SENATE BILL NO. 251

INTRODUCED BY GAGE BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 1, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.

DO PASS AS AMENDED. REPORT ADOPTED.

INTRODUCED AND REFERRED TO COMMITTEE

ON MOTION, TAKEN FROM SECOND READING

FIRST READING.

PRINTING REPORT.

ENGROSSING REPORT.

FEBRUARY 13, 1991

FEBRUARY 14, 1991

FEBRUARY 15, 1991

THIRD READING, PASSED. AYES, 45; NOES, 4.

COMMITTEE RECOMMEND BILL

SECOND READING, DO PASS.

TRANSMITTED TO HOUSE.

ON STATE ADMINISTRATION.

ON STATE ADMINISTRATION.

COMMITTEE RECOMMEND BILL BE

COMMITTEE RECOMMEND BILL BE

CONCURRED IN. REPORT ADOPTED.

AND REREFERRED TO THE COMMITTEE

CONCURRED IN AS AMENDED. REPORT

FIRST READING.

ADOPTED.

IN THE HOUSE

FEBRUARY 15, 1991

FEBRUARY 16, 1991

MARCH 7, 1991

MARCH 8, 1991

MARCH 19, 1991

MARCH 23, 1991

MARCH 25, 1991

THIRD READING, CONCURRED IN. AYES, 76; NOES, 20.

SECOND READING, CONCURRED IN.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 28, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED.

APRIL 5, 1991

FREE CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 6, 1991

ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 10, 1991

IN THE HOUSE

APRIL 13, 1991

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 17, 1991

APRIL 18, 1991

APRIL 19, 1991

SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

52nd Legislature

LC 0878/01

Senate BILL NO. 251 1 INTRODUCED BY Date 2 BY REQUEST OF THE DEPARTMENT OF JUSTICE З 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT 6 OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10 7 DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A 8 PRESUSPENSION HEARING; AUTHORIZING SUSPENSION WITHOUT PAY 9 AND DEMOTION PENDING THE HIGHWAY PATROL DISCIPLINARY HEARING 10 PROCESS; ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY 11 HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE 12 AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AMENDING 13 SECTIONS 44-1-701, 44-1-705, 44-1-803, 44-1-804, 44-1-806, 14 44-1-901, 44-1-902, AND 44-1-903, MCA; AND REPEALING SECTION 15 44-1-807, MCA." 16 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: NEW SECTION. Section 1. Waiver. A patrol officer may 18 19 waive in writing his rights under Title 44, parts 7 and 8, 20 and accept discipline considered appropriate by the 21 department of justice. 22 Section 2. Section 44-1-701, MCA, is amended to read: 23 "44-1-701. Authority of department of justice to 24 suspend, demote, or reprimand. When the department of 25 justice has cause to believe that any member of the highway



1	patrol has violated any of the grounds for suspension,
2	demotion, or discharge orhisconducthaswarranted
3	reprimanding, it may suspend;demote;orreprimandthe
4	member impose a suspension without pay for up to 10 days
5	without filing charges and conducting a hearing under part
6	<u>8</u> ."
7	Section 3. Section 44-1-705, MCA, is amended to read:
8	*44-1-705. Suspension pending hearing and decision. If
9	the department of justice orders a hearing, the chief may
10	suspend without pay or demote such patrol officer pending
11	the rendition of the decision made in such case."
12	Section 4. Section 44-1-803, MCA, is amended to read:
13	"44-1-803. Rights of accused. The accused patrol
14	officer shall be entitled to be confronted with the
15	witnesses against him and have an opportunity to
16	cross-examine the same and to introduce at such hearing
17	testimony in his own behalf. He shall be entitled to be
18	represented by counsel, at his own expense, at such
19	hearing."
20	Section 5. Section 44-1-804, MCA, is amended to read:
21	"44-1-804. Rendering and filing of decision. The
22	department of justice shall, within 1 5 <u>30</u> days after such
23	hearing or within the additional time to which the accused
24	patrol officer consents, render its decision in writing and
25	file same in its office, with the chief, and with the patrol

-2-

INTRODUCED BILL

l officer accused."

2 Section 6. Section 44-1-806, MCA, is amended to read: 3 "44-1-806. Disciplinary action. If after a hearing the 4 department of justice finds that any charge or charges made 5 against the patrol officer are true, it may punish the 6 offending party by reprimand; suspension without pay, 7 demotion, or discharge."

8 Section 7. Section 44-1-901, MCA, is amended to read:
9 *44-1-901. Right to appeal. (1) Any patrol officer who
10 is suspended, demoted, or discharged has a right of appeal
11 to the district court of Lewis and Clark County <u>from a</u>
12 decision issued under 44-1-804.

13 (2) The appeal must be made within 10 days after the
14 decision or-determination of the department of justice."

15 Section 8. Section 44-1-902, MCA, is amended to read: 16 "44-1-902. Action by court. The district court shall 17 review such decision or determination in a-summary-manner 18 and-render-its-decision-upon-such-appeal-within-90-days-from 19 the-filing-of-such-appeal--in--said--court accordance with 20 2-4-704."

Section 9. Section 44-1-903, MCA, is amended to read: "44-1-903. Reinstatement and backpay upon reversal or modification. If the decision or determination of the department of justice is finally reversed or modified by the district court, the accused patrol officer must be

reinstated in his position. Upon reinstatement, the 1 department shall pay to the patrol officer any salary or 2 wages withheld from him pending the determination of the 3 charge or charges or-take-such-action-as-may-be-directed--by 4 the-court." 5 6 NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an integral part 7 of Title 44, chapter 1, part 9, and the provisions of Title 8 9 44, chapter 1, part 9, apply to [section 1].

10 NEW SECTION. Section 11. Repealer. Section 44-1-807,

11 MCA, is repealed.

-End-

APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	SENATE BILL NO. 251	l	patrol has violated any of the ga
2	INTRODUCED BY GAGE	2	demotion, or discharge orhis-
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	reprimanding, it may suspend;demo
4		4	member impose a suspension without
5	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT	5	without filing charges and conducting
6	OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10	6	<u>8</u> ."
7	DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A	7	Section-3Section-44-1-705,-MC
8	PRESUSPENSION HEARING; AUTHORIBINGSUSPENSIONWITHOUTPAY	8	"44-1-705Suspensionpending-
9	AND-DEMOTION-PENDING-THE-HIGHWAY-PATROL-DISCIPLINARY-HEARING	ę	the-department-of-justice-orders-a-h
10	PROCESS7 ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY	10	suspendwithoutpayor-demote-suc
11	HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE	11	the-rendition-of-the-decision-made-i
12	AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AND	12	Section 3. Section 44-1-803, MCA
13	AMENDING SECTIONS 44-1-701, 44-1-7057 44-1-803, 44-1-804,	13	"44-1-803. Rights of accused.
14	44-1-806, 44-1-9017 <u>AND</u> 44-1-9027AND- 44-1-903, MCA 7-AND	14	officer shall be entitled to b
15	REPEALING-SECTION-44~1-8077-MCA."	15	witnesses against him and have
16		16	cross-examine the same and to i
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	17	testimony in his own behalf. He sha
18	NEW SECTION. Section 1. Waiver. A patrol officer may	18	represented by counsel, at his
19	waive in writing his rights under Title 44, parts 7 and 8,	19	hearing."
20	and accept discipline considered appropriate by the	20	Section 4. Section 44-1-804, MC
21	department of justice.	21	"44-1-804. Rendering and fili
22	Section 2. Section 44-1-701, MCA, is amended to read:	22	department of justice shall, with
23	"44-1-701. Authority of department of justice to	23	hearing or within the additional tim
24	suspend, OR demote, or reprimend. When the department of	24	patrol officer consents, render its
25	justice has cause to believe that any member of the highway	25	file same in its office, with the ch



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4	member impose a suspension without pay for up to 10 days
5	without filing charges and conducting a hearing under part
6	<u>8</u> ."
7	Section-3Section-44-1-7057-MCA7-is-amended-to-read:
8	"44-1~705Suspension-~pending-hearing-and-decisionIf
9	the-department-of-justice-orders-a-hearing7thechiefmay
10	suspendwithoutpayor-demote-such-patrol-officer-pending
11	the-rendition-of-the-decision-made-in-such-case-"
12	Section 3. Section 44-1-803, MCA, is amended to read:
13	"44-1-803. Rights of accused. The accused patrol
14	officer shall be entitled to be confronted with the
15	witnesses against him and have an opportunity to
16	cross-examine the same and to introduce at such hearing
17	testimony in his own behalf. He shall be entitled to be
18	represented by counsel, at his own expense, at such
19	hearing."
20	Section 4. Section 44-1-804, MCA, is amended to read:
21	"44-1-804. Rendering and filing of decision. The
22	department of justice shall, within 15 30 days after such
23	hearing or within the additional time to which the accused

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chief, and with the patrol SECOND READING

-2-SB 251

<pre>l officer accused."</pre>

2 Section 5. Section 44-1-806, MCA, is amended to read: 3 "44-1-806. Disciplinary action. If after a hearing the 4 department of justice finds that any charge or charges made 5 against the patrol officer are true, it may punish the 6 offending party by reprimand, suspension without pay, 7 demotion, or discharge."

8 Section-7---Section-44-1-9017-MCA7-is-amended-to-read: 9 44-1-9017--Right-to-appeal:-(1)-Any-patrol-officer--who 10 is--suspended7--demoted7-or-discharged-has-a-right-of-appeal 11 to-the-district-court-of--bewis--and--Clark--County--from--a 12 decision-issued-under-44-1-0047

 13
 (2)--The--appeal--must--be-made-within-10-days-after-the

 14
 decision-or-determination-of-the-department-of-justice-"

15 Section 6. Section 44-1-902, MCA, is amended to read: 16 "44-1-902. Action by court. The district court shall 17 review such decision or determination in a-summary-manner 18 and-render-its-decision-upon-such-appeal-within-90-days-from 19 the-filing-of-such-appeal--in--said--court accordance with 20 2-4-704."

 21
 Section-97--Section-44-1-9037-MCA7-is-amended-to-read:

 22
 #44-1-9037--Reinstatement--and--backpay-upon-reversal-or

 23
 modification7--If--the--decision--or--determination--of--the

 24
 department-of-justice-is-finally-reversed-or-modified-by-the

 25
 district--court7--the--accused--patrol--officer---must---be

1	reinstatedinhispositionUponreinstatement7the
2	department-shall-pay-to-the-patrolofficeranysalaryor
3	wageswithheldfromhimpending-the-determination-of-the
4	charge-or-charges-or-take-such-action-as-may-be-directedby
5	the-court."
6	NEW SECTION. Section 7. Codification instruction.
7	[Section 1] is intended to be codified as an integral part
8	of Title 44, chapter 1, part 9, and the provisions of Title
9	44, chapter 1, part 9, apply to [section 1].
10	NEW-SECTIONSection-llRepealerSection44-l-807;

11 MCA7-is-repeated:

-End-

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1	SENATE BILL NO. 251	1	patrol has violated any of the grounds for suspension,
2	INTRODUCED BY GAGE	2	demotion, or discharge orhisconducthaswarranted
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	reprimonding, it may suspend;demote;orreprimondthe
4		4	member impose a suspension without pay for up to 10 days
5	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT	5	without filing charges and conducting a hearing under part
6	OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10	6	<u>8</u> ."
7	DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A	7	Section-3Section-44-1-7057-MCA7-is-amended-to-read:
8	PRESUSPENSION HEARING; AUTHORISING-SUSPENSIONWITHOUTPAY	8	#44-1-705Suspensionpending-hearing-and-decisionIf
9	AND-DEMOTION-PENDING-THE-HIGHWAY-PATROL-DISCIPLINARY-HEARING	9	the-department-of-justice-orders-a-hearingthechiefmay
10	PROCESS7 ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY	10	suspend <u>withoutpayor-demote</u> -such-patrol-officer-pending
11	HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE	11	the-rendition-of-the-decision-made-in-such-case."
12	AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AND	12	Section 3. Section 44-1-803, MCA, is amended to read:
13	AMENDING SECTIONS 44-1-701, 44-1-705, 44-1-803, 44-1-804,	13	44-1-803. Rights of accused. The accused patrol
14	44-1-806, 44-1-901 7 <u>AND</u> 44-1-9027AND-44-1-903, MCA7-AND	14	officer shall be entitled to be confronted with the
15	REPEALING-SECTION-44-1-8077-MCA."	15	witnesses against him and have an opportunity to
16		16	cross-examine the same and to introduce at such hearing
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	17	testimony in his own behalf. He shall be entitled to be
18	NEW SECTION. Section 1. Waiver. A patrol officer may	18	represented by counsel, at his own expense, at such
19	waive in writing his rights under Title 44, parts 7 and 8,	19	hearing."
20	and accept discipline considered appropriate by the	20	Section 4. Section 44-1-804, MCA, is amended to read:
21	department of justice.	-	
		21	"44-1-804. Rendering and filing of decision. The
22	Section 2. Section 44-1-701, MCA, is amended to read:	22	department of justice shall, within 15 <u>30</u> days after such
23	"44-1-701. Authority of department of justice to	23	hearing or within the additional time to which the accused
24	suspend; OR demote;-or-reprimand. When the department of	24	patrol officer consents, render its decision in writing and
25	justice has cause to believe that any member of the highway	25	file same in its office, with the chief, and with the patrol THIRD READING



SB 251 -2-

SB 0251/02

1 officer accused."

Section 5. Section 44-1-806, MCA, is amended to read: "44-1-806. Disciplinary action. If after a hearing the department of justice finds that any charge or charges made against the patrol officer are true, it may punish the offending party by reprimend; suspension without pay, demotion, or discharge."

8 Section-7---Section-44-1-9017-MCA7-is-amended-to-readt 9 #44-1-901---Right-to-appeal--(1)-Any-patrol-officer--who 10 is--suspended7--demoted7-or-discharged-has-a-right-of-appeal 11 to-the-district-court-of--bewis--and--Clark--County--from--a 12 decision-issued-under-44-1-004-

13 (2)--The--appeal--must--be-made-within-10-days-after-the decision-or-determination-of-the-department-of-justice-"

15 Section 6. Section 44-1-902, MCA, is amended to read: 16 "44-1-902. Action by court. The district court shall 17 review such decision or determination in a-summary-manner 18 and-render-its-decision-upon-such-appeal-within-90-days-from 19 the-filing-of-such-appeal--in--said--court accordance with 20 2-4-704."

21 Section-9:--Section-44-1-903;-MCA;-is-amended-to-read;
22 #44-1-903;--Reinstatement--and--backpay-upon-reversal-or
23 modification;--if--the--decision--or--determination--of--the
24 department-of-justice-is-finally-reversed-or-modified-by-the
25 district--court;--the--accused--patrol---officer---must---be

7 [Section 1] is intended to be codified as an integral part 8 of Title 44, chapter 1, part 9, and the provisions of Title

9 44, chapter 1, part 9, apply to [section 1].

10 NEW-SECTION---Section-11---Repeater---Section--44-1-8077

11 MCA7-is-repeated-

-End-

HOUSE STANDING COMMITTEE REPORT

March 19, 1991 Page 1 of 1

Mr. Speaker: We, the committee on <u>State Administration</u> report that <u>Senate Bill 251</u> (third reading copy -- blue) <u>be concurred</u> in as amended .

Signed: Chairman Carried by: Rep. Cocchiarella

And, that such amendments read: 1. Page 3, line 17. Following: "determination" Insert: "." Strike: "in"

2. Page 3, lines 19 and 20. Strike: "accordance with 2-4-704" Insert: "The district court is not limited by the scope of review set forth in 2-4-704 and may hold a new hearing"

HOUSE

52nd Legislature

SB 0251/03

SB 0251/03

1	SENATE BILL NO. 251	1 patrol has violated any of the grounds for suspension,
2	INTRODUCED BY GAGE	2 demotion, or discharge orhisconducthaswarranted
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3 reprimending, it may suspend;demote;orreprimendthe
4		4 member impose a suspension without pay for up to 10 days
5	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT	5 without filing charges and conducting a hearing under part
6	OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10	6 <u>8</u> ."
7	DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A	7 Section-3Section-44-1-705MCAy-is-amended-to-read-
8	PRESUSPENSION HEARING; AUTHORIBINGSUSPENSIONWITHOUTPAY	8 #44-1-705Suspensionpending-hearing-and-decisionIf
9	and-demotion-pending-the-highway-patrol-disciplinary-hearing	9 the-department-of-justice-orders-a-hearingthechiefmay
10	PROCESS: ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY	10 suspendwithoutpayor-demote-such-patrol-officer-pending
11	HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE	11 the-rendition-of-the-decision-made-in-such-case."
12	AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AND	12 Section 3. Section 44-1-803, MCA, is amended to read:
13	AMENDING SECTIONS 44-1-701, 44-1-7057 44-1-803, 44-1-804,	
14	44-1-806, 44-1-901; <u>and</u> 44-1-902;and-44-1-903, MCA;-and	13 *44-1-803. Rights of accused. The accused patrol
15	REPEALING-SECTION-44-1-0077-MCA."	14 officer shall be entitled to be confronted with the
16		15 witnesses against him and have an opportunity to
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16 cross-examine the same and to introduce at such hearing
18	NEW SECTION. Section 1. Waiver. A patrol officer may	17 testimony in his own behalf. He shall be entitled to be
		18 represented by counsel, at his own expense, at such
19	waive in writing his rights under Title 44, parts 7 and 8,	19 hearing."
20	and accept discipline considered appropriate by the	20 Section 4. Section 44-1-804, MCA, is amended to read:
21	department of justice.	21 "44-1-804. Rendering and filing of decision. The
22	Section 2. Section 44-1-701, MCA, is amended to read:	22 department of justice shall, within 15 30 days after such
23	"44-1-701. Authority of department of justice to	23 hearing or within the additional time to which the accused
24	suspend; OR demote; or reprimend. When the department of	24 patrol officer consents, render its decision in writing and
25	justice has cause to believe that any member of the highway	25 file same in its office, with the chief, and with the patrol
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ntana Legislative Council

-2-SB 251 REFERENCE BILL AS AMENDED

SB 251

3	*44-1-806. Disciplinary action. If after a hearing the
4	department of justice finds that any charge or charges made
5	against the patrol officer are true, it may punish the
6	offending party by reprimend, suspension without pay,
7	demotion, or discharge."
8	Section-7Section-44-1-9017-MCA7-is-amended-to-read+
9	#44-1-901Right-to-appeal(1)-Any-patrol-officerwho
10	issuspendedydemotedy-or-discharged-has-a-right-of-appeat
11	to-the-district-court-ofbewisandEiarkCountyfroma
12	decision-issued-under-44-1-804-
13	<pre>t2;Theappealmustbe-made-within-10-days-after-the</pre>
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19	the-filing-of-such-appealinsaidcourt <u>accordancewith</u>
20	2-4-784 THE DISTRICT COURT IS NOT LIMITED BY THE SCOPE OF
21	REVIEW SET FORTH IN 2-4-704 AND MAY HOLD A NEW HEARING."
22	Section-9Section-44-1-903y-MCAy-is-amended-to-read+
23	44-1-983Reinstatement-and-backpay-uponreversalor
24	modificationIfthedecisionordeterminationofthe
25	department-of-justice-is-finally-reversed-or-modified-by-the

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3	departmentshallpaytothe-patrol-officer-any-salary-or
4	wages-withheld-from-him-pendingthedeterminationofthe
5	chargeor-charges-or-take-such-action-as-may-be-directed-by
6	the-court-"
7	NEW SECTION. Section 7. Codification instruction.
8	[Section 1] is intended to be codified as an integral part
9	of Title 44, chapter 1, part 9, and the provisions of Title
10	44, chapter 1, part 9, apply to [section 1].

- 11 NEW-SECTION---Section-ll---Repealer--Section--44-1-8077
- 12 MEA₇-is-repeated-

-End-

Free Conference Committee on Senate Bill No. 251 Report No. 1, April 10, 1991

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 251, met and recommend that Senate Bill No. 251 (reference copy as amended - salmon) be amended as follows:

1. Title, line 13. Following: "44-1-804," Insert: "AND"

2. Title, line 14. Strike: "<u>AND</u> 44-1-902" Following: "44-1-903" Strike: ","

3. Page 3, lines 15 through 21. Following: line 14 Strike: section 6 in its entirety Renumber: subsequent section

And that this Free Conference Committee report be adopted.

For the Senate:

Bob Pipinich, Chair

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Coord 1/10 1:30 Sec. of Sénate

ADOPT

REJECT

For the House: <u>Uialli accultantella</u> Vicki Cocchiarella, Chair

Aim Southworth

it Clarks

Robert Clark

FCC#1 5B251

52nd Legislature

SB 0251/04

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SENATE BILL NO. 251 1 2 INTRODUCED BY GAGE BY REQUEST OF THE DEPARTMENT OF JUSTICE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT 5 OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10 6 7 DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REOUIRING A 8 PRESUSPENSION HEARING: AUTHORIGING--SUSPENSION--WITHOUT--PAY AND-BEMOTION-PENDING-THE-HIGHWAY-PATROL-DISCIPLINARY-HEARING 9 10 PROCESS: ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY 11 HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AND 12 13 AMENDING SECTIONS 44-1-701, 44-1-705, 44-1-803, 44-1-804, 14 AND 44-1-806, 44-1-901; AND 44-1-902; AND-44-1-903; MCA; AND 15 REPEALING-SECTION-44-1-0077-MCA."

16

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

18 NEW SECTION. Section 1. Waiver. A patrol officer may 19 waive in writing his rights under Title 44, CHAPTER 1, parts 20 7 and 8, and accept discipline considered appropriate by the 21 department of justice.

22 Section 2. Section 44-1-701, MCA, is amended to read:

23 "44-1-701. Authority of department of justice to 24 suspend, OR demote,---reprimend. When the department of 25 justice has cause to believe that any member of the highway

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patrol has violated any of the grounds for suspension. 2 demotion, or discharge or--his--conduct---has---warranted 3 reprimanding, it may suspend;--demote;--or--reprimand-the 4 member impose a suspension without pay for up to 10 days 5 without filing charges and conducting a hearing under part 8." б 7 Section-3---Section-44-1-7057-MCA7-is-amended-to-read: 8 44-1-705---Suspension-pending-hearing-and-decision---If 9 the--department--of--justice-orders-a-hearing;-the-chief-may 10 suspend-without-pay-or-demote-such--patrol--officer--pending 11 the-rendition-of-the-decision-made-in-such-case+" 12 Section 3. Section 44-1-803, MCA, is amended to read: 13 "44-1-803. Rights of accused. The accused patrol 14 officer shall be entitled to be confronted with the 15 witnesses against him and have an opportunity to 16 cross-examine the same and to introduce at such hearing 17 testimony in his own behalf. He shall be entitled to be

18 represented by counsel, at his own expense, at such 19 hearing."

20 Section 4. Section 44-1-804, MCA, is amended to read:

21 "44-1-804. Rendering and filing of decision. The 22 department of justice shall, within 15 30 days after such hearing or within the additional time to which the accused 23 patrol officer consents, render its decision in writing and 24 25 file same in its office, with the chief, and with the patrol

> SB 251 REFERENCE BILL: Includes Free Conference Committee Report Dated 4-10-91

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1 officer accused."

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Section 5. Section 44-1-806, MCA, is amended to read:

3 "44-1-806. Disciplinary action. If after a hearing the department of justice finds that any charge or charges made 4 against the patrol officer are true, it may punish the 5 offending party by reprimand, suspension without pay, 6 demotion, or discharge." 7

8 Section-7---Section-44-1-9017-MCA7-is-amended-to-read: 9 #44-1-901---Right--to-appeal--(1)-Any-patrol-officer-who 10 is-suspended,-demoted,-or-discharged-has-a-right--of--appeal 11 to--the--district--court--of--bewis--and-Clark-County-from-a 12 decision-issued-under-44-1-804-

(2)--The-appeal-must-be-made-within-10--days--after--the 13 14 decision-or-determination-of-the-department-of-justice=" 15 Section-6---Section-44-1-9027-MCAy-is-amended-to-read+ 16 #44-1-902---Action--by--court- The-district-court-shall 17 review-such-decision-or-determination: in a--summary--manner 18 and-render-its-decision-upon-such-appeal-within-90-days-from 19 the--filing--of--such--appeal--in-said-court accordance-with 20 2-4-704 THE-DISTRICT-COURT-IS-NOT-DIMITED-BY--THE--SCOPE-OF 21 REVIEW-SET-FORTH-IN-2-4-704-AND-MAY-HOLD-A-NEW-HEARING-" 22 Section-9---Section-44-1-9037-MEA7-is-amended-to-read: 23 24

#44-1-903---Reinstatement--and--backpay-upon-reversal-or modification--- ff-- the--decision--or--determination--of--the 25 department-of-justice-is-finally-reversed-or-modified-by-the

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1 district--courtz--the--accused--patrol---officer---must---be 2 reinstated---in---his---position----Upon--reinstatement---the department-shall-pay-to-the-patrol--officer--any--salary--or 3 wages--withheld--from--him--pending-the-determination-of-the 4 charge-or-charges-or-take-such-action-as-may-be-directed--by 5 6 the-court-" 7 NEW SECTION. Section 6. Codification instruction.

- 8 (Section 1) is intended to be codified as an integral part 9 of Title 44, chapter 1, part 9, and the provisions of Title 10 44, chapter 1, part 9, apply to [section 1]. 11 NEW-SECTION---Section-11---Repeater---Section--44-1-8077
- 12 MCA7-is-repealed-

-End-

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