SENATE BILL NO. 257

INTRODUCED BY GAGE BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

	IN THE SENATE
FEBRUARY 1, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 2, 1991	FIRST READING.
FEBRUARY 16, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1991	PRINTING REPORT.
FEBRUARY 19, 1991	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 20, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
MARCH 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
MARCH 16, 1991	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
MARCH 18, 1991	THIRD READING, CONCURRED IN. AYES, 97; NOES, 1.
	RETURNED TO SENATE.
	IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

MARCH 19, 1991

REPORTED CORRECTLY ENROLLED.

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1	Senate BILL NO. 257
2	INTRODUCED BY
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A LAW
6	ENFORCEMENT ADVISORY COUNCIL; ALLOWING THE ADVISORY COUNCIL
7	TO REVIEW AND APPROVE OPERATIONAL RULES GOVERNING THE
8	INVESTIGATIVE FUNCTIONS OF THE DEPARTMENT OF JUSTICE;
9	CLARIFYING THE PEACE OFFICER STATUS OF CRIMINAL
10	INVESTIGATION AGENTS OF THE DEPARTMENT OF JUSTICE; AMENDING
11	SECTIONS 44-2-111, 44-2-113, AND 44-2-115, MCA; AND
12	REPEALING SECTION 44-2-112, MCA."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	NEW SECTION. Section 1. Law enforcement advisory
16	council. (1) The attorney general shall establish a law
17	enforcement advisory council in accordance with 2-15-122.
18	Members must include representatives of the department of
19	justice, the Montana chiefs of police association, the
20	Montana sheriffs and peace officers association, the Montana
21	police protective association, the Montana county attorneys

association, and private citizens. The Montana chiefs of

police association, the Montana sheriffs and peace officers

association, the Montana police protective association, and

the Montana county attorneys association shall each submit a

3	(2) Members of the advisory council serve
4	pleasure of the attorney general.
5	(3) The department of justice shall provide st
6	support for the advisory council.
7	NEW SECTION. Section 2. Functions of advisory of
8	The advisory council shall:
9	(1) recommend general policies for the enforcement
10	investigation operations of the department of justice
11	(2) review and approve rules of the depart
1 2	justice concerning the operational protocol
13	investigative agencies of the department when p
14	assistance to city, county, state, or feder
15	enforcement agencies at their request.
16	Section 3. Section 44-2-111, MCA, is amended to
17	"44-2-111. Definition of "agent". As used in th
18	"agent" means a person appointed by the attorney ge
19	conduct criminal investigations and perform related
20	within the attorney-general's-office department of j
21	Section 4. Section 44-2-113, MCA, is amended to
22	"44-2-113. Qualifications of agents. Each age
23	must be a person qualified by experience, training,
24	professional competence in criminal invest

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list of names from which the attorney general may select

representatives to the advisory council.

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- federal--bureau-of-investigation-personnel: Each agent shall
 meet all the requirements of 7-32-303."

 Section 5. Section 44-2-115, MCA, is amended to read:
- 4 "44-2-115. Powers and duties of agents. An agent
 5 appointed by the attorney general pursuant to this part is a
 6 peace officer and shall:
- 7 (1) assist shall provide investigative assistance to
 8 city, county, state, and federal law enforcement agencies at
 9 their request by—providing—expert—and—immediate—aid—in
 10 investigation—and—solution—of—felonies—committed—in—the
 11 state in accordance with rules adopted by the department of
 12 justice after approval by the law enforcement advisory
- 14 (2) must have concurrent jurisdiction with local law
 15 enforcement agencies to investigate offenses involving
 16 dangerous drugs, as provided in Title 45, chapter 9, and
 17 violations that constitute organized criminal activity as

13

council;

- defined in rules approved by the law enforcement advisory council;
- 20 (3) shall investigate gambling activities in this state
 21 as provided in 23-5-113;
- 22 (4) shall investigate any apparent violations of penal 23 statutes disclosed by an audit of a state agency by the 24 legislative auditor;
- 25 (5) shall investigate apparent violations of penal

insurance fund; and

f2†(6) shall assist whenever possible any law
enforcement school held in the state for law enforcement
officers when requested;

f3)--act--as--a-peace-officer;-as-defined-in-the-laws-of
Montana;-when-engaged--in--assisting--or--acting--under--the

statutes referred by the state workers' compensation mutual

NEW SECTION. Section 6. Repealer. Section 44-2-112,

MCA, is repealed.

enforcement-agencies-as-provided-in-this-section."

-End-

direction---of---city;---county;---state;--and--federal--law

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0257, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would create a law enforcement advisory council and allow the advisory council to review and approve operational rules for the investigative functions of the Department of Justice; clarification is also provided for the peace officer status of criminal investigation agents of the Department of Justice.

ASSUMPTIONS:

- 1. There will be nine advisory council members and two of the members will be Department of Justice employees. Expenses will be paid for the other seven members in the form of a \$25 stipend per meeting and travel expenses. Travel is estimated on the basis of an average 300 mile round trip for each of the seven non-employee members.
- 2. An average of four council meetings will be held per fiscal year. The average cost per non-employee member per meeting will be \$153.
- 3. Current law is represented by the executive budget recommendation for the Legal Services Division of the Department of Justice.

FISCAL IMPACT:

Department of Justice-Legal Services Division

	<u> </u>	FY 92			FY 93	
	Current Law	Proposed Law	<u>Difference</u>	Current Law	Proposed Law	Difference
Expenditures:						
FTE	25.50	25.50	0.00	25.50	25.50	0.00
Personal Services	990,600	990,600	0	989,300	989,300	0
Operating Costs	242,300	246,600	4,300	237,700	242,000	4,300
Equipment	13,000	13,000	0	12,700	12,700	0
Total	1,245,900	1,250,200	4,300	1,239,700	1,244,000	4,300
Funding:						
General Fund (01)	1,245,900	1,250,200	4,300	1,239,700	1,244,000	4,300
General Fund Impact			(4,300)			(4,300)

ROD SUNDSTED, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

ELWYN GAGE PRIMARY SPONSOR

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Fiscal Note for SB0257, as introduced

5B 257

APPROVED BY COMMITTEE ON JUDICIARY

2	INTRODUCED BY GAGE
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT CREATINGALAW
6	enporcementadvisory-councib;-albowing-the-advisory-councib
7	TOREVIEWANDAPPROVEOPERATIONALRULESGOVERNINGTHE
8	investigativepunctionsopthedepartmentopjustice;
9	CLARIFYING THE PEACE OFFICER STATUS OF CRIMINAL
10	INVESTIGATION AGENTS OF THE DEPARTMENT OF JUSTICE; AMENDING
11	SECTIONS 44-2-111, 44-2-113, AND 44-2-115, MCA; AND
12	REPEALING SECTION 44-2-112, MCA."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	NEW-SECTIONSection-1:bawenforcementadvisory
16	council(1)-The-attorneygeneralshallestablishalaw
17	enforcementadvisorycouncilin-accordance-with-2-15-122-
18	Members-must-include-representatives-ofthedepartmentof
19	justice,theMontanachiefsofpoliceassociation,-the
20	Montana-sheriffs-and-peace-officers-associationy-the-Montana
21	police-protective-association;-the-Montana-countyattorneys
22	association,andprivatecitizensThe-Montana-chiefs-of
23	police-association;-the-Montana-sheriffs-and-peaceofficers
24	association; the-Montana-police-protective-association; - and
25	the-Montana-county-attorneys-association-shall-each-submit-a

SENATE BILL NO. 257

_	The of wared from anten are actional design
2	representatives-to-the-advisory-council;
3	(2)Membersoftheadvisorycouncilserveatthe
4	pleasure-of-the-attorney-general:
5	(3)Thedepartmentof-justice-shall-provide-staff-and
6	support-for-the-advisory-council-
7	NEW-SBCTION: Section-2: Punctions-of-advisory-council:
8	The-advisory-council-shall:
9	(1)recommend-general-policies-for-the-enforcementand
10	investigation-operations-of-the-department-of-justice;-and
11	(2)reviewandapproverulesofthedepartment-of
12	justiceconcerningtheoperationalprotocolofthe
13	investigativeagenciesofthedepartmentwhen-providing
14	assistancetocity;county;state;orfederallaw
15	enforcement-agencies-at-their-request-
16	Section 1. Section 44-2-111, MCA, is amended to read:
17	"44-2-111. Definition of "agent". As used in this part,
18	"agent" means a person appointed by the attorney general to
19	conduct criminal investigations and perform related duties
20	within the attorney-general+s-office department of justice."
21	Section 2. Section 44-2-113, MCA, is amended to read:
22	"44-2-113. Qualifications of agents. Each agent shall
23	must be a person qualified by experience, training, and high
24	professional competence in criminal investigation.
25	Qualifications-shall-be-equal-to-those-of-similarly-assigned

SECOND READING

- federal--bureau-of-investigation-personnel: Each agent shall
 meet all the requirements of 7-32-303."
- 3 Section 3. Section 44-2-115, MCA, is amended to read:
- 4 "44-2-115. Powers and duties of agents. An agent
 5 appointed by the attorney general pursuant to this part is a
 6 peace officer and shall:
- 7 (1) assist shall provide investigative assistance to
 8 city, county, state, and federal law enforcement agencies at
 9 their request by--providing--expert--and--immediate--aid--in
 10 investigation--and--solution--of--felonies--committed-in-the
 11 state in accordance with rules adopted by the department of
 12 justice after approval by the law enforcement advisory
- 14 (2) must SHALL have concurrent jurisdiction with local
 15 law enforcement agencies to investigate offenses involving
 16 dangerous drugs, as provided in Title 45, chapter 9, and
 17 violations that constitute organized criminal activity as
 18 defined in rules approved by the law enforcement advisory
- 19 council;

council;

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- 20 (3) shall investigate gambling activities in this state
 21 as provided in 23-5-113;
- 22 (4) shall investigate any apparent violations of penal 23 statutes disclosed by an audit of a state agency by the 24 legislative auditor;
- 25 (5) shall investigate apparent violations of penal

statutes referred by the state workers' compensation mutual 2 insurance fund; and (6) shall assist whenever possible any 3 enforcement school held in the state for law enforcement officers when requested; 6 t3}--act--as--a-peace-officery-as-defined-in-the-laws-of Montanay-when-engaged--in--assisting--or--acting--under--the direction---of---city;---county;---state;--and--federal--law enforcement-agencies-as-provided-in-this-section." NEW SECTION. Section 4. Repealer. Section 44-2-112, 10 11 MCA, is repealed.

-End-

SB 0257/03

1	SENATE BILL NO. 257
2	INTRODUCED BY GAGE
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT EREATINGALAW
6	enforcementadvisory-councid;-allowing-fhe-advisory-councid
7	TOREVIEWANDAPPROVEOPERATIONALRULESGOVERNINGTHE
8	investigativefunctionsopthedepartmentopdustice;
9	CLARIFYING THE PEACE OFFICER STATUS OF CRIMINAL
.0	INVESTIGATION AGENTS OF THE DEPARTMENT OF JUSTICE; AMENDING
1,	SECTIONS 44-2-111, 44-2-113, AND 44-2-115, MCA; AND
.2	REPEALING SECTION 44-2-112, MCA."
.3	
. 4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.5	NEW-SECTION: Section-1: bawenforcement advisory
.6	council(i)-The-attorneygeneralshallestablishalaw
.7	enforcementadvisorycouncilin-accordance-with-2-15-122+
.8	Members-must-include-representatives-ofthedepartmentof
9	justice,theMontanachiefsofpoliceassociation,-the
0	Montana-sheriffs-and-peace-officers-association;-the-Montana
1	police-protective-association;-the-Montana-countyattorneys
2	association,andprivatecitizensThe-Montana-chiefs-of
23	police-associationy-the-Montana-sheriffs-and-peaceofficers
4	association,the-Montana-police-protective-association,-and
5	the-Montana-county-attorneys-association-shall-cach-submit-a

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2	representatives-to-the-advisory-council;
3	(2)Membersoftheadvisorycouncilserveatthe
4	pleasure-of-the-attorney-general.
5	(3)Thedepartmentof-justice-shall-provide-staff-and
6	support-for-the-advisory-council;
7	NEW-SECTION: Section-2: Punctions-of-advisory-council:
8	The-advisory-council-shall:
9	(1)recommend-general-policies-for-the-enforcementand
10	investigation-operations-of-the-department-of-justice;-and
11	(2)reviewandapproverulesofthedepartment-of
12	justice-concerning-theoperationalprotocolofthe
13	investigativeagenciesofthedepartmentwhen-providing
14	assistancetocity;county;state;erfederalla
15	enforcement-agencies-at-their-request:
16	Section 1. Section 44-2-111, MCA, is amended to read:
17	"44-2-111. Definition of "agent". As used in this part
18	"agent" means a person appointed by the attorney general to
19	conduct criminal investigations and perform related dutie
20	within the attorney-general's-office department of justice.
21	Section 2. Section 44-2-113, MCA, is amended to read:
22	"44-2-113. Qualifications of agents. Each agent shall
23	must be a person qualified by experience, training, and hig
24	professional competence in criminal investigation

Qualifications-shall-be-equal-to-those-of-similarly-assigned

1	federalbureau-of-investigation-personnel-	Each agent shall
2	meet all the requirements of 7-32-303."	

- 3 Section 3. Section 44-2-115, MCA, is amended to read:
- 4 "44-2-115. Powers and duties of agents. An agent
 5 appointed by the attorney general pursuant to this part is a
 6 peace officer and shall:

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council;

- (1) assist shall provide investigative assistance to city, county, state, and federal law enforcement agencies at their request by--providing--expert--and--immediate--aid--in investigation--and--solution--of--felonies--committed-in-the state in accordance with rules adopted by the department of justice after--approval--by--the--law--enforcement-advisory
- (2) must SHALL have concurrent jurisdiction with local
 law enforcement agencies to investigate offenses involving
 dangerous drugs, as provided in Title 45, chapter 9, and
 violations that constitute organized criminal activity as
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 council;
- 20 (3) shall investigate gambling activities in this state
 21 as provided in 23-5-113;
- 22 (4) shall investigate any apparent violations of penal 23 statutes disclosed by an audit of a state agency by the 24 legislative auditor;
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1 statutes referred by the state workers' compensation mutual insurance fund; and 2 3 +2+(6) shall assist whenever possible law enforcement school held in the state for law enforcement officers when requested; +3)--act--as--a-peace-officery-as-defined-in-the-laws-of 7 Montanay-when-engaged--in--assisting--or--acting--under--the 8 direction---of---city7---county7---state7--and--federal--law enforcement-agencies-as-provided-in-this-section." NEW SECTION. Section 4. Repealer. Section 44-2-112, 10 MCA, is repealed. 11

-End-

1	SENATE BILL NO. 257	1	list-of-names-from-which-theattorneygeneralmayselect
2	INTRODUCED BY GAGE	2	representatives-to-the-advisory-council:
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	(2)Membersoftheadvisorycouncilserveatthe
4		4	pleasure-of-the-attorney-general:
5	A BILL FOR AN ACT ENTITLED: "AN ACT EREATING A LAW	5	(3)Thedepartmentof-justice-shall-provide-staff-and
6	enforcementAdvisory-council;-Allowing-The-Advisory-council	6	support-for-the-advisory-council;
7	TOREVIEWANDAPPROVEOPERATIONALRULESGOVERNINGTHE	7	NEW-SECTION: Section-2: Punctions-of-advisory-council-
8	investigativefunctionsopthedepartmentopJustice;	8	The-advisory-council-shall:
9	CLARIFYING THE PEACE OFFICER STATUS OF CRIMINAL	9	(1)recommend-general-policies-for-the-enforcementand
10	INVESTIGATION AGENTS OF THE DEPARTMENT OF JUSTICE; AMENDING	10	investigation-operations-of-the-department-of-justice;-and
11	SECTIONS 44-2-111, 44-2-113, AND 44-2-115, MCA; AND	11	(2)reviewandapproverulesofthedepartment-of
12	REPEALING SECTION 44-2-112, MCA."	12	justiceconcerningtheoperationalprotocolofthe
13		13	investigativeagenciesofthedepartmentwhen-providing
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	14	assistancetocity;county;state;orfederallaw
15	NEW-SECTION: Section-1:bawenforcementadvisory	15	enforcement-agencies-at-their-request:
16	council(1)-The-attorneygeneralshallestablishalaw	16	Section 1. Section 44-2-111, MCA, is amended to read:
17	enforcementadvisorycouncilin-accordance-with-2-15-122-	17	"44-2-111. Definition of "agent". As used in this part,
18	Members-must-include-representatives-ofthedepartmentof	18	"agent" means a person appointed by the attorney general to
19	justiceytheMontanachiefsofpoliceassociation;-the	19	conduct criminal investigations and perform related duties
20	Montana-sheriffs-and-peace-officers-association;-the-Montana	20	within the attorney-general's-office department of justice."
21	police-protective-association;-the-Montana-countyattorneys	21	Section 2. Section 44-2-113, MCA, is amended to read:
22	association;andprivatecitizensThe-Montana-chiefs-of	22	"44-2-113. Qualifications of agents. Each agent shall
23	police-association;-the-Montana-sheriffs-and-peaceofficers	23	must be a person qualified by experience, training, and high
24	association,the-Montana-police-protective-association,-and	24	professional competence in criminal investigation.
25	the-Montana-county-attorneys-association-shall-each-submit-a	25	Qualifications-shall-be-equal-to-those-of-similarly-assigned

L	list-of-names-from-which-theattorneygeneralmayselect
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8	"agent" means a person appointed by the attorney general to
9	conduct criminal investigations and perform related duties
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1	Section 2. Section 44-2-113, MCA, is amended to read:
2	"44-2-113. Qualifications of agents. Each agent shall

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MCA, is repealed.

1	federalbureau-of-investigation-personnel-	Each agent shall
2	meet all the requirements of 7-32-303."	

- 3 Section 3. Section 44-2-115, MCA, is amended to read:
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 5 appointed by the attorney general pursuant to this part is a
 6 peace officer and shall:

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- (1) assist shall provide investigative assistance to city, county, state, and federal law enforcement agencies at their request by--providing--expert--and--immediate--aid--in investigation--and--solution--of--fedonies--committed-in-the state in accordance with rules adopted by the department of justice after--approval--by--the--law--enforcement-advisory councit:
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direction--of--city; --county; --state; --and-federal-law
enforcement-agencies-as-provided-in-this-section.*

NEW SECTION. Section 4. Repealer. Section 44-2-112,

statutes referred by the state workers' compensation mutual

-End-

SB 257