SENATE BILL NO. 28

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Local Government.
January 7, 1981	Committee recommend bill do pass. Report adopted.
January 8, 1981	Bill printed and placed on members' desks.
January 9, 1981	Second reading, do pass.
January 10, 1981	Considered correctly engrossed.
January 12, 1981	Third reading, passed. Transmitted to House.
IN THE HOL	JS E
January 13, 1981	Introduced and referred to Committee on Local Government.
March 4, 1981	Committee recommend bill be concurred in. Report adopted.
March 5, 1981	Second reading, concurred in.
March 7, 1981	Third reading, concurred in. Yeas, 93; Nays, 2.
IN THE SEN	ATE
March 7, 1981	Returned from House. Con- curred in. Sent to enrolling.

Reported correctly enrolled.

1	SENATEBILL NO. 28
2	INTRODUCED BYMAZUREK
3	BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE
6	FOR DECLARING AN OFFICE FORFEITED BY REASON OF CASH SHORTAGE
۲	FOUND IN AN AUDIT BY THE DEPARTMENT OF COMMUNITY AFFAIRS;
8	AMENDING SECTION 2-7-511, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 2-7-511, MCA, is amended to read:
12	"2-7-511. Access to public accounts suspension of
13	officer in case of discrepancy. (1) The department may count
14	the cash, verify the bank accounts, and verify all accounts
15	of a public officer whose accounts it is examining under
16	law.
17	(2) If an officer of any county, city, town, school, or
18	other governmental entity referred to in this part refuses
19	to accord the department access during an audit of the
20	officer's accounts to his cash, bank accounts, or any of the
21	papers, vouchers, or records of his office or if the
22	department finds a shortage of cash, the department shall
23	immediately file a preliminary report showing the refusal of
24	that officer or the existence of the shortage and the
25	approximate amount of the shortage with the respective

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1 county, city, or town attorney and the governing body of the 2 governmental entity.

3 (3) Upon filing of the statement, the officer shall 4 immediately be suspended from the duties and emoluments of 5 his office and the governing body of such governmental 6 entity shall appoint some qualified person to the office 7 pending completion of the audit.

8 (4) Upon the completion of the audit by the department, 9 if a shortage of cash existed in the accounts of the officer, the department shall file with the governing body 10 11 of the governmental entity a final report of the audit, 12 showing the shortage. The-right-of-the-officer-to-the-office 13 is--then--forfeitedy-and-the-office-becomes-vacant-as-of-the date-of-the-suspension-of-the-officerv--The-person-appointed 14 15 to-the-office-upon-the-suspension-of-the-officer-shall--hold 16 the--office--until--the--election--and--qualification-of-his successor-as-provided-by--taw= The governing body shall. 17 18 within 10 days after the filing of the department's final 19 report of the audit; set a date and time for a formal 20 hearing to test the accuracy of the final report of the 21 audit and give notice of the hearing to the officer. 22 (5) An-officer-whose-right-to-office-has-been-forfeited may--within-10-days-after-the--filing--of--the--department's 23 final--report--or--audity-begin-in-the-district-court-of-the 24 proper-judicial-district-s-proceeding--in--quo--warranto--to 25

-2- INTRODUCED BILL

5B28

- l test--the--right--of-his-successor-to-hold-the-office-and-to
- 2 test-the-accuracy-of-the--final--report--and--audit--of--the
- 3 department. If the governing body finds that a shortage
- 4 exists and that the officer suspended is, by act or
- 5 omission, responsible for the shortage, the officer's right
- 6 to the office is forfeited and the report of the audit shall
- 7 be referred to the county attorney."

-End-

Approved by Comm. on Local Government

SENATE BILL NO. 28 1 2 INTRODUCED BY MAZUREK BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE 5 6 FOR DECLARING AN OFFICE FORFEITED BY REASON OF CASH SHORTAGE FOUND IN AN AUDIT BY THE DEPARTMENT OF COMMUNITY AFFAIRS; 7 AMENDING SECTION 2-7-511. MCA.* 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 2-7-511, MCA, is amended to read: 12 "2-7-511. Access to public accounts -- suspension of 13 officer in case of discrepancy. (1) The department may count the cash, verify the bank accounts, and verify all accounts 14 of a public officer whose accounts it is examining under 15 law. 16 17 (2) If an officer of any county, city, town, school, or

18 other governmental entity referred to in this part refuses to accord the department access during an audit of the 19 20 officer's accounts to his cash, bank accounts, or any of the 21 papers, vouchers, or records of his office or if the 22 department finds a shortage of cash, the department shall 23 immediately file a preliminary report showing the refusal of 24 that officer or the existence of the shortage and the 25 approximate amount of the shortage with the respective LC 0150/01

county, city, or town attorney and the governing body of the
 governmental entity.

3 (3) Upon filing of the statement, the officer shall 4 immediately be suspended from the duties and emoluments of 5 his office and the governing body of such governmental 6 entity shall appoint some qualified person to the office 7 pending completion of the audit.

8 (4) Upon the completion of the audit by the department, 9 if a shortage of cash existed in the accounts of the officer, the department shall file with the governing body 10 of the governmental entity a final report of the audit, 11 showing the shortage. The-right-of-the-officer-to-the-office 12 is--then--forfeitedy-and-the-office-becomes-vacont-as-of-the 13 14 date-of-the-suspension-of-the-officerv--The-person-appointed 15 to-the-office-upon-the-suspension-of-the-officer-shall--hold the--office--until--the--election--and--qualification-of-his 16 successor-as-provided-by--law. The governing body shall, 17 18 within 10 days after the filing of the department's final 19 report of the audit, set a date and time for a formal 20 hearing to test the accuracy of the final report of the 21 audit and give notice of the hearing to the officer. 22 (5) An-officer-whose-right-to-office-has-been-forfeited 23 mayy-within-10-days-after-the--filing--of--the--departments 24 final--report--or--audity-begin-in-the-district-court-of-the 25 proper-judicial-district-a-proceeding--in--guo--warranto--to -2- SECOND READING

test-the-right-of-his-successor-to-hold-the-office-and-to
test-the-accuracy-of-the-final-report-and-audit-of-the
department* If the governing body finds that a shortage
exists and that the officer suspended is: by act or
omission; responsible for the shortage, the officer's right
to the office is forfeited and the report of the audit shall
be referred to the county attorney."

-End-

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Ł SENATE BILL NO. 28 1 2 2 INTRODUCED BY MAZHREK 3 BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS 3 4 4 5 -5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE 6 FOR DECLARING AN OFFICE FORFEITED BY REASON OF CASH SHORTAGE 6 FOUND IN AN AUDIT BY THE DEPARTMENT OF COMMUNITY AFFAIRS: 7 7 R AMENDING SECTION 2-7-511, MCA." 8 9 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 2-7-511, MCA, is amended to read: 11 11 "2-7-511. Access to public accounts -- suspension of 12 12 13 13 officer in case of discrepancy. (1) The department may count 14 the cash, verify the bank accounts, and verify all accounts 14 15 of a public officer whose accounts it is examining under 15 16 1 aw+ 16 17 (2) If an officer of any county, city, town, school, or 17 other governmental entity referred to in this part refuses 18 18 to accord the department access during an audit of the 19 19 officer's accounts to his cash, bank accounts, or any of the 20 20 21 papers, vouchers, or records of his office or if the 21 22 department finds a shortage of cash, the department shall 22 23 immediately file a preliminary report showing the refusal of 23

that officer or the existence of the shortage and the

approximate amount of the shortage with the respective

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county, city, or town attorney and the governing body of the governmental entity.

3 (3) Upon filing of the statement, the officer shall 4 immediately be suspended from the duties and emoluments of 5 his office and the governing body of such governmental 6 entity shall appoint some qualified person to the office 7 pending completion of the audit.

(4) Upon the completion of the audit by the department, if a shortage of cash existed in the accounts of the officer, the department shall file with the governing body of the governmental entity a final report of the audit. showing the shortage. The right of the officer to the office is--then--forfeitedy-ond-the-office-becomes-vacant-as-of-the date-of-the-suspension-of-the-officer--The-person-appointed to-the-office-upon-the-suspension-of-the-officer-shall--hald the--office--until--the--election--and--qualification-of-his successor-as-provided-by--law The governing body shally within 10 days after the filing of the department's final report of the audit, set a date and time for a formal hearing to test the accuracy of the final report of the audit and give notice of the hearing to the officer. (5) An-officer-whose-right-to-office-has-been-forfeited mayy-within-18-days-after-the--filing--of--the--departments 24 final--report--or--audity-begin-in-the-district-court-of-the 25 proper-judicial-district-a-proceeding--in--quo--warranto--to

-2- THIRD READING SB 28

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L	testtherightof-his-successor-to-hold-the-office-and-to
2	test-the-accuracy-of-thefinalreportandauditofthe
3	department. If the governing body finds that a shortage
4	exists and that the officer suspended is, by act or
5	omission, responsible for the shortage, the officer's right
6	to the office is forfeited and the report of the audit shall

7 be referred to the county attorney."

-End-

47th Legislature

SB 0028/02

SENATE BILL NO. 28 Ł 2 INTRODUCED BY MAZUREK 3 BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE 5 FOR DECLARING AN OFFICE FOREFILED BY REASON OF CASH SHORTAGE 6 FOUND IN AN AUDIT BY THE DEPARTMENT OF COMMUNITY AFFAIRS; 7 AMENDING SECTION 2-7-511+ MCA.* 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 2-7-511, MCA, is amended to read: 12 #2-7-511. Access to public accounts -- suspension of officer in case of discrepancy. (1) The department may count 13 14 the cash, verify the bank accounts, and verify all accounts of a public officer whose accounts it is examining under 15 law. 16 17 (2) If an officer of any county, city, town, school, 18 or other governmental entity referred to in this part 19 refuses to accord the department access during an audit of 20 the officer's accounts to his cash, bank accounts, or any of 21 the papers, vouchers, or records of his office or if the 22 department finds a shortage of cash, the department shall 23 immediately file a preliminary report showing the refusal of 24 that officer or the existence of the shortage and the 25 approximate amount of the shortage with the respective

county, city, or town attorney and the governing body of the
 governmental entity.

3 (3) Upon filing of the statement+ the officer shall immediately be suspended from the duties and emoluments of his office and the governing body of such governmental entity shall appoint some qualified person to the office pending completion of the audit.

R (4) Upon the completion of the audit by the 9 department, if a shortage of cash existed in the accounts of the officer, the department shall file with the governing 10 11 body of the governmental entity a final report of the audit, 12 showing the shortage. The right-of-the-officer-to-the-office 13 is-then-forfeitedy-and-the-office-becomes-vacant-as--of--the 14 date-of-the-suspension-of-the-officer--The-person-appointed 15 to--the-office-upon-the-suspension-of-the-officer-shall-hold 16 the-office-until--the--election--and--qualification--of--his 17 successor--as--provided--by--laws The governing body shall, 18 within 10 days after the filing of the department's final 19 report of the audity set a date and time for a formal 20 hearing to test the accuracy of the final report of the 21 audit and give notice of the hearing to the officer. 22 (5) An---officer---whose--right--to--office--has--been 23 forfeited-mayy-within--10--days--after--the--filing--of--the department*s--final--report--or-audity-begin-in-the-district 24 25 court-of-the-proper-judicial-district-a--proceeding--in--guo REFERENCE BILL -2-SB 28

SB 0028/02

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- 2 office-and-to-test-the-accuracy-of--the--final--report--and
- 3 audit-of-the-department. If the governing body finds that a
- 4 shortage exists and that the officer suspended is, by act or
- 5 omission, responsible for the shortage, the officer's right
- 6 to the office is forfeited and the report of the audit shall
- 7 be referred to the county attorney."

-End-

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