# HOUSE BILL NO. 857

INTRODUCED BY ABRAMS, SPAETH, PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Judiciary.
February 21, 1983	Committee recommend bill do pass. Report adopted.
February 22, 1983	Bill printed and placed on members' desks.
February 23, 1983	Second reading, do pass.
	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.
	IN THE SENATE
March 1, 1983	Introduced and referred to Committee on Judiciary.
March 17, 1983	Committee recommend bill be concurred in. Report adopted.
March 19, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.
	IN THE HOUSE
March 22, 1983	Returned to House.
March 23, 1983	Sent to enrolling.
	Reported correctly enrolled.

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Horece BILL NO. 857 Jack INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID 5 AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER 6 7 STATES AND THE UNITED STATES: SPECIFYING AUTHORITY OF LAW 8 ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF 9 AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES: 10 PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS: AUTHORIZING 11 AGENCY COMMITMENT OF FUNDS. PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS: AND PROVIDING AN IMMEDIATE EFFECTIVE 12 13 DATE\_"

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 Section 1. Short title. [Sections 1 through 12] shall 17 be known and may be cited as the "Interstate Law Enforcement 18 Mutual Aid Act".

19 Section 2. Purpose. It is the purpose of [sections 1 20 through 12] to permit one or more law enforcement agencies 21 of this state to enter into mutual aid agreements, on the 22 basis of mutual advantage, with one or more law enforcement 23 agencies of any other state or the United States in order to 24 facilitate and coordinate efficient, cooperative enforcement 25 efforts directed at mutual law enforcement proplems transcending jurisdictional boundaries and to insure the prompt and effective delivery of law enforcement and emergency services in areas that, due to geographic remoteness, population sparsity, and economic and other factors are in need of an increased law enforcement presence.

Section 3. Definitions. Ahen used in [sections 1
through 12], unless the context requires otherwise, the
following definitions apply:

(1) "Law enforcement agency" means a public agency 10 11 laufully established by statute or executive order that is 12 responsible for the prevention and detection of crime and 13 the enforcement of penal, traffic, regulatory, or game laws. 14 (2) "Law enforcement agency of this state" or "law 15 enforcement agency of another (or any other) state\* includes, respectively, a law enforcement agency of a 16 17 political subdivision of this state and a law enforcement 18 agency of a political subdivision of another state.

(3) "Mutual aid agreement" or "agreement" means an
agreement between two or more law enforcement agencies,
consistent with the purposes of [sections 1 through 12].

(4) "Party law enforcement agency" means a law
enforcement agency that is a party to a mutual aid agreement
as set forth in [sections 1 through 12].

25 (5) "Peace officer" has the meaning as the term is INTRODUCED BILL -21 defined in 46-1-201.

2 Section 4. Authorization to enter agreement -- general content -- authority of peace officer. (1) Any one or more З 4 law enforcement agencies of this state may enter into a 5 mutual aid agreement with any one or more law enforcement 6 agencies of any other state or the United States to provide 7 the law enforcement or emergency services that all of the 8 parties are authorized by law to perform. If required by 9 applicable law, the agreement must be authorized and 10 approved by the governing body of each party to the 11 agreement.

12 (2) The agreement must fully set forth the powers,13 rights, and obligations of the parties to the agreement.

14 (3) Subject to [section 8], a mutual aid agreement may 15 grant a peace officer of any party law enforcement agency 16 acting within the territorial jurisdiction of any other 17 party law enforcement agency authority to act as if he were 18 a duly appointed and qualified peace officer of the law 19 enforcement agency he is assisting.

20 Section 5. Detailed content of agreement. The 21 agreement authorized by [section 4] must specify the 22 following:

23 (1) its duration;

(2) the precise organization, composition, and nature
 of any separate legal entity created thereby;

(3) the purpose of the agreement;

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2 (4) the manner of financing the agreement and
3 establishing and maintaining a budget therefor;

4 (5) the method to be employed in accomplishing the
5 partial or complete termination of the agreement and for
6 disposing of property upon such partial or complete
7 termination:

8 (6) provision for administering the agreement, which
 9 may include creation of a joint board responsible for such
 10 administration;

(7) the manner of acquiring, holding, and disposing of
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(8) the minimum standards for law enforcement
 personnel implementing the provisions of the agreement;

15 (9) the respective liability of each party to the 16 agreement for the actions of law enforcement officers when 17 acting under the provisions of the agreement;

18 (10) the minimum insurance required of each party to 19 the agreement;

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authority to be followed by law enforcement officials acting
under the provisions of the agreement;

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officers of each party law enforcement agency may exercise;
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1 (13) any other necessary and proper matters. 2 Section 6. Right of state in actions involving 3 agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid 4 5 agreement entered into between one or more law enforcement 6 agencies of political subdivisions of this state and one or 7 more law enforcement agencies of another state or of the United States, the parties to the agreement are the real 8 parties in interest. This state may maintain an action 9 10 against any law enforcement agency whose default, failure, performance, or other conduct caused or contributed to any 11 12 liability incurred by this state.

13 Section 7. Agreement not to relieve agency of duties. 14 No agreement made under [sections 1 through 12] may relieve 15 any law enforcement agency of this state of any duty imposed 16 upon it by law. Timely performance of such a duty by a 17 joint board or other legal or administrative entity created 18 by a nutual aid agreement may be offered in satisfaction of 19 the duty.

20 Section 8. Limitation of powers. Except for the right 21 granted by [sections 1 through 12] to jointly exercise 22 powers, [sections 1 through 12] do not authorize any law 23 enforcement agency of this state to exercise any power that 24 it is not otherwise authorized to exercise.

25 Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement
 becoming effective under [sections 1 through 12], the
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5 (2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he 6 finds that it is not in proper formy does not meet the 7 requirements set forth in [sections 1 through 12], or 8 otherwise does not conform to the laws of Montana. If he S disapproves an agreement, he shall provide a detailed, 10 written statement to the governing bodies of the party law 11 12 enforcement agencies.

13 (3) If the attorney general does not disapprove an
14 agreement within 60 days after its submission to him, it is
15 considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of: (1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

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 purpose of agreement. Any law enforcement agency of this
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otherwise supply material to any entity created for the
 purpose of performance of an agreement and may provide such
 personnel or services therefor as are within its authority
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Section 12. Effect of other law. The procedures and
remedies provided in [sections 1 through 11] apply to the
exclusion of those remedies and procedures for interlocal
agreements generally under Title 7, chapter 11, part 1.
Section 13. Effective date. This act is effective on
passage and approval.

-End-

## STATE OF MONTANA

REQUEST NO. 487-83

### FISCAL NOTE

Form BD-15

In compliance with a written request receivedFebruary 19,, 19 _83, there is hereby submitted a Fiscal Note
for House Bill 857 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
of the Legislature upon request.

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### DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 857 authorizes mutual aid agreement among law enforcement agencies of this and other states and the United States; specifies authority of law enforcement officer's and agencies; clarifies the effect of agreements on legal duties of law enforcement agencies; provides for approval and filing of agreements; authorizes agency commitmenet of funds, personnel, and equipment for purposes of agreements; and provides an immediate effective date.

FISCAL IMPACT:

None.

FISCAL NOTE: 16:CC/1

BUDGET DIRECTOR Office of Budget and Program Planning Date: 2 - 2

48th Legislature

LC 1220/01

Approved by Committee on Judiciary

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SECOND READING

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1	2	(4) the manner of financing the agreement and
9	· 3	establishing and maintaining a budget therefor;
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5 Section 12. Effect of other law. The procedures and 6 remedies provided in [sections 1 through 11] apply to the 7 exclusion of those remedies and procedures for interlocal 8 agreements generally under Title 7, chapter 11, part 1.

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2	INTRODUCED BY ABRAMS, SPAETH, PAVLOVICH	2	prompt and effective delivery of law enforcement and
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	emergency services in areas that, due to geographic
4		4	remoteness, population sparsity, and economic and other
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 agreement must be submitted to and receive the approval of
 the attorney general of Montana.

5 (2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he 6 finds that It is not in proper form, does not meet the 7 8 requirements set forth in [sections 1 through 12], or 9 otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, 10 11 written statement to the governing bodies of the party law 12 enforcement agencies.

13 (3) If the attorney general does not disapprove an
14 agreement within 60 days after its submission to him, it is
15 considered approved by him.

16 Section 10. Filing of agreement. Within 20 days after 17 approval by the attorney general, an agreement made pursuant 18 to [sections 1 through 12] must be filed in the office of: 19 (1) each clerk and recorder of each county of this 20 state where the principal office of one of the parties to 21 the agreement is located; and

22 (2) the secretary of state.

23 Section 11. Authorization to appropriate funds for 24 purpose of agreement. Any law enforcement agency of this 25 state may appropriate funds for and may sell, lease, or

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otherwise supply material to any entity created for the
 purpose of performance of an agreement and may provide such
 personnel or services therefor as are within its authority
 to furnish.

5 Section 12. Effect of other law. The procedures and 6 remedies provided in [sections I through 11] apply to the 7 exclusion of those remedies and procedures for interlocal 8 agreements generally under Title 7, chapter 11, part 1. 9 Section 13. Effective date. This act is effective on

10 passage and approval.

-End-

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