to be a member of the board. The  
4 governor may remove a member of the board for neglect of duty  
5 or other just cause.

6 C. The board shall elect annually from among  
7 its members a chairman and such other officers as the board  
8 determines. The board shall meet at such times and places as  
9 fixed by the board. A majority of the board constitutes a  
10 quorum.

11 D. Members of the board may receive per diem  
12 and travel expenses as provided in the Per Diem and Mileage  
13 Act, but shall receive no other compensation, perquisite or  
14 allowance.

15 Section 5. BOARD--POWERS AND DUTIES.--

16 A. The board may:

17 (1) employ an executive director as an  
18 exempt employee and such other personnel as it deems necessary  
19 to carry out its duties;

20 (2) appoint committees or persons to advise  
21 or assist it in carrying out the provisions of the 1999 Public  
22 Accountancy Act;

23 (3) retain its own counsel to advise and  
24 assist it in addition to advice and assistance provided by the  
25 attorney general;



1 (4) contract, sue and be sued and have and  
 2 use a seal;

3 (5) cooperate with the appropriate  
 4 authorities in other states in investigation and enforcement  
 5 concerning violations of the 1999 Public Accountancy Act and  
 6 comparable acts of other states; and

7 (6) adopt and file in accordance with the  
 8 Uniform Licensing Act and the State Rules Act rules to carry  
 9 out the provisions of the 1999 Public Accountancy Act,  
 10 including rules governing the administration and enforcement  
 11 of the 1999 Public Accountancy Act and the conduct of  
 12 certificate and permit holders.

13 B. The board shall maintain a registry of the  
 14 names and addresses of all certificate and permit holders.

15 Section 6. FUND CREATED. --

16 A. The "public accountancy fund" is created in  
 17 the state treasury. All money received by the board and  
 18 interest earned on investment of the fund shall be credited to  
 19 the fund.

20 B. Payments from the public accountancy fund  
 21 shall be made upon warrants of the secretary of finance and  
 22 administration pursuant to vouchers issued by the director in  
 23 accordance with the budget approved by the department of  
 24 finance and administration.

25 C. Money in the fund shall be used only to pay

underscored material = new  
 [bracketed material] = delete

1 the expenses of carrying out the provisions of the 1999 Public  
2 Accountancy Act and rules adopted pursuant to that act.

3 D. All amounts paid into the fund are  
4 appropriated for expenditure by the board for the necessary  
5 expenses of the board for execution of the provisions of the  
6 Public Accountancy Act. The balance remaining in the fund at  
7 the end of a fiscal year shall accumulate to the credit of the  
8 fund for use by the board for necessary expenses.

9 Section 7. QUALIFICATIONS FOR A CERTIFICATE AS A  
10 CERTIFIED PUBLIC ACCOUNTANT. --

11 A. An applicant for a certified public  
12 accountant certificate shall complete the application form  
13 provided by the board and demonstrate to the board's  
14 satisfaction that he:

15 (1) is of good moral character and lacks a  
16 history of dishonest or felonious acts; and

17 (2) meets the education, experience and  
18 examination requirements of the board.

19 B. The board may refuse to grant a certificate  
20 on the ground that the applicant failed to satisfy the  
21 requirement of good moral character.

22 C. The education requirements for a  
23 certificate, which must be met before an applicant is eligible  
24 to apply for examination, are as required in this section or  
25 Section 8 of the 1999 Public Accountancy Act. After July 1,

1 1999, the requirement for a certificate is a baccalaureate or  
2 higher degree or its equivalent conferred by a college or  
3 university acceptable to the board, with thirty semester hours  
4 in accounting or equivalent as determined by the board.

5 D. The examination for certification shall be  
6 held at least twice a year and shall test the applicant's  
7 knowledge of the subjects of accounting and auditing and such  
8 other related subjects as prescribed by the board. The time  
9 for holding the examination shall be determined by the board  
10 and may be changed from time to time. The board shall  
11 prescribe the methods of applying for the examination and of  
12 grading papers; provided, however, that the board shall to the  
13 extent possible provide that the examination, the grading of  
14 the examination and the passing grades are uniform with  
15 examinations of all other states. The board may use all or  
16 any part of the uniform certified public accountant  
17 examination and advisory grading service of the American  
18 institute of certified public accountants to perform  
19 administrative services with respect to the examination. The  
20 board shall administer and proctor the examination with  
21 volunteers from the accounting profession.

22 E. An applicant must pass all sections of the  
23 examination in order to qualify for a certificate. A passing  
24 grade for each section shall be seventy-five. If he passes  
25 two or more but not all sections in an examination sitting, he

1 shall be given credit for those sections and need not sit for  
2 re-examination in those sections; provided that he passes the  
3 remaining sections of the examination within six consecutive  
4 examinations given after the one at which the first sections  
5 were passed.

6 F. An applicant shall be given credit for  
7 examination sections passed in another state if such credit  
8 would have been given in New Mexico.

9 G. The board may waive or defer requirements of  
10 this section regarding the circumstances in which sections of  
11 the examination must be passed, upon a showing that, by reason  
12 of circumstances beyond the applicant's control, he was unable  
13 to meet the requirement.

14 H. An applicant for initial issuance of a  
15 certified public accountant certificate shall show that he has  
16 had at least one year of experience. After July 1, 2004, the  
17 applicant shall have had at least two years of experience.  
18 This experience shall include providing service or advice  
19 involving the use of accounting, attest, management advisory,  
20 financial advisory, tax or consulting skills as verified by a  
21 certified public accountant who meets requirements prescribed  
22 by the board. The experience is acceptable if it was gained  
23 through employment in government, industry, academia or public  
24 practice.

25 Section 8. QUALIFICATIONS FOR A CERTIFICATE AS A

1 CERTIFIED PUBLIC ACCOUNTANT-- JULY 1, 2004. --

2 A. An applicant for a certificate shall  
 3 complete the application form provided by the board and  
 4 demonstrate to the board's satisfaction that he:

5 (1) is of good moral character and lacks a  
 6 history of dishonest or felonious acts; and

7 (2) meets the education, experience and  
 8 examination requirements of the board.

9 B. The board may refuse to grant a certificate  
 10 on the ground that the applicant failed to satisfy the  
 11 requirement of good moral character.

12 C. The education requirements for a  
 13 certificate, which must be met before an applicant is eligible  
 14 to apply for examination are as provided in this section or  
 15 Section 7 of the 1999 Public Accountancy Act. After July 1,  
 16 2004, an applicant shall have at least one hundred fifty  
 17 semester hours of college education, including a baccalaureate  
 18 or higher degree or its equivalent conferred by a college or  
 19 university acceptable to the board, the total educational  
 20 program to include an accounting concentration or equivalent  
 21 as determined by the board, with thirty semester hours in  
 22 accounting or equivalent as determined by the board.

23 D. The examination for certification shall be  
 24 held at least twice a year and shall test the applicant's  
 25 knowledge of the subjects of accounting and auditing and other

underscored material = new  
 [bracketed material] = delete

1 related subjects as prescribed by the board. The time for  
2 holding the examination shall be determined by the board and  
3 may be changed from time to time. The board shall prescribe  
4 the methods of applying for the examination and of grading  
5 papers; provided, however, that the board shall to the extent  
6 possible provide that the examination, the grading of the  
7 examination and the passing grades are uniform with  
8 examinations of all other states. The board may use all or  
9 any part of the uniform certified public accountant  
10 examination and advisory grading service of the American  
11 institute of certified public accountants to perform  
12 administrative services with respect to the examination. The  
13 board shall administer and proctor the examination with  
14 volunteers from the accounting profession.

15 E. An applicant must pass all sections of the  
16 examination in order to qualify for a certificate. A passing  
17 grade for each section shall be seventy-five. If he passes  
18 two or more but not all sections in an examination sitting, he  
19 shall be given credit for those sections and need not sit for  
20 re-examination in those sections; provided that:

21 (1) at that sitting he wrote all sections  
22 of the examination for which he does not have credit;

23 (2) he made a minimum grade of fifty on  
24 each section taken at that sitting;

25 (3) he passes the remaining sections of the

1 examination within six consecutive examinations given after  
2 the one at which the first sections were credited;

3 (4) at each subsequent sitting at which he  
4 seeks to pass an additional section, the applicant writes all  
5 sections for which he does not have credit; and

6 (5) in order to receive credit for passing  
7 additional sections in such subsequent sitting, the applicant  
8 makes a minimum grade of fifty on sections taken at that  
9 sitting.

10 F. An applicant shall be given credit for  
11 examination sections passed in another state if such credit  
12 would have been given in New Mexico.

13 G. The board may waive or defer requirements of  
14 this section regarding the circumstances in which sections of  
15 the examination must be passed, upon a showing that, by reason  
16 of circumstances beyond the applicant's control, he was unable  
17 to meet the requirement.

18 H. An applicant for initial issuance of a  
19 certified public accountant certificate shall show that he has  
20 had at least one year of experience. This experience shall  
21 include providing service or advice involving the use of  
22 accounting, attest, management advisory, financial advisory,  
23 tax or consulting skills as verified by a certified public  
24 accountant who meets requirements prescribed by the board.  
25 The experience is acceptable if it was gained through

1 employment in government, industry, academia or public  
2 practice.

3 Section 9. ISSUANCE AND RENEWAL OF CERTIFICATE--  
4 MAINTENANCE OF COMPETENCY. --

5 A. The board shall grant or renew a certificate  
6 upon application and demonstration that the applicant's  
7 qualifications are in accordance with the 1999 Public  
8 Accountancy Act or that they are eligible under the  
9 substantial equivalency standard provided in that act.

10 B. The board may establish by rule for the  
11 issuance of biennial certificates and permits, and may  
12 prescribe the expiration date of certificates and permits.

13 C. The board shall grant or deny an application  
14 for certification no later than one hundred twenty days after  
15 the complete application is filed.

16 D. If an applicant appeals the decision of the  
17 board to deny a certificate, the board may issue a provisional  
18 certificate for no longer than ninety days while the board  
19 reconsiders its decision.

20 E. To renew a certificate, a certificate holder  
21 shall provide satisfactory proof to the board of continuing  
22 professional education that is designed to maintain  
23 competency. Continuing professional education courses shall  
24 comply with board rules. The board may create an exception to  
25 the requirement to maintain continuing professional education



1 for certificate holders who do not provide services to the  
2 public. A certificate holder granted such an exception must  
3 place the word "inactive" or "retired" adjacent to his  
4 certified public accountant title or registered public  
5 accountant title on a business card, letterhead or other  
6 document or device, except for a board-issued certificate.

7 F. An applicant for initial issuance or renewal  
8 of a certificate pursuant to this section shall list all  
9 foreign and domestic jurisdictions in which the applicant has  
10 applied for or holds a designation to practice public  
11 accountancy. The applicant shall also list any past denial,  
12 revocation or suspension of a certificate, license or permit.  
13 An applicant or certificate holder shall notify the board in  
14 writing, within thirty days of the occurrence of any issuance,  
15 denial, revocation or suspension of a designation or  
16 commencement of a disciplinary or enforcement action by any  
17 jurisdiction.

18 Section 10. SPECIALTY DESIGNATIONS. --The board shall  
19 adopt rules allowing the use of specialty designations by  
20 certificate holders. Specialty designations shall be  
21 consistent with designations prescribed by national or  
22 regional accreditation bodies offering the designations  
23 pursuant to a prescribed course of study, experience or  
24 examination.

25 Section 11. CERTIFICATES ISSUED TO HOLDERS OF A

. 128439. 3

1 CERTIFICATE, LICENSE OR PERMIT ISSUED BY ANOTHER STATE. --

2 A. If an applicant does not qualify for  
3 reciprocity pursuant to the substantial equivalency standard,  
4 the board may issue a certificate to a holder of a  
5 certificate, license or permit issued by another state upon a  
6 showing that the applicant:

7 (1) passed the examination required for  
8 issuance of his certificate with grades that would have been  
9 passing grades at the time in New Mexico;

10 (2) passed the examination upon which his  
11 out-of-state certificate was based and has two years of  
12 experience acceptable to the board or meets equivalent  
13 requirements prescribed by board rule, within the ten years  
14 immediately preceding the application; and

15 (3) if the applicant's certificate, license  
16 or permit was issued more than four years prior to  
17 application, he has fulfilled the board's requirements of  
18 continuing professional education.

19 B. A person licensed by another state who  
20 wishes to establish his principal place of business in New  
21 Mexico shall apply to the board for a certificate prior to  
22 establishing the business. The board may issue a certificate  
23 to the person if he provides proof from a board-approved  
24 national qualification appraisal service that his certified  
25 public accountant qualifications are substantially equivalent

1 to the certified public accountant certification requirements  
2 of the 1999 Public Accountancy Act.

3 C. The board may issue a certificate to a  
4 holder of a substantially equivalent foreign designation;  
5 provided that:

6 (1) the foreign authority that granted the  
7 designation makes similar provision to allow a person who  
8 holds a valid certificate issued by New Mexico to obtain such  
9 foreign authority's comparable designation;

10 (2) the foreign designation:

11 (a) was duly issued by a foreign  
12 authority that regulates the practice of public accountancy  
13 and the foreign designation has not expired or been revoked or  
14 suspended;

15 (b) entitles the holder to issue  
16 reports upon financial statements; and

17 (c) was issued upon the basis of  
18 educational, examination and experience requirements  
19 established by the foreign authority or by law; and

20 (3) the applicant:

21 (a) received the designation based on  
22 educational and examination standards substantially equivalent  
23 to those in effect in New Mexico at the time the foreign  
24 designation was granted;

25 (b) completed an experience requirement

1 in the jurisdiction that granted the foreign designation that  
2 is substantially equivalent to the requirement provided for in  
3 the 1999 Public Accountancy Act or has completed four years of  
4 professional experience in New Mexico or meets equivalent  
5 requirements prescribed by the board within the ten years  
6 immediately preceding the application; and

7 (c) passed a uniform qualifying  
8 examination on national standards and an examination on the  
9 laws, rules and code of ethical conduct in effect in New  
10 Mexico that is acceptable to the board.

11 D. An applicant for initial issuance or renewal  
12 of a certificate pursuant to this section shall list all  
13 foreign and domestic jurisdictions in which the applicant has  
14 applied for or holds a designation to practice public  
15 accountancy. The applicant shall also list any past denial,  
16 revocation or suspension of a certificate, license or permit.  
17 An applicant or certificate holder shall notify the board in  
18 writing, within thirty days of the occurrence of any issuance,  
19 denial, revocation or suspension of a designation or  
20 commencement of a disciplinary or enforcement action by any  
21 jurisdiction.

22 E. The board has the sole authority to  
23 interpret the application of the provisions of this section.

24 Section 12. REGISTERED PUBLIC ACCOUNTANTS AND FIRMS  
25 OF REGISTERED PUBLIC ACCOUNTANTS. --

1           A. A person who on July 1, 1999 holds a  
2 certificate as a registered public accountant issued pursuant  
3 to prior New Mexico law shall be entitled to have his  
4 certificate renewed upon fulfillment of the continuing  
5 professional education requirements, application and payment  
6 of fees prescribed for certificate renewal.

7           B. A registered public accountant firm holding  
8 a permit issued pursuant to prior New Mexico law shall be  
9 entitled to have its permit renewed pursuant to the  
10 requirements for permit renewal for a certified public  
11 accountant firm in the 1999 Public Accountancy Act.

12           C. As long as a registered public accountant  
13 and a registered public accountant firm hold a valid  
14 certificate and permit, they shall be entitled to perform  
15 attest services to the same extent as a certified public  
16 accountant and certified public accountant firm. In addition,  
17 they shall be entitled to use the titles "registered public  
18 accountant" and "registered public accountants", but no other  
19 title.

20           Section 13. FIRM PERMITS TO PRACTICE, ATTEST  
21 EXPERIENCE, PEER REVIEW. --

22           A. The board may grant or renew a permit to  
23 practice as a firm to an applicant that demonstrates its  
24 qualification for the permit as provided in Subsection E of  
25 this section. A firm must hold a permit issued pursuant to

. 128439. 3

1 the provisions of the 1999 Public Accountancy Act in order to  
2 provide attest services or use the title "certified public  
3 accountant", "CPA", "certified public accountant firm", "CPA  
4 firm", "registered public accountant", "RPA", "registered  
5 public accountant firm" or "RPA firm".

6 B. Permits shall be issued and renewed for  
7 periods not more than two years, expiring on June 30. Failure  
8 to pay the renewal fee shall be cause for the board to  
9 withhold renewal of a certificate without prior hearing  
10 pursuant to the provisions of the Uniform Licensing Act. A  
11 certificate holder whose certificate has been canceled for  
12 failure to pay the annual renewal fee may secure reinstatement  
13 of his certificate upon payment of the delinquency fee set by  
14 the board. If the renewal fee and delinquency fee are not  
15 paid by September 30 of the year in which the renewal fee was  
16 due, a certificate shall be reinstated only upon application  
17 and examination satisfactory to the board.

18 C. The board shall grant or deny an application  
19 for a permit no later than ninety days after the complete  
20 application is filed.

21 D. If an applicant appeals the decision of the  
22 board to deny a permit, the board may issue a provisional  
23 permit for no longer than ninety days while the board  
24 reconsiders its decision.

25 E. An applicant for initial issuance or renewal

1 of a permit shall demonstrate that:

2 (1) a minimum of sixty percent majority of  
3 the ownership of the firm, in terms of financial interests,  
4 profits, losses, dividends, distributions, options,  
5 redemptions and voting rights of all partners, officers,  
6 shareholders, members or managers, belongs to holders of a  
7 certificate who are licensed in some state. Such partners,  
8 officers, shareholders, members or managers, whose principal  
9 place of business is in New Mexico, and who perform  
10 professional services in New Mexico, must hold a valid  
11 certificate. The firm and all owners must comply with the  
12 1999 Public Accountancy Act. A firm may include owners who  
13 are not certificate holders; provided that:

14 (a) the firm designates a New Mexico  
15 certificate holder who is responsible for the proper  
16 registration of the firm and identifies that individual to the  
17 board;

18 (b) all owners who are not certificate  
19 holders are active individual participants in the certified  
20 public accountant firm or registered public accountant firm or  
21 affiliated entities; and

22 (c) the firm complies with the 1999  
23 Public Accountancy Act; and

24 (2) an individual certificate holder who is  
25 responsible for supervising attest services or signs or

1 authorizes someone to sign the accountant's report on the  
2 financial statements on behalf of the firm meets the  
3 experience requirements set out in the professional standards  
4 for such services.

5 F. An applicant for initial issuance or renewal  
6 of a permit shall be required to register each office of the  
7 firm within New Mexico with the board and to show that all  
8 attest services rendered in this state are under the charge of  
9 a person holding a valid certificate issued pursuant to the  
10 1999 Public Accountancy Act or the corresponding provision of  
11 prior law or by some other state.

12 G. An applicant for initial issuance or renewal  
13 of a permit shall list all foreign and domestic jurisdictions  
14 in which it has applied for or holds permits as a certified  
15 public accountant firm and list any past denial, revocation or  
16 suspension of a permit by any jurisdiction. Each permit  
17 holder or applicant shall notify the board in writing, within  
18 thirty days of the occurrence of a change in the identities of  
19 partners, officers, shareholders, members or managers whose  
20 principal place of business is in this state, a change in the  
21 number or location of offices within this state, a change in  
22 the identity of the persons in charge of such offices and any  
23 issuance, denial, revocation or suspension of a permit by  
24 another jurisdiction.

25 H. A firm that falls out of compliance with the



1 provisions of the 1999 Public Accountancy Act due to changes  
2 in firm ownership or personnel shall take corrective action to  
3 bring the firm back into compliance as quickly as possible.  
4 The board may grant a six-month period for a firm to take the  
5 corrective action. Failure to bring the firm back into  
6 compliance within six months shall result in the suspension or  
7 revocation of the firm permit.

8 I. As a condition to permit renewal, the board  
9 shall require the applicant to undergo a peer review conducted  
10 in accordance with board rules. The review shall include a  
11 verification that a person in the firm who is responsible for  
12 supervising attest services and signs or authorizes someone to  
13 sign the accountant's report on the financial statements on  
14 behalf of the firm meets the experience requirements set out  
15 in the professional standards for the services as required by  
16 the board.

17 J. If a partner, shareholder or member is a  
18 legal business entity, that legal business entity must be a  
19 firm.

20 K. Attest services may only be provided by a  
21 certificate holder or a member of a firm that satisfies the  
22 requirements of this section. Attest services may not be  
23 performed by a certificate holder who is a member of a firm  
24 that does not meet the certificate holder's ownership  
25 requirements set forth in this section.

1           Section 14.   APPOINTMENT OF SECRETARY OF STATE AS  
2   AGENT. -- Application for a certificate or permit by a person or  
3   firm that is domiciled outside of New Mexico shall constitute  
4   appointment of the secretary of state as the applicant's  
5   agent, upon whom process may be served in an action or  
6   proceeding against the applicant or certificate holder arising  
7   out of a transaction or operation connected with or incidental  
8   to services performed within New Mexico.

9           Section 15.   ENFORCEMENT PROCEDURES-- INVESTIGATIONS. -

10   -

11           A.   Upon receipt of a complaint or other  
12   information suggesting a violation of the 1999 Public  
13   Accountancy Act, the board may conduct an investigation to  
14   determine whether there is probable cause to institute a  
15   proceeding against a person or firm. An investigation is not  
16   required when a determination of probable cause can be made  
17   without investigation. To aid the investigation, the board or  
18   the board's chairman may issue a subpoena to compel a witness  
19   to testify or to produce evidence.

20           B.   The board may designate a person to serve as  
21   investigating officer to conduct an investigation. The  
22   investigating officer shall file a report with the board upon  
23   completion of an investigation. The board shall find probable  
24   cause or lack of probable cause upon the basis of the report  
25   or shall return the report to the investigating officer for

1 further investigation.

2 C. Upon a finding of probable cause, if the  
3 subject of the investigation is a certificate or permit  
4 holder, the board shall direct that a notice of contemplated  
5 action be issued in accordance with the 1999 Public  
6 Accountancy Act. If the subject of the investigation is not a  
7 certificate or permit holder, the board shall take appropriate  
8 action as provided in that act. Upon a finding of no probable  
9 cause, the board shall close the matter.

10 D. The board may review the publicly available  
11 professional work of a certificate or permit holder without  
12 any requirement of a formal complaint or suspicion of  
13 impropriety on the part of a particular certificate or permit  
14 holder. In the event that such review reveals reasonable  
15 grounds for a more specific investigation, the board may  
16 proceed pursuant to the 1999 Public Accountancy Act.

17 Section 16. ENFORCEMENT PROCEDURES--HEARINGS BY THE  
18 BOARD. --

19 A. Hearings by the board shall be conducted in  
20 accordance with the provisions of the Uniform Licensing Act.

21 B. In a case when the board renders a decision  
22 imposing discipline against a certificate or permit holder  
23 pursuant to the 1999 Public Accountancy Act, the board shall  
24 examine its records to determine whether the certificate or  
25 permit holder holds a certificate or permit in any other

. 128439. 3

1 state; and, if so, the board shall notify the board of  
2 accountancy of the other state of its decision, by mail,  
3 within forty-five days of rendering the decision. The board  
4 may also furnish information relating to a proceeding  
5 resulting in disciplinary action to another public authority  
6 and to private professional organizations having a  
7 disciplinary interest in the certificate or permit holder.  
8 When an appeal pursuant to New Mexico law is in progress, the  
9 notification and furnishing of information to a disciplinary  
10 authority shall await the resolution of such appeal. If  
11 resolution is in favor of the certificate or permit holder, no  
12 automatic notification or furnishing of information shall be  
13 made.

14 Section 17. ENFORCEMENT--UNLAWFUL ACTS.--

15 A. Except as provided in Subsection C of this  
16 section and Section 18 of the 1999 Public Accountancy Act, it  
17 is unlawful for a person to engage in practice in New Mexico  
18 unless he a licensee.

19 B. Except as provided in Subsection C of this  
20 section and Section 18 of the 1999 Public Accountancy Act, no  
21 person or accountant shall issue a report or financial  
22 statement of a person or a governmental unit or issue a report  
23 using any form of language conventionally used respecting an  
24 audit or review of financial statements, unless he holds a  
25 current license or permit. The state auditor and his auditing

1 staff are considered to be in the practice of public  
2 accountancy.

3 C. With the exception of persons cited in  
4 Section 18 of the 1999 Public Accountancy Act, a person or  
5 accountant who prepares a financial accounting and related  
6 statements and who is not the holder of a certificate or a  
7 permit under the provisions of that act shall use the  
8 following statement in the transmittal letter: "I (we) have  
9 prepared the accompanying financial statements of (name of  
10 entity) as of (time period) and for the (time period) ending  
11 (date). This presentation is limited to preparing in the form  
12 of financial statements information that is the representation  
13 of management (owners). I (we) have not audited nor reviewed  
14 the accompanying financial statements and accordingly do not  
15 express an opinion or any other form of assurance on them".

16 D. No person or accountant shall indicate by  
17 title, designation, abbreviation, sign, card or device that he  
18 is a certified public accountant or a registered public  
19 accountant unless he is currently certified by the board  
20 pursuant to the 1999 Public Accountancy Act or is a firm  
21 currently permitted with the board pursuant to that act.  
22 Unless he is a holder of a current certificate or permit, no  
23 person or accountant shall use any title, initials or  
24 designation intended to or substantially likely to indicate to  
25 the public that he is a certified public accountant or

. 128439. 3

1 registered public accountant.

2 E. No person shall engage in practice unless:

3 (1) he holds a valid certificate or current  
4 permit; or

5 (2) he is an employee and not a partner,  
6 officer, shareholder or member of a firm.

7 F. No person or firm holding a certificate or  
8 permit shall engage in practice using a professional or firm  
9 name or designation that is misleading about the legal form of  
10 the firm; provided, however, that names of one or more former  
11 partners, shareholders or members may be included in the name  
12 of a firm or its successors.

13 G. No person shall sell, offer to sell or  
14 fraudulently obtain or furnish any certificate or permit nor  
15 shall he fraudulently register as a certified public  
16 accountant or registered public accountant or practice in this  
17 state without being granted a certificate or permit as  
18 provided in the 1999 Public Accountancy Act.

19 H. A licensee shall not pay a commission to  
20 obtain a client, nor accept a commission for a referral to a  
21 client of products or services of others; provided, however,  
22 that this subsection shall not prohibit payments for the  
23 purchase of all, or a material part, of an accounting  
24 practice, or retirement payments to persons formerly engaged  
25 in the practice of public accountancy, or payment to the heirs

1 or estates of such persons.

2 I. A licensee shall not offer or perform  
 3 professional services for a fee that is contingent upon the  
 4 findings or results of such services; provided, however, that  
 5 this subsection shall not apply to professional services  
 6 involving federal, state or other taxes in which the findings  
 7 are those of the tax authorities and not those of the licensee  
 8 or to professional services for which the fees are to be fixed  
 9 by courts or other public authorities and that are therefore  
 10 indeterminate in amount at the time the professional services  
 11 are undertaken.

12 J. No licensee shall sign or certify any  
 13 financial statements if he knows the same to be materially  
 14 false or fraudulent.

15 Section 18. EXEMPTIONS--UNLAWFUL ACTS.--

16 A. Subsection B of Section 17 of the 1999  
 17 Public Accountancy Act does not prohibit:

18 (1) an officer, partner, shareholder,  
 19 member or employee of a firm from affixing his own signature  
 20 to a statement or report in reference to the financial affairs  
 21 of his firm with any wording designating the position, title  
 22 or office that he holds within the firm;

23 (2) any act of a public official or  
 24 employee in the performance of his duties; or

25 (3) the performance by any persons of other

underscored material = new  
 [bracketed material] = delete

1 services, including management, financial advisory or  
2 consulting services, the preparation of tax returns or the  
3 furnishing of advice on tax matters and the preparation of  
4 financial statements without the issuance of reports on them.

5 B. Nothing contained in the 1999 Public  
6 Accountancy Act shall prevent a person from serving as an  
7 employee of or as an assistant to a certified public  
8 accountant, a registered public accountant or a firm; provided  
9 that the employee or assistant shall work under the control  
10 and supervision of a certified public accountant or registered  
11 public accountant who holds a certificate issued pursuant to  
12 that act.

13 Section 19. BUSINESS NAMES--PROHIBITIONS.--

14 A. No person engaged in practice shall use in a  
15 business name the words "company" or "and company" or a  
16 similar designation or any abbreviations thereof unless the  
17 person is a firm pursuant to the 1999 Public Accountancy Act  
18 and has more than one partner, shareholder or member and the  
19 business name contains the name of at least one current or  
20 former partner, shareholder or member. A business name may  
21 contain only the name or initials of a present or former  
22 partner, shareholder or member and the words "and company" or  
23 "company" or a similar designation or any abbreviation  
24 thereof.

25 B. Nothing contained in this section shall



1 apply to, affect or limit the right of the remaining partner,  
 2 shareholder or member or added partners, shareholders or  
 3 members in the continuous use of a business name adopted  
 4 before the enactment of the 1999 Public Accountancy Act, even  
 5 though the person whose name is included in the business name  
 6 is no longer a partner, shareholder or member.

7 Section 20. ENFORCEMENT-- ADMINISTRATIVE VIOLATIONS  
 8 AND REMEDIES. --

9 A. The board may take, after providing any  
 10 person due process pursuant to the Uniform Licensing Act,  
 11 corrective action identified in Subsection B of this section  
 12 following a finding that an applicant or licensee:

13 (1) committed fraud or deceit in obtaining  
 14 a certificate or permit;

15 (2) lost a certificate or permit through  
 16 cancellation, revocation, suspension or refusal of renewal in  
 17 any other state for cause, as defined by board rule;

18 (3) failed to maintain compliance with the  
 19 requirements of the 1999 Public Accountancy Act and board  
 20 rules for issuance or renewal of a certificate or permit or  
 21 failed to report material changes to the board, as required by  
 22 board rule;

23 (4) lost the authorization to practice in  
 24 any state or before any federal agency through revocation or  
 25 suspension of that authorization;

. 128439. 3

1 (5) committed dishonest, fraudulent or  
2 grossly negligent acts in the practice of public accountancy  
3 or in the filing or failure to file his own income or other  
4 federal, state or local tax returns;

5 (6) violated any provision of the 1999  
6 Public Accountancy Act or any rule promulgated by the board  
7 pursuant to that act;

8 (7) violated any rule of professional  
9 conduct promulgated by the board pursuant to the 1999 Public  
10 Accountancy Act;

11 (8) has been convicted of a felony or of  
12 any crime an element of which is dishonesty or fraud under the  
13 laws of the United States, of New Mexico or of any other  
14 state, or of any other jurisdiction, if the acts involved  
15 would have constituted a crime under the laws of New Mexico;

16 (9) performed any fraudulent act while  
17 holding a certificate or permit issued pursuant to the 1999  
18 Public Accountancy Act or prior law; or

19 (10) participated in any conduct reflecting  
20 adversely upon the licensee's fitness to engage in practice.

21 B. After a finding by the board that an  
22 applicant or licensee has committed a violation identified in  
23 Subsection A of this section, the board may take, with or  
24 without terms, conditions and limitations, one or more of the  
25 following corrective actions:

1 (1) deny an application or revoke a  
 2 certificate or permit issued pursuant to the 1999 Public  
 3 Accountancy Act or corresponding provisions of prior law;

4 (2) suspend any certificate or permit for a  
 5 period of not more than five years;

6 (3) reprimand, censure or limit the scope  
 7 of practice of a licensee;

8 (4) impose an administrative fine not  
 9 exceeding one thousand dollars (\$1,000); or

10 (5) place the licensee on probation.

11 C. In lieu of or in addition to any remedy  
 12 specifically provided in Subsection B of this section, the  
 13 board may require of a licensee:

14 (1) a quality review conducted in such a  
 15 fashion as the board may specify;

16 (2) satisfactory completion of such  
 17 continuing professional education programs as the board may  
 18 specify;

19 (3) correction of the violation identified;  
 20 and

21 (4) any other suitable remedial action as  
 22 determined by the board.

23 D. In any proceeding in which a remedy provided  
 24 by Subsection B or C of this section is imposed, the board may  
 25 also require the respondent to pay the costs of the

underscored material = new  
 [bracketed material] = delete

1 proceeding.

2 Section 21. REINSTATEMENT. --

3 A. In any case in which the board has suspended  
4 or revoked a certificate or permit or refused to renew the  
5 same, the board may, upon application in writing by the person  
6 or firm affected and for good cause shown, modify the  
7 suspension or reissue the certificate or permit.

8 B. The board shall specify by rule the manner  
9 in which such applications shall be made, the times within  
10 which they shall be made and the circumstances in which  
11 hearings shall be held thereon.

12 C. Before reissuing or terminating the  
13 suspension of a certificate or permit pursuant to this section  
14 and as a condition thereto, the board may require the  
15 applicant to show successful completion of specified  
16 continuing professional education or may require a quality  
17 review or both.

18 Section 22. CRIMINAL PENALTIES. --

19 A. When the board has reason to believe that a  
20 person or firm has knowingly engaged in an act or practice  
21 that violates the provisions of the 1999 Public Accountancy  
22 Act, the board may bring its information to the attention of  
23 the district attorney or other appropriate law enforcement  
24 officer of any jurisdiction who may bring a criminal  
25 proceeding.

1           B. A person or firm that knowingly violates a  
2 provision of the 1999 Public Accountancy Act is guilty of a  
3 misdemeanor and upon conviction shall be subject to a fine of  
4 not more than one thousand dollars (\$1,000) or by a definite  
5 term of imprisonment not to exceed six months or both.

6           Section 23. SINGLE ACT EVIDENCE OF PRACTICE. --In an  
7 action brought pursuant to the provisions of the 1999 Public  
8 Accountancy Act, evidence of the commission of a single act  
9 prohibited by that act shall be sufficient to justify a  
10 penalty, injunction, restraining order or conviction,  
11 respectively, without evidence of a general course of conduct.

12           Section 24. CONFIDENTIAL COMMUNICATIONS. --Except by  
13 permission of the client for whom a certificate or permit  
14 holder performs a service or the heir, successor or personal  
15 representative of the client, a certificate holder shall not  
16 voluntarily disclose information communicated to him by the  
17 client relating to and in connection with a service rendered  
18 to the client by him. Such information shall be deemed  
19 confidential; provided that nothing in this section shall  
20 prohibit the disclosure of information required to be  
21 disclosed by a standard of the public accounting profession in  
22 reporting on the examination of a financial statement or  
23 prohibit disclosure in a court proceeding, in an investigation  
24 or proceeding pursuant to the 1999 Public Accountancy Act, in  
25 an ethical investigation conducted by a private professional

1 organization or in the course of a peer review, or to another  
2 person active in the organization performing a service for  
3 that client on a need-to-know basis or to a person in the  
4 entity who needs this information for the sole purpose of  
5 assuring quality control.

6 Section 25. WORKING PAPERS--CLIENT RECORDS. --

7 A. A statement, record, schedule, working paper  
8 or memorandum made by a certificate or permit holder incident  
9 to rendering a service to a client shall be the property of  
10 the certificate or permit holder in the absence of an express  
11 agreement between him and the client to the contrary, except  
12 the report submitted by him to the client and except for a  
13 record that is part of the client's records. No such item  
14 shall be sold, transferred or bequeathed without the consent  
15 of the client or the client's personal representative, except  
16 to a partner, stockholder or member of the firm or any  
17 combined or merged firm or successor in interest to the  
18 certificate or permit holder. Nothing in this section shall  
19 prohibit any temporary transfer of a work paper or other  
20 material necessary in the course of carrying out a peer review  
21 or as otherwise interfering with the disclosure of information  
22 pursuant to the 1999 Public Accountancy Act.

23 B. A certificate or permit holder shall furnish  
24 to a client or former client, upon request and reasonable  
25 notice:

1 (1) a copy of his working paper, to the  
2 extent that such working paper includes a record that would  
3 ordinarily constitute part of the client's record and is not  
4 otherwise available to the client; and

5 (2) an accounting or other record belonging  
6 to, or obtained from or on behalf of, the client that he  
7 removed from the client's premises or received for the  
8 client's account; he may make and retain a copy of a document  
9 of the client when they form the basis for work done by him

10 Section 26. PRACTICE PRIVILEGE AND DISCIPLINE FOR A  
11 CERTIFICATE HOLDER FROM A STATE WHOSE ACCOUNTANCY STATUTE IS  
12 SUBSTANTIALLY EQUIVALENT. --

13 A. A person whose principal place of business  
14 is not in New Mexico and who has a valid certificate or  
15 license as a certified public accountant from a state that the  
16 board-approved qualification appraisal service has verified to  
17 be in substantial equivalence with the certified public  
18 accountant requirements of the New Mexico 1999 Public  
19 Accountancy Act shall be presumed to have qualifications  
20 substantially equivalent to New Mexico's requirements. A  
21 person may also obtain from the board-approved qualification  
22 appraisal service verification that his certified public  
23 accountant qualifications are substantially equivalent to New  
24 Mexico's certified public accountant licensure requirements.  
25 The person shall have all the privileges of certificate

. 128439. 3

1 holders of New Mexico without the need to obtain a New Mexico  
2 certificate or permit; provided, however, the person shall  
3 notify the board of his intent to enter the state under this  
4 provision.

5 B. A certificate or permit holder of another  
6 state exercising the privilege afforded by the provisions of  
7 this section consents, as a condition of the grant of this  
8 privilege:

9 (1) to the personal and subject matter  
10 jurisdiction of the board;

11 (2) to comply with the provisions of the  
12 1999 Public Accountancy Act; and

13 (3) to the appointment of the state board  
14 that issued its certificate or license as its agent, upon whom  
15 process may be served in an action or proceeding by the New  
16 Mexico public accountancy board against it.

17 C. A certificate or permit holder of New Mexico  
18 that offers or renders a service or uses its certified public  
19 accountant title in another state shall be subject to  
20 disciplinary action in New Mexico for an act committed in  
21 another state for which it would be subject to discipline for  
22 an act committed in the other state. The board shall  
23 investigate any complaint made by the board of accountancy of  
24 another state.

25 Section 27. FEES. --The board may collect from



1 certificate holders, permit holders, applicants and others the  
 2 following fees:

3 A. for examination, a fee not to exceed one  
 4 hundred seventy-five dollars (\$175) per examination  
 5 application;

6 B. for certificate issuance or renewal, a fee  
 7 not to exceed one hundred seventy-five dollars (\$175) per  
 8 year; provided, however, the board may charge a biennial fee  
 9 of not more than twice the annual fee;

10 C. for firm permits, a fee not to exceed one  
 11 hundred dollars (\$100) per year; provided, however, the board  
 12 may charge a biennial fee of not more than twice the annual  
 13 fee;

14 D. for incomplete or delinquent continuing  
 15 education reports, certificate or permit renewals, a fee not  
 16 to exceed one hundred dollars (\$100) each;

17 E. for preparing and providing licensure and  
 18 examination information to others, a fee not to exceed  
 19 seventy-five dollars (\$75.00) per report;

20 F. reasonable administrative fees for such  
 21 services as research, record copies, duplicate or replacement  
 22 certificates or permits;

23 G. for certificate reinstatement, a fee not to  
 24 exceed one hundred seventy-five dollars (\$175), plus past due  
 25 fees and penalties;

. 128439. 3

underscored material = new  
 [bracketed material] = delete

1                   H. for waiver to comply with continuing  
2 professional education requirements, a fee not to exceed  
3 seventy-five dollars (\$75.00) per application; and

4                   I. for reentry into active certificate status  
5 and to comply with continuing education, a fee not to exceed  
6 seventy-five dollars (\$75.00) per application.

7                   Section 28. CRIMINAL OFFENDER ELIGIBILITY. -- Except  
8 as otherwise provided in the 1999 Public Accountancy Act, the  
9 provisions of the Criminal Offender Employment Act shall  
10 govern any consideration or criminal records required or  
11 permitted by the 1999 Public Accountancy Act.

12                   Section 29. TERMINATION OF AGENCY LIFE-- DELAYED  
13 REPEAL. --The New Mexico public accountancy board is terminated  
14 on July 1, 2005 pursuant to the provisions of the Sunset Act.  
15 The board shall continue to operate according to the  
16 provisions of the 1999 Public Accountancy Act until July 1,  
17 2006. Effective July 1, 2006, the 1999 Public Accountancy Act  
18 is repealed.

19                   Section 30. TEMPORARY PROVISION-- TRANSFER OF  
20 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS  
21 AND STATUTORY REFERENCES. --

22                   A. On July 1, 1999, all personnel, money,  
23 appropriations, property, records and other things of value  
24 belonging to the New Mexico state board of public accountancy  
25 shall be transferred to the New Mexico public accountancy

1 board. All contracts, including certificates and  
2 registrations, in effect for the New Mexico state board of  
3 public accountancy shall be binding on the New Mexico public  
4 accountancy board. All references in law to the New Mexico  
5 state board of public accountancy shall be construed as  
6 references to the New Mexico public accountancy board.

7 B. Nothing in the 1999 Public Accountancy Act  
8 shall invalidate or affect any action taken or any proceeding  
9 instituted pursuant to a law in effect prior to the effective  
10 date of that act. A disciplinary action taken by the board  
11 and any delinquency fee or penalty owed pursuant to the Public  
12 Accountancy Act shall remain in effect and due unless reviewed  
13 and rescinded by the board pursuant to procedures provided in  
14 the Uniform Licensing Act and the 1999 Public Accountancy Act.

15 C. A certificate, permit or firm registration  
16 issued pursuant to the Public Accountancy Act that is current  
17 on the effective date of the 1999 Public Accountancy Act shall  
18 remain current until June 30, 2000.

19 D. A rule in effect as of June 30, 1999, and  
20 not in direct conflict with the 1999 Public Accountancy Act,  
21 shall remain in effect until amended or repealed by the New  
22 Mexico public accountancy board.

23 Section 31. REPEAL. -- Sections 61-28A-1 through 61-  
24 28A-28 NMSA 1978 (being Laws 1992, Chapter 10, Sections 1  
25 through 26 and 28 and Laws 1993, Chapter 83, Section 6, as

. 128439. 3

1 amended) are repealed.

2 Section 32. EFFECTIVE DATE. --The effective date of the  
3 provisions of this act is July 1, 1999.

4 - 84 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SCORC/SB 423

**FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999**

**March 17, 1999**

**SENATE FLOOR AMENDMENT number \_\_\_\_\_ to  
SENATE CORPORATIONS & TRANSPORTATION COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 423, as  
amended**

**AMENDMENT sponsored by SENATOR RAWSON**

**1. On page 10, line 14, strike the word "two" and  
insert in lieu thereof the word "one".**

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**SCORC/SB 423**

**Rawson**

\_\_\_\_\_

**Senator Leonard Lee**

**Adopted** \_\_\_\_\_

**Not Adopted** \_\_\_\_\_

\_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

**Date** \_\_\_\_\_

**S0423FS1**

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE  
2 FOR SENATE BILL 423

3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST**  
4 **SESSION, 1999**

5  
6  
7  
8  
9  
10  
11 AN ACT

12 RELATING TO PUBLIC ACCOUNTANCY; ENACTING THE 1999 PUBLIC  
13 ACCOUNTANCY ACT; CREATING A BOARD; PROVIDING POWERS AND  
14 DUTIES; PROVIDING FOR LICENSURE; CREATING A FUND; PRESCRIBING  
15 FEES; PRESCRIBING PENALTIES; REPEALING THE FORMER PUBLIC  
16 ACCOUNTANCY ACT; MAKING AN APPROPRIATION.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW  
19 MEXICO:

20 Section 1. SHORT TITLE. -- This act may be cited as  
21 the "1999 Public Accountancy Act".

22 Section 2. PURPOSE. -- The purpose of the 1999 Public  
23 Accountancy Act is to protect the public interest by  
24 regulating the practice of public accountancy.

25 Section 3. DEFINITIONS. -- As used in the 1999 Public

. 128439. 3

underscored material = new  
[bracketed material] = del ete

1 Accountancy Act:

2 A. "attest" means to provide the following  
3 financial statement services:

4 (1) an audit or other engagement performed  
5 in accordance with the statements on auditing standards;

6 (2) a review of a financial statement  
7 performed in accordance with the statement on standards for  
8 accounting and review services; and

9 (3) an examination of prospective financial  
10 information performed in accordance with the statements on  
11 standards for attestation engagements;

12 B. "board" means the New Mexico public  
13 accountancy board;

14 C. "certificate" means the legal recognition  
15 issued to identify a certified public accountant or a  
16 registered public accountant pursuant to the 1999 Public  
17 Accountancy Act or prior law;

18 D. "certified public accountant" means a person  
19 certified by this state or by another state to practice public  
20 accountancy and use the designation;

21 E. "director" means the executive director of  
22 the board;

23 F. "firm" means a sole proprietorship,  
24 professional corporation, partnership, limited liability  
25 company, limited liability partnership or other legal business



1 entity that practices public accountancy;

2 G. "licensee" means a certified public  
3 accountant, certified public accountant firm, registered  
4 public accountant or registered public accountant firm;

5 H. "peer review" means a study, appraisal or  
6 review of one or more aspects of the professional work of a  
7 firm by a certified public accountant who is not affiliated  
8 with the firm being reviewed;

9 I. "permit" means the annual authority granted  
10 to practice as a certified public accountant firm or a  
11 registered public accountant firm;

12 J. "person" means a licensee;

13 K. "practice" means performing or offering to  
14 perform public accountancy for a client or potential client by  
15 a person holding himself out to the public as a permit holder  
16 or registered firm;

17 L. "public accountancy" means the performance  
18 of one or more kinds of services involving accounting or  
19 auditing skills, including the issuance of reports on  
20 financial statements, the performance of one or more kinds of  
21 management, financial advisory or consulting services, the  
22 preparation of tax returns or the furnishing of advice on tax  
23 matters;

24 M "registered public accountant" means a  
25 person who is registered by the board to practice public

1 accountancy and use the designation;

2 N. "report" means an opinion or other writing  
3 that:

4 (1) states or implies assurance as to the  
5 reliability of any financial statements;

6 (2) includes or is accompanied by a  
7 statement or implication that the person issuing it has  
8 special knowledge or competency in accounting or auditing  
9 indicated by the use of names, titles or abbreviations likely  
10 to be understood to identify the author of the report as a  
11 licensee; and

12 (3) includes the following types of reports  
13 as they are defined by board rule:

14 (a) a review report; or

15 (b) an audit report;

16 O. "specialty designation" means a designation  
17 indicating professional competence in a specialized area of  
18 practice; and

19 P. "substantial equivalency" means a  
20 determination by the board that the education, examination and  
21 experience requirements for certification of another  
22 jurisdiction are comparable to or exceed the corresponding  
23 requirements of the 1999 Public Accountancy Act.

24 Section 4. BOARD CREATED- - TERMS- - OFFICERS- - MEETINGS-  
25 - REIMBURSEMENT. - -

1           A. The "New Mexico public accountancy board" is  
2 created, composed of seven members appointed by the governor  
3 who are citizens of the United States and residents of New  
4 Mexico. Four members of the board shall be certified public  
5 accountants or registered public accountants who have  
6 practiced for at least five calendar years immediately  
7 preceding their appointment to the board. Three members shall  
8 represent the public and shall not have ever held a  
9 certificate or permit to practice public accountancy in any  
10 state and shall not have ever had a significant financial  
11 interest, direct or indirect, in the public accountancy  
12 profession or in a firm. Public members shall have  
13 professional or practical experience in the use of accounting  
14 services and financial statements, so as to be qualified to  
15 make judgments about the qualifications and conduct of persons  
16 subject to the provisions of the 1999 Public Accountancy Act.

17           B. Members of the board shall serve for terms  
18 of three years or less, staggered in such a manner that the  
19 terms of not more than three members expire on January 1 of  
20 each year; provided that members appointed and serving  
21 pursuant to prior law on the effective date of the 1999 Public  
22 Accountancy Act shall serve the remainder of their terms. A  
23 vacancy on the board shall be filled by appointment by the  
24 governor for the unexpired term. Upon the expiration of a  
25 member's term of office, he shall continue to serve until his

1 successor has been appointed and qualified. A professional  
2 member of the board whose certificate is suspended or revoked  
3 shall automatically cease to be a member of the board. The  
4 governor may remove a member of the board for neglect of duty  
5 or other just cause.

6 C. The board shall elect annually from among  
7 its members a chairman and such other officers as the board  
8 determines. The board shall meet at such times and places as  
9 fixed by the board. A majority of the board constitutes a  
10 quorum.

11 D. Members of the board may receive per diem  
12 and travel expenses as provided in the Per Diem and Mileage  
13 Act, but shall receive no other compensation, perquisite or  
14 allowance.

15 Section 5. BOARD--POWERS AND DUTIES.--

16 A. The board may:

17 (1) employ an executive director as an  
18 exempt employee and such other personnel as it deems necessary  
19 to carry out its duties;

20 (2) appoint committees or persons to advise  
21 or assist it in carrying out the provisions of the 1999 Public  
22 Accountancy Act;

23 (3) retain its own counsel to advise and  
24 assist it in addition to advice and assistance provided by the  
25 attorney general;

1 (4) contract, sue and be sued and have and  
2 use a seal;

3 (5) cooperate with the appropriate  
4 authorities in other states in investigation and enforcement  
5 concerning violations of the 1999 Public Accountancy Act and  
6 comparable acts of other states; and

7 (6) adopt and file in accordance with the  
8 Uniform Licensing Act and the State Rules Act rules to carry  
9 out the provisions of the 1999 Public Accountancy Act,  
10 including rules governing the administration and enforcement  
11 of the 1999 Public Accountancy Act and the conduct of  
12 certificate and permit holders.

13 B. The board shall maintain a registry of the  
14 names and addresses of all certificate and permit holders.

15 Section 6. FUND CREATED. --

16 A. The "public accountancy fund" is created in  
17 the state treasury. All money received by the board and  
18 interest earned on investment of the fund shall be credited to  
19 the fund.

20 B. Payments from the public accountancy fund  
21 shall be made upon warrants of the secretary of finance and  
22 administration pursuant to vouchers issued by the director in  
23 accordance with the budget approved by the department of  
24 finance and administration.

25 C. Money in the fund shall be used only to pay

1 the expenses of carrying out the provisions of the 1999 Public  
2 Accountancy Act and rules adopted pursuant to that act.

3 D. All amounts paid into the fund are  
4 appropriated for expenditure by the board for the necessary  
5 expenses of the board for execution of the provisions of the  
6 Public Accountancy Act. The balance remaining in the fund at  
7 the end of a fiscal year shall accumulate to the credit of the  
8 fund for use by the board for necessary expenses.

9 Section 7. QUALIFICATIONS FOR A CERTIFICATE AS A  
10 CERTIFIED PUBLIC ACCOUNTANT. --

11 A. An applicant for a certified public  
12 accountant certificate shall complete the application form  
13 provided by the board and demonstrate to the board's  
14 satisfaction that he:

15 (1) is of good moral character and lacks a  
16 history of dishonest or felonious acts; and

17 (2) meets the education, experience and  
18 examination requirements of the board.

19 B. The board may refuse to grant a certificate  
20 on the ground that the applicant failed to satisfy the  
21 requirement of good moral character.

22 C. The education requirements for a  
23 certificate, which must be met before an applicant is eligible  
24 to apply for examination, are as required in this section or  
25 Section 8 of the 1999 Public Accountancy Act. After July 1,

1 1999, the requirement for a certificate is a baccalaureate or  
2 higher degree or its equivalent conferred by a college or  
3 university acceptable to the board, with thirty semester hours  
4 in accounting or equivalent as determined by the board.

5 D. The examination for certification shall be  
6 held at least twice a year and shall test the applicant's  
7 knowledge of the subjects of accounting and auditing and such  
8 other related subjects as prescribed by the board. The time  
9 for holding the examination shall be determined by the board  
10 and may be changed from time to time. The board shall  
11 prescribe the methods of applying for the examination and of  
12 grading papers; provided, however, that the board shall to the  
13 extent possible provide that the examination, the grading of  
14 the examination and the passing grades are uniform with  
15 examinations of all other states. The board may use all or  
16 any part of the uniform certified public accountant  
17 examination and advisory grading service of the American  
18 institute of certified public accountants to perform  
19 administrative services with respect to the examination. The  
20 board shall administer and proctor the examination with  
21 volunteers from the accounting profession.

22 E. An applicant must pass all sections of the  
23 examination in order to qualify for a certificate. A passing  
24 grade for each section shall be seventy-five. If he passes  
25 two or more but not all sections in an examination sitting, he

1 shall be given credit for those sections and need not sit for  
2 re-examination in those sections; provided that he passes the  
3 remaining sections of the examination within six consecutive  
4 examinations given after the one at which the first sections  
5 were passed.

6 F. An applicant shall be given credit for  
7 examination sections passed in another state if such credit  
8 would have been given in New Mexico.

9 G. The board may waive or defer requirements of  
10 this section regarding the circumstances in which sections of  
11 the examination must be passed, upon a showing that, by reason  
12 of circumstances beyond the applicant's control, he was unable  
13 to meet the requirement.

14 H. An applicant for initial issuance of a  
15 certified public accountant certificate shall show that he has  
16 had at least one year of experience. After July 1, 2004, the  
17 applicant shall have had at least two years of experience.  
18 This experience shall include providing service or advice  
19 involving the use of accounting, attest, management advisory,  
20 financial advisory, tax or consulting skills as verified by a  
21 certified public accountant who meets requirements prescribed  
22 by the board. The experience is acceptable if it was gained  
23 through employment in government, industry, academia or public  
24 practice.

25 Section 8. QUALIFICATIONS FOR A CERTIFICATE AS A



1 CERTIFIED PUBLIC ACCOUNTANT-- JULY 1, 2004. --

2 A. An applicant for a certificate shall  
 3 complete the application form provided by the board and  
 4 demonstrate to the board's satisfaction that he:

5 (1) is of good moral character and lacks a  
 6 history of dishonest or felonious acts; and

7 (2) meets the education, experience and  
 8 examination requirements of the board.

9 B. The board may refuse to grant a certificate  
 10 on the ground that the applicant failed to satisfy the  
 11 requirement of good moral character.

12 C. The education requirements for a  
 13 certificate, which must be met before an applicant is eligible  
 14 to apply for examination are as provided in this section or  
 15 Section 7 of the 1999 Public Accountancy Act. After July 1,  
 16 2004, an applicant shall have at least one hundred fifty  
 17 semester hours of college education, including a baccalaureate  
 18 or higher degree or its equivalent conferred by a college or  
 19 university acceptable to the board, the total educational  
 20 program to include an accounting concentration or equivalent  
 21 as determined by the board, with thirty semester hours in  
 22 accounting or equivalent as determined by the board.

23 D. The examination for certification shall be  
 24 held at least twice a year and shall test the applicant's  
 25 knowledge of the subjects of accounting and auditing and other

. 128439. 3

underscored material = new  
 [bracketed material] = delete

1 related subjects as prescribed by the board. The time for  
2 holding the examination shall be determined by the board and  
3 may be changed from time to time. The board shall prescribe  
4 the methods of applying for the examination and of grading  
5 papers; provided, however, that the board shall to the extent  
6 possible provide that the examination, the grading of the  
7 examination and the passing grades are uniform with  
8 examinations of all other states. The board may use all or  
9 any part of the uniform certified public accountant  
10 examination and advisory grading service of the American  
11 institute of certified public accountants to perform  
12 administrative services with respect to the examination. The  
13 board shall administer and proctor the examination with  
14 volunteers from the accounting profession.

15 E. An applicant must pass all sections of the  
16 examination in order to qualify for a certificate. A passing  
17 grade for each section shall be seventy-five. If he passes  
18 two or more but not all sections in an examination sitting, he  
19 shall be given credit for those sections and need not sit for  
20 re-examination in those sections; provided that:

21 (1) at that sitting he wrote all sections  
22 of the examination for which he does not have credit;

23 (2) he made a minimum grade of fifty on  
24 each section taken at that sitting;

25 (3) he passes the remaining sections of the

1 examination within six consecutive examinations given after  
2 the one at which the first sections were credited;

3 (4) at each subsequent sitting at which he  
4 seeks to pass an additional section, the applicant writes all  
5 sections for which he does not have credit; and

6 (5) in order to receive credit for passing  
7 additional sections in such subsequent sitting, the applicant  
8 makes a minimum grade of fifty on sections taken at that  
9 sitting.

10 F. An applicant shall be given credit for  
11 examination sections passed in another state if such credit  
12 would have been given in New Mexico.

13 G. The board may waive or defer requirements of  
14 this section regarding the circumstances in which sections of  
15 the examination must be passed, upon a showing that, by reason  
16 of circumstances beyond the applicant's control, he was unable  
17 to meet the requirement.

18 H. An applicant for initial issuance of a  
19 certified public accountant certificate shall show that he has  
20 had at least one year of experience. This experience shall  
21 include providing service or advice involving the use of  
22 accounting, attest, management advisory, financial advisory,  
23 tax or consulting skills as verified by a certified public  
24 accountant who meets requirements prescribed by the board.  
25 The experience is acceptable if it was gained through

1 employment in government, industry, academia or public  
2 practice.

3 Section 9. ISSUANCE AND RENEWAL OF CERTIFICATE--  
4 MAINTENANCE OF COMPETENCY. --

5 A. The board shall grant or renew a certificate  
6 upon application and demonstration that the applicant's  
7 qualifications are in accordance with the 1999 Public  
8 Accountancy Act or that they are eligible under the  
9 substantial equivalency standard provided in that act.

10 B. The board may establish by rule for the  
11 issuance of biennial certificates and permits, and may  
12 prescribe the expiration date of certificates and permits.

13 C. The board shall grant or deny an application  
14 for certification no later than one hundred twenty days after  
15 the complete application is filed.

16 D. If an applicant appeals the decision of the  
17 board to deny a certificate, the board may issue a provisional  
18 certificate for no longer than ninety days while the board  
19 reconsiders its decision.

20 E. To renew a certificate, a certificate holder  
21 shall provide satisfactory proof to the board of continuing  
22 professional education that is designed to maintain  
23 competency. Continuing professional education courses shall  
24 comply with board rules. The board may create an exception to  
25 the requirement to maintain continuing professional education

1 for certificate holders who do not provide services to the  
 2 public. A certificate holder granted such an exception must  
 3 place the word "inactive" or "retired" adjacent to his  
 4 certified public accountant title or registered public  
 5 accountant title on a business card, letterhead or other  
 6 document or device, except for a board-issued certificate.

7 F. An applicant for initial issuance or renewal  
 8 of a certificate pursuant to this section shall list all  
 9 foreign and domestic jurisdictions in which the applicant has  
 10 applied for or holds a designation to practice public  
 11 accountancy. The applicant shall also list any past denial,  
 12 revocation or suspension of a certificate, license or permit.  
 13 An applicant or certificate holder shall notify the board in  
 14 writing, within thirty days of the occurrence of any issuance,  
 15 denial, revocation or suspension of a designation or  
 16 commencement of a disciplinary or enforcement action by any  
 17 jurisdiction.

18 Section 10. SPECIALTY DESIGNATIONS. --The board shall  
 19 adopt rules allowing the use of specialty designations by  
 20 certificate holders. Specialty designations shall be  
 21 consistent with designations prescribed by national or  
 22 regional accreditation bodies offering the designations  
 23 pursuant to a prescribed course of study, experience or  
 24 examination.

25 Section 11. CERTIFICATES ISSUED TO HOLDERS OF A

. 128439. 3

1 CERTIFICATE, LICENSE OR PERMIT ISSUED BY ANOTHER STATE. --

2 A. If an applicant does not qualify for  
3 reciprocity pursuant to the substantial equivalency standard,  
4 the board may issue a certificate to a holder of a  
5 certificate, license or permit issued by another state upon a  
6 showing that the applicant:

7 (1) passed the examination required for  
8 issuance of his certificate with grades that would have been  
9 passing grades at the time in New Mexico;

10 (2) passed the examination upon which his  
11 out-of-state certificate was based and has two years of  
12 experience acceptable to the board or meets equivalent  
13 requirements prescribed by board rule, within the ten years  
14 immediately preceding the application; and

15 (3) if the applicant's certificate, license  
16 or permit was issued more than four years prior to  
17 application, he has fulfilled the board's requirements of  
18 continuing professional education.

19 B. A person licensed by another state who  
20 wishes to establish his principal place of business in New  
21 Mexico shall apply to the board for a certificate prior to  
22 establishing the business. The board may issue a certificate  
23 to the person if he provides proof from a board-approved  
24 national qualification appraisal service that his certified  
25 public accountant qualifications are substantially equivalent

1 to the certified public accountant certification requirements  
2 of the 1999 Public Accountancy Act.

3 C. The board may issue a certificate to a  
4 holder of a substantially equivalent foreign designation;  
5 provided that:

6 (1) the foreign authority that granted the  
7 designation makes similar provision to allow a person who  
8 holds a valid certificate issued by New Mexico to obtain such  
9 foreign authority's comparable designation;

10 (2) the foreign designation:

11 (a) was duly issued by a foreign  
12 authority that regulates the practice of public accountancy  
13 and the foreign designation has not expired or been revoked or  
14 suspended;

15 (b) entitles the holder to issue  
16 reports upon financial statements; and

17 (c) was issued upon the basis of  
18 educational, examination and experience requirements  
19 established by the foreign authority or by law; and

20 (3) the applicant:

21 (a) received the designation based on  
22 educational and examination standards substantially equivalent  
23 to those in effect in New Mexico at the time the foreign  
24 designation was granted;

25 (b) completed an experience requirement

1 in the jurisdiction that granted the foreign designation that  
2 is substantially equivalent to the requirement provided for in  
3 the 1999 Public Accountancy Act or has completed four years of  
4 professional experience in New Mexico or meets equivalent  
5 requirements prescribed by the board within the ten years  
6 immediately preceding the application; and

7 (c) passed a uniform qualifying  
8 examination on national standards and an examination on the  
9 laws, rules and code of ethical conduct in effect in New  
10 Mexico that is acceptable to the board.

11 D. An applicant for initial issuance or renewal  
12 of a certificate pursuant to this section shall list all  
13 foreign and domestic jurisdictions in which the applicant has  
14 applied for or holds a designation to practice public  
15 accountancy. The applicant shall also list any past denial,  
16 revocation or suspension of a certificate, license or permit.  
17 An applicant or certificate holder shall notify the board in  
18 writing, within thirty days of the occurrence of any issuance,  
19 denial, revocation or suspension of a designation or  
20 commencement of a disciplinary or enforcement action by any  
21 jurisdiction.

22 E. The board has the sole authority to  
23 interpret the application of the provisions of this section.

24 Section 12. REGISTERED PUBLIC ACCOUNTANTS AND FIRMS  
25 OF REGISTERED PUBLIC ACCOUNTANTS. --



1           A. A person who on July 1, 1999 holds a  
2 certificate as a registered public accountant issued pursuant  
3 to prior New Mexico law shall be entitled to have his  
4 certificate renewed upon fulfillment of the continuing  
5 professional education requirements, application and payment  
6 of fees prescribed for certificate renewal.

7           B. A registered public accountant firm holding  
8 a permit issued pursuant to prior New Mexico law shall be  
9 entitled to have its permit renewed pursuant to the  
10 requirements for permit renewal for a certified public  
11 accountant firm in the 1999 Public Accountancy Act.

12           C. As long as a registered public accountant  
13 and a registered public accountant firm hold a valid  
14 certificate and permit, they shall be entitled to perform  
15 attest services to the same extent as a certified public  
16 accountant and certified public accountant firm. In addition,  
17 they shall be entitled to use the titles "registered public  
18 accountant" and "registered public accountants", but no other  
19 title.

20           Section 13. FIRM PERMITS TO PRACTICE, ATTEST  
21 EXPERIENCE, PEER REVIEW. --

22           A. The board may grant or renew a permit to  
23 practice as a firm to an applicant that demonstrates its  
24 qualification for the permit as provided in Subsection E of  
25 this section. A firm must hold a permit issued pursuant to

. 128439. 3

1 the provisions of the 1999 Public Accountancy Act in order to  
2 provide attest services or use the title "certified public  
3 accountant", "CPA", "certified public accountant firm", "CPA  
4 firm", "registered public accountant", "RPA", "registered  
5 public accountant firm" or "RPA firm".

6 B. Permits shall be issued and renewed for  
7 periods not more than two years, expiring on June 30. Failure  
8 to pay the renewal fee shall be cause for the board to  
9 withhold renewal of a certificate without prior hearing  
10 pursuant to the provisions of the Uniform Licensing Act. A  
11 certificate holder whose certificate has been canceled for  
12 failure to pay the annual renewal fee may secure reinstatement  
13 of his certificate upon payment of the delinquency fee set by  
14 the board. If the renewal fee and delinquency fee are not  
15 paid by September 30 of the year in which the renewal fee was  
16 due, a certificate shall be reinstated only upon application  
17 and examination satisfactory to the board.

18 C. The board shall grant or deny an application  
19 for a permit no later than ninety days after the complete  
20 application is filed.

21 D. If an applicant appeals the decision of the  
22 board to deny a permit, the board may issue a provisional  
23 permit for no longer than ninety days while the board  
24 reconsiders its decision.

25 E. An applicant for initial issuance or renewal

1 of a permit shall demonstrate that:

2 (1) a minimum of sixty percent majority of  
3 the ownership of the firm, in terms of financial interests,  
4 profits, losses, dividends, distributions, options,  
5 redemptions and voting rights of all partners, officers,  
6 shareholders, members or managers, belongs to holders of a  
7 certificate who are licensed in some state. Such partners,  
8 officers, shareholders, members or managers, whose principal  
9 place of business is in New Mexico, and who perform  
10 professional services in New Mexico, must hold a valid  
11 certificate. The firm and all owners must comply with the  
12 1999 Public Accountancy Act. A firm may include owners who  
13 are not certificate holders; provided that:

14 (a) the firm designates a New Mexico  
15 certificate holder who is responsible for the proper  
16 registration of the firm and identifies that individual to the  
17 board;

18 (b) all owners who are not certificate  
19 holders are active individual participants in the certified  
20 public accountant firm or registered public accountant firm or  
21 affiliated entities; and

22 (c) the firm complies with the 1999  
23 Public Accountancy Act; and

24 (2) an individual certificate holder who is  
25 responsible for supervising attest services or signs or

1 authorizes someone to sign the accountant's report on the  
2 financial statements on behalf of the firm meets the  
3 experience requirements set out in the professional standards  
4 for such services.

5 F. An applicant for initial issuance or renewal  
6 of a permit shall be required to register each office of the  
7 firm within New Mexico with the board and to show that all  
8 attest services rendered in this state are under the charge of  
9 a person holding a valid certificate issued pursuant to the  
10 1999 Public Accountancy Act or the corresponding provision of  
11 prior law or by some other state.

12 G. An applicant for initial issuance or renewal  
13 of a permit shall list all foreign and domestic jurisdictions  
14 in which it has applied for or holds permits as a certified  
15 public accountant firm and list any past denial, revocation or  
16 suspension of a permit by any jurisdiction. Each permit  
17 holder or applicant shall notify the board in writing, within  
18 thirty days of the occurrence of a change in the identities of  
19 partners, officers, shareholders, members or managers whose  
20 principal place of business is in this state, a change in the  
21 number or location of offices within this state, a change in  
22 the identity of the persons in charge of such offices and any  
23 issuance, denial, revocation or suspension of a permit by  
24 another jurisdiction.

25 H. A firm that falls out of compliance with the

1 provisions of the 1999 Public Accountancy Act due to changes  
2 in firm ownership or personnel shall take corrective action to  
3 bring the firm back into compliance as quickly as possible.  
4 The board may grant a six-month period for a firm to take the  
5 corrective action. Failure to bring the firm back into  
6 compliance within six months shall result in the suspension or  
7 revocation of the firm permit.

8 I. As a condition to permit renewal, the board  
9 shall require the applicant to undergo a peer review conducted  
10 in accordance with board rules. The review shall include a  
11 verification that a person in the firm who is responsible for  
12 supervising attest services and signs or authorizes someone to  
13 sign the accountant's report on the financial statements on  
14 behalf of the firm meets the experience requirements set out  
15 in the professional standards for the services as required by  
16 the board.

17 J. If a partner, shareholder or member is a  
18 legal business entity, that legal business entity must be a  
19 firm.

20 K. Attest services may only be provided by a  
21 certificate holder or a member of a firm that satisfies the  
22 requirements of this section. Attest services may not be  
23 performed by a certificate holder who is a member of a firm  
24 that does not meet the certificate holder's ownership  
25 requirements set forth in this section.

1           Section 14.   APPOINTMENT OF SECRETARY OF STATE AS  
2   AGENT. -- Application for a certificate or permit by a person or  
3   firm that is domiciled outside of New Mexico shall constitute  
4   appointment of the secretary of state as the applicant's  
5   agent, upon whom process may be served in an action or  
6   proceeding against the applicant or certificate holder arising  
7   out of a transaction or operation connected with or incidental  
8   to services performed within New Mexico.

9           Section 15.   ENFORCEMENT PROCEDURES-- INVESTIGATIONS. -

10   -

11           A.   Upon receipt of a complaint or other  
12   information suggesting a violation of the 1999 Public  
13   Accountancy Act, the board may conduct an investigation to  
14   determine whether there is probable cause to institute a  
15   proceeding against a person or firm. An investigation is not  
16   required when a determination of probable cause can be made  
17   without investigation. To aid the investigation, the board or  
18   the board's chairman may issue a subpoena to compel a witness  
19   to testify or to produce evidence.

20           B.   The board may designate a person to serve as  
21   investigating officer to conduct an investigation. The  
22   investigating officer shall file a report with the board upon  
23   completion of an investigation. The board shall find probable  
24   cause or lack of probable cause upon the basis of the report  
25   or shall return the report to the investigating officer for

1 further investigation.

2 C. Upon a finding of probable cause, if the  
3 subject of the investigation is a certificate or permit  
4 holder, the board shall direct that a notice of contemplated  
5 action be issued in accordance with the 1999 Public  
6 Accountancy Act. If the subject of the investigation is not a  
7 certificate or permit holder, the board shall take appropriate  
8 action as provided in that act. Upon a finding of no probable  
9 cause, the board shall close the matter.

10 D. The board may review the publicly available  
11 professional work of a certificate or permit holder without  
12 any requirement of a formal complaint or suspicion of  
13 impropriety on the part of a particular certificate or permit  
14 holder. In the event that such review reveals reasonable  
15 grounds for a more specific investigation, the board may  
16 proceed pursuant to the 1999 Public Accountancy Act.

17 Section 16. ENFORCEMENT PROCEDURES--HEARINGS BY THE  
18 BOARD. --

19 A. Hearings by the board shall be conducted in  
20 accordance with the provisions of the Uniform Licensing Act.

21 B. In a case when the board renders a decision  
22 imposing discipline against a certificate or permit holder  
23 pursuant to the 1999 Public Accountancy Act, the board shall  
24 examine its records to determine whether the certificate or  
25 permit holder holds a certificate or permit in any other

. 128439. 3

1 state; and, if so, the board shall notify the board of  
2 accountancy of the other state of its decision, by mail,  
3 within forty-five days of rendering the decision. The board  
4 may also furnish information relating to a proceeding  
5 resulting in disciplinary action to another public authority  
6 and to private professional organizations having a  
7 disciplinary interest in the certificate or permit holder.  
8 When an appeal pursuant to New Mexico law is in progress, the  
9 notification and furnishing of information to a disciplinary  
10 authority shall await the resolution of such appeal. If  
11 resolution is in favor of the certificate or permit holder, no  
12 automatic notification or furnishing of information shall be  
13 made.

14 Section 17. ENFORCEMENT--UNLAWFUL ACTS.--

15 A. Except as provided in Subsection C of this  
16 section and Section 18 of the 1999 Public Accountancy Act, it  
17 is unlawful for a person to engage in practice in New Mexico  
18 unless he a licensee.

19 B. Except as provided in Subsection C of this  
20 section and Section 18 of the 1999 Public Accountancy Act, no  
21 person or accountant shall issue a report or financial  
22 statement of a person or a governmental unit or issue a report  
23 using any form of language conventionally used respecting an  
24 audit or review of financial statements, unless he holds a  
25 current license or permit. The state auditor and his auditing



1 staff are considered to be in the practice of public  
2 accountancy.

3 C. With the exception of persons cited in  
4 Section 18 of the 1999 Public Accountancy Act, a person or  
5 accountant who prepares a financial accounting and related  
6 statements and who is not the holder of a certificate or a  
7 permit under the provisions of that act shall use the  
8 following statement in the transmittal letter: "I (we) have  
9 prepared the accompanying financial statements of (name of  
10 entity) as of (time period) and for the (time period) ending  
11 (date). This presentation is limited to preparing in the form  
12 of financial statements information that is the representation  
13 of management (owners). I (we) have not audited nor reviewed  
14 the accompanying financial statements and accordingly do not  
15 express an opinion or any other form of assurance on them".

16 D. No person or accountant shall indicate by  
17 title, designation, abbreviation, sign, card or device that he  
18 is a certified public accountant or a registered public  
19 accountant unless he is currently certified by the board  
20 pursuant to the 1999 Public Accountancy Act or is a firm  
21 currently permitted with the board pursuant to that act.  
22 Unless he is a holder of a current certificate or permit, no  
23 person or accountant shall use any title, initials or  
24 designation intended to or substantially likely to indicate to  
25 the public that he is a certified public accountant or

. 128439. 3

1 registered public accountant.

2 E. No person shall engage in practice unless:

3 (1) he holds a valid certificate or current  
4 permit; or

5 (2) he is an employee and not a partner,  
6 officer, shareholder or member of a firm.

7 F. No person or firm holding a certificate or  
8 permit shall engage in practice using a professional or firm  
9 name or designation that is misleading about the legal form of  
10 the firm; provided, however, that names of one or more former  
11 partners, shareholders or members may be included in the name  
12 of a firm or its successors.

13 G. No person shall sell, offer to sell or  
14 fraudulently obtain or furnish any certificate or permit nor  
15 shall he fraudulently register as a certified public  
16 accountant or registered public accountant or practice in this  
17 state without being granted a certificate or permit as  
18 provided in the 1999 Public Accountancy Act.

19 H. A licensee shall not pay a commission to  
20 obtain a client, nor accept a commission for a referral to a  
21 client of products or services of others; provided, however,  
22 that this subsection shall not prohibit payments for the  
23 purchase of all, or a material part, of an accounting  
24 practice, or retirement payments to persons formerly engaged  
25 in the practice of public accountancy, or payment to the heirs

1 or estates of such persons.

2 I. A licensee shall not offer or perform  
 3 professional services for a fee that is contingent upon the  
 4 findings or results of such services; provided, however, that  
 5 this subsection shall not apply to professional services  
 6 involving federal, state or other taxes in which the findings  
 7 are those of the tax authorities and not those of the licensee  
 8 or to professional services for which the fees are to be fixed  
 9 by courts or other public authorities and that are therefore  
 10 indeterminate in amount at the time the professional services  
 11 are undertaken.

12 J. No licensee shall sign or certify any  
 13 financial statements if he knows the same to be materially  
 14 false or fraudulent.

15 Section 18. EXEMPTIONS--UNLAWFUL ACTS.--

16 A. Subsection B of Section 17 of the 1999  
 17 Public Accountancy Act does not prohibit:

18 (1) an officer, partner, shareholder,  
 19 member or employee of a firm from affixing his own signature  
 20 to a statement or report in reference to the financial affairs  
 21 of his firm with any wording designating the position, title  
 22 or office that he holds within the firm;

23 (2) any act of a public official or  
 24 employee in the performance of his duties; or

25 (3) the performance by any persons of other

underscored material = new  
 [bracketed material] = delete

1 services, including management, financial advisory or  
2 consulting services, the preparation of tax returns or the  
3 furnishing of advice on tax matters and the preparation of  
4 financial statements without the issuance of reports on them.

5 B. Nothing contained in the 1999 Public  
6 Accountancy Act shall prevent a person from serving as an  
7 employee of or as an assistant to a certified public  
8 accountant, a registered public accountant or a firm; provided  
9 that the employee or assistant shall work under the control  
10 and supervision of a certified public accountant or registered  
11 public accountant who holds a certificate issued pursuant to  
12 that act.

13 Section 19. BUSINESS NAMES--PROHIBITIONS.--

14 A. No person engaged in practice shall use in a  
15 business name the words "company" or "and company" or a  
16 similar designation or any abbreviations thereof unless the  
17 person is a firm pursuant to the 1999 Public Accountancy Act  
18 and has more than one partner, shareholder or member and the  
19 business name contains the name of at least one current or  
20 former partner, shareholder or member. A business name may  
21 contain only the name or initials of a present or former  
22 partner, shareholder or member and the words "and company" or  
23 "company" or a similar designation or any abbreviation  
24 thereof.

25 B. Nothing contained in this section shall

1 apply to, affect or limit the right of the remaining partner,  
 2 shareholder or member or added partners, shareholders or  
 3 members in the continuous use of a business name adopted  
 4 before the enactment of the 1999 Public Accountancy Act, even  
 5 though the person whose name is included in the business name  
 6 is no longer a partner, shareholder or member.

7 Section 20. ENFORCEMENT-- ADMINISTRATIVE VIOLATIONS  
 8 AND REMEDIES. --

9 A. The board may take, after providing any  
 10 person due process pursuant to the Uniform Licensing Act,  
 11 corrective action identified in Subsection B of this section  
 12 following a finding that an applicant or licensee:

13 (1) committed fraud or deceit in obtaining  
 14 a certificate or permit;

15 (2) lost a certificate or permit through  
 16 cancellation, revocation, suspension or refusal of renewal in  
 17 any other state for cause, as defined by board rule;

18 (3) failed to maintain compliance with the  
 19 requirements of the 1999 Public Accountancy Act and board  
 20 rules for issuance or renewal of a certificate or permit or  
 21 failed to report material changes to the board, as required by  
 22 board rule;

23 (4) lost the authorization to practice in  
 24 any state or before any federal agency through revocation or  
 25 suspension of that authorization;

. 128439. 3

underscored material = new  
 [bracketed material] = delete

1 (5) committed dishonest, fraudulent or  
2 grossly negligent acts in the practice of public accountancy  
3 or in the filing or failure to file his own income or other  
4 federal, state or local tax returns;

5 (6) violated any provision of the 1999  
6 Public Accountancy Act or any rule promulgated by the board  
7 pursuant to that act;

8 (7) violated any rule of professional  
9 conduct promulgated by the board pursuant to the 1999 Public  
10 Accountancy Act;

11 (8) has been convicted of a felony or of  
12 any crime an element of which is dishonesty or fraud under the  
13 laws of the United States, of New Mexico or of any other  
14 state, or of any other jurisdiction, if the acts involved  
15 would have constituted a crime under the laws of New Mexico;

16 (9) performed any fraudulent act while  
17 holding a certificate or permit issued pursuant to the 1999  
18 Public Accountancy Act or prior law; or

19 (10) participated in any conduct reflecting  
20 adversely upon the licensee's fitness to engage in practice.

21 B. After a finding by the board that an  
22 applicant or licensee has committed a violation identified in  
23 Subsection A of this section, the board may take, with or  
24 without terms, conditions and limitations, one or more of the  
25 following corrective actions:

1 (1) deny an application or revoke a  
2 certificate or permit issued pursuant to the 1999 Public  
3 Accountancy Act or corresponding provisions of prior law;

4 (2) suspend any certificate or permit for a  
5 period of not more than five years;

6 (3) reprimand, censure or limit the scope  
7 of practice of a licensee;

8 (4) impose an administrative fine not  
9 exceeding one thousand dollars (\$1,000); or

10 (5) place the licensee on probation.

11 C. In lieu of or in addition to any remedy  
12 specifically provided in Subsection B of this section, the  
13 board may require of a licensee:

14 (1) a quality review conducted in such a  
15 fashion as the board may specify;

16 (2) satisfactory completion of such  
17 continuing professional education programs as the board may  
18 specify;

19 (3) correction of the violation identified;  
20 and

21 (4) any other suitable remedial action as  
22 determined by the board.

23 D. In any proceeding in which a remedy provided  
24 by Subsection B or C of this section is imposed, the board may  
25 also require the respondent to pay the costs of the

1 proceeding.

2 Section 21. REINSTATEMENT. --

3 A. In any case in which the board has suspended  
4 or revoked a certificate or permit or refused to renew the  
5 same, the board may, upon application in writing by the person  
6 or firm affected and for good cause shown, modify the  
7 suspension or reissue the certificate or permit.

8 B. The board shall specify by rule the manner  
9 in which such applications shall be made, the times within  
10 which they shall be made and the circumstances in which  
11 hearings shall be held thereon.

12 C. Before reissuing or terminating the  
13 suspension of a certificate or permit pursuant to this section  
14 and as a condition thereto, the board may require the  
15 applicant to show successful completion of specified  
16 continuing professional education or may require a quality  
17 review or both.

18 Section 22. CRIMINAL PENALTIES. --

19 A. When the board has reason to believe that a  
20 person or firm has knowingly engaged in an act or practice  
21 that violates the provisions of the 1999 Public Accountancy  
22 Act, the board may bring its information to the attention of  
23 the district attorney or other appropriate law enforcement  
24 officer of any jurisdiction who may bring a criminal  
25 proceeding.



1           B. A person or firm that knowingly violates a  
2 provision of the 1999 Public Accountancy Act is guilty of a  
3 misdemeanor and upon conviction shall be subject to a fine of  
4 not more than one thousand dollars (\$1,000) or by a definite  
5 term of imprisonment not to exceed six months or both.

6           Section 23. SINGLE ACT EVIDENCE OF PRACTICE. --In an  
7 action brought pursuant to the provisions of the 1999 Public  
8 Accountancy Act, evidence of the commission of a single act  
9 prohibited by that act shall be sufficient to justify a  
10 penalty, injunction, restraining order or conviction,  
11 respectively, without evidence of a general course of conduct.

12           Section 24. CONFIDENTIAL COMMUNICATIONS. --Except by  
13 permission of the client for whom a certificate or permit  
14 holder performs a service or the heir, successor or personal  
15 representative of the client, a certificate holder shall not  
16 voluntarily disclose information communicated to him by the  
17 client relating to and in connection with a service rendered  
18 to the client by him. Such information shall be deemed  
19 confidential; provided that nothing in this section shall  
20 prohibit the disclosure of information required to be  
21 disclosed by a standard of the public accounting profession in  
22 reporting on the examination of a financial statement or  
23 prohibit disclosure in a court proceeding, in an investigation  
24 or proceeding pursuant to the 1999 Public Accountancy Act, in  
25 an ethical investigation conducted by a private professional

1 organization or in the course of a peer review, or to another  
2 person active in the organization performing a service for  
3 that client on a need-to-know basis or to a person in the  
4 entity who needs this information for the sole purpose of  
5 assuring quality control.

6 Section 25. WORKING PAPERS--CLIENT RECORDS. --

7 A. A statement, record, schedule, working paper  
8 or memorandum made by a certificate or permit holder incident  
9 to rendering a service to a client shall be the property of  
10 the certificate or permit holder in the absence of an express  
11 agreement between him and the client to the contrary, except  
12 the report submitted by him to the client and except for a  
13 record that is part of the client's records. No such item  
14 shall be sold, transferred or bequeathed without the consent  
15 of the client or the client's personal representative, except  
16 to a partner, stockholder or member of the firm or any  
17 combined or merged firm or successor in interest to the  
18 certificate or permit holder. Nothing in this section shall  
19 prohibit any temporary transfer of a work paper or other  
20 material necessary in the course of carrying out a peer review  
21 or as otherwise interfering with the disclosure of information  
22 pursuant to the 1999 Public Accountancy Act.

23 B. A certificate or permit holder shall furnish  
24 to a client or former client, upon request and reasonable  
25 notice:

1 (1) a copy of his working paper, to the  
 2 extent that such working paper includes a record that would  
 3 ordinarily constitute part of the client's record and is not  
 4 otherwise available to the client; and

5 (2) an accounting or other record belonging  
 6 to, or obtained from or on behalf of, the client that he  
 7 removed from the client's premises or received for the  
 8 client's account; he may make and retain a copy of a document  
 9 of the client when they form the basis for work done by him.

10 Section 26. PRACTICE PRIVILEGE AND DISCIPLINE FOR A  
 11 CERTIFICATE HOLDER FROM A STATE WHOSE ACCOUNTANCY STATUTE IS  
 12 SUBSTANTIALLY EQUIVALENT. --

13 A. A person whose principal place of business  
 14 is not in New Mexico and who has a valid certificate or  
 15 license as a certified public accountant from a state that the  
 16 board-approved qualification appraisal service has verified to  
 17 be in substantial equivalence with the certified public  
 18 accountant requirements of the New Mexico 1999 Public  
 19 Accountancy Act shall be presumed to have qualifications  
 20 substantially equivalent to New Mexico's requirements. A  
 21 person may also obtain from the board-approved qualification  
 22 appraisal service verification that his certified public  
 23 accountant qualifications are substantially equivalent to New  
 24 Mexico's certified public accountant licensure requirements.  
 25 The person shall have all the privileges of certificate

. 128439. 3

1 holders of New Mexico without the need to obtain a New Mexico  
2 certificate or permit; provided, however, the person shall  
3 notify the board of his intent to enter the state under this  
4 provision.

5 B. A certificate or permit holder of another  
6 state exercising the privilege afforded by the provisions of  
7 this section consents, as a condition of the grant of this  
8 privilege:

9 (1) to the personal and subject matter  
10 jurisdiction of the board;

11 (2) to comply with the provisions of the  
12 1999 Public Accountancy Act; and

13 (3) to the appointment of the state board  
14 that issued its certificate or license as its agent, upon whom  
15 process may be served in an action or proceeding by the New  
16 Mexico public accountancy board against it.

17 C. A certificate or permit holder of New Mexico  
18 that offers or renders a service or uses its certified public  
19 accountant title in another state shall be subject to  
20 disciplinary action in New Mexico for an act committed in  
21 another state for which it would be subject to discipline for  
22 an act committed in the other state. The board shall  
23 investigate any complaint made by the board of accountancy of  
24 another state.

25 Section 27. FEES. -- The board may collect from

1 certificate holders, permit holders, applicants and others the  
 2 following fees:

3 A. for examination, a fee not to exceed one  
 4 hundred seventy-five dollars (\$175) per examination  
 5 application;

6 B. for certificate issuance or renewal, a fee  
 7 not to exceed one hundred seventy-five dollars (\$175) per  
 8 year; provided, however, the board may charge a biennial fee  
 9 of not more than twice the annual fee;

10 C. for firm permits, a fee not to exceed one  
 11 hundred dollars (\$100) per year; provided, however, the board  
 12 may charge a biennial fee of not more than twice the annual  
 13 fee;

14 D. for incomplete or delinquent continuing  
 15 education reports, certificate or permit renewals, a fee not  
 16 to exceed one hundred dollars (\$100) each;

17 E. for preparing and providing licensure and  
 18 examination information to others, a fee not to exceed  
 19 seventy-five dollars (\$75.00) per report;

20 F. reasonable administrative fees for such  
 21 services as research, record copies, duplicate or replacement  
 22 certificates or permits;

23 G. for certificate reinstatement, a fee not to  
 24 exceed one hundred seventy-five dollars (\$175), plus past due  
 25 fees and penalties;

. 128439. 3

underscored material = new  
 [bracketed material] = delete

1                   H. for waiver to comply with continuing  
2 professional education requirements, a fee not to exceed  
3 seventy-five dollars (\$75.00) per application; and

4                   I. for reentry into active certificate status  
5 and to comply with continuing education, a fee not to exceed  
6 seventy-five dollars (\$75.00) per application.

7                   Section 28. CRIMINAL OFFENDER ELIGIBILITY. -- Except  
8 as otherwise provided in the 1999 Public Accountancy Act, the  
9 provisions of the Criminal Offender Employment Act shall  
10 govern any consideration or criminal records required or  
11 permitted by the 1999 Public Accountancy Act.

12                   Section 29. TERMINATION OF AGENCY LIFE-- DELAYED  
13 REPEAL. --The New Mexico public accountancy board is terminated  
14 on July 1, 2005 pursuant to the provisions of the Sunset Act.  
15 The board shall continue to operate according to the  
16 provisions of the 1999 Public Accountancy Act until July 1,  
17 2006. Effective July 1, 2006, the 1999 Public Accountancy Act  
18 is repealed.

19                   Section 30. TEMPORARY PROVISION-- TRANSFER OF  
20 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS  
21 AND STATUTORY REFERENCES. --

22                   A. On July 1, 1999, all personnel, money,  
23 appropriations, property, records and other things of value  
24 belonging to the New Mexico state board of public accountancy  
25 shall be transferred to the New Mexico public accountancy

1 board. All contracts, including certificates and  
2 registrations, in effect for the New Mexico state board of  
3 public accountancy shall be binding on the New Mexico public  
4 accountancy board. All references in law to the New Mexico  
5 state board of public accountancy shall be construed as  
6 references to the New Mexico public accountancy board.

7 B. Nothing in the 1999 Public Accountancy Act  
8 shall invalidate or affect any action taken or any proceeding  
9 instituted pursuant to a law in effect prior to the effective  
10 date of that act. A disciplinary action taken by the board  
11 and any delinquency fee or penalty owed pursuant to the Public  
12 Accountancy Act shall remain in effect and due unless reviewed  
13 and rescinded by the board pursuant to procedures provided in  
14 the Uniform Licensing Act and the 1999 Public Accountancy Act.

15 C. A certificate, permit or firm registration  
16 issued pursuant to the Public Accountancy Act that is current  
17 on the effective date of the 1999 Public Accountancy Act shall  
18 remain current until June 30, 2000.

19 D. A rule in effect as of June 30, 1999, and  
20 not in direct conflict with the 1999 Public Accountancy Act,  
21 shall remain in effect until amended or repealed by the New  
22 Mexico public accountancy board.

23 Section 31. REPEAL. -- Sections 61-28A-1 through 61-  
24 28A-28 NMSA 1978 (being Laws 1992, Chapter 10, Sections 1  
25 through 26 and 28 and Laws 1993, Chapter 83, Section 6, as

. 128439. 3

1 amended) are repealed.

2 Section 32. EFFECTIVE DATE. --The effective date of the  
3 provisions of this act is July 1, 1999.

4 - 128 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

underscored material = new  
[bracketed material] = delete



1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 March 16, 1999  
7

8 Mr. Speaker:  
9

10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE,  
11 to whom has been referred  
12

13 SENATE BILL 423, as amended  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. On page 10, line 14, strike "two" and insert in  
18 lieu thereof "one".  
19

20 Respectfully submitted,  
21  
22

23  
24 \_\_\_\_\_  
25 Patsy Trujillo Knauer, Chairwoman

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SCORC/SB 423

HCPAC/SB 423

Page 130

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: None

Absent: None

J:\99BillsWP\S0423

underscored material = new  
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3

4 March 16, 1999  
5

6  
7 Mr. Speaker:

8  
9 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE,  
10 to whom has been referred

11 SENATE BILL 423, as amended  
12

13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:  
15

16 1. On page 10, line 14, strike "two" and insert in  
17 lieu thereof "one".

18 Respectfully submitted,  
19

20  
21  
22 \_\_\_\_\_  
23 Patsy Trujillo Knauer, Chairwoman  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SCORC/SB 423

HCPAC/SB 423

Page 132

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: None

Absent: None

J:\99BillsWP\S0423

underscored material = new  
[bracketed material] = delete