

HOUSE BILL NO. 41
INTRODUCED BY GILBERT

IN THE HOUSE

December 30, 1988	Introduced and referred to Committee on Local Government.
January 2, 1989	First reading.
January 4, 1989	Committee recommend bill do pass as amended. Report adopted.
	Second reading, do pass. Ayes, 96; Noes, 0.
January 5, 1989	Considered correctly engrossed.
January 9, 1989	Third reading, passed. Ayes, 100; Noes, 0.
	Transmitted to Senate.

IN THE SENATE

January 10, 1989	Introduced and referred to Committee on Local Government.
January 20, 1989	Committee recommend bill be concurrred in. Report adopted.
January 23, 1989	Second reading, concurred in.
January 25, 1989	Third reading, concurred in. Ayes, 49; Noes, 1.
	Returned to House.

IN THE HOUSE

January 26, 1989	Received from Senate. Sent to enrolling.
	Reported correctly enrolled.

1 HOUSE BILL NO. 41
2 INTRODUCED BY GILBERT
3
4 A BILL FOR AN ACT ENTITLED: "THE INTERSTATE EMERGENCY
5 SERVICES MUTUAL AID ACT; AND PROVIDING FOR INTERSTATE MUTUAL
6 AID AGREEMENTS BETWEEN FIRE PROTECTION SERVICES, EMERGENCY
7 MEDICAL CARE PROVIDERS, LOCAL GOVERNMENT SUBDIVISIONS, AND
8 THE UNITED STATES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1. Short title.** [This act] shall be known and
12 may be cited as the "Interstate Emergency Services Mutual
13 Aid Act".

14 **Section 2. Purpose.** It is the purpose of [this act] to
15 permit one or more fire protection services, emergency
16 medical care providers, or local government subdivisions of
17 this state to enter into mutual aid agreements, on the basis
18 of mutual advantage, with one or more fire protection
19 services, emergency medical care providers, or local
20 government subdivisions of any other state or the United
21 States in order to facilitate and coordinate efficient,
22 cooperative firefighting efforts directed toward protection
23 of life and property in areas transcending state boundaries
24 that, due to geographic remoteness, population sparsity, and
25 economic or other factors, are in need of such services.

1 **Section 3. Definitions.** As used in [this act], unless
2 the context requires otherwise, the following definitions
3 apply:

4 (1) "Emergency medical care provider" means a local
5 government subdivision or other entity, whether public or
6 private, licensed by the state to provide emergency medical
7 services pursuant to Title 50, chapter 6.

8 (2) "Fire protection service" means a paid or
9 volunteer fire department, fire company, or other fire
10 suppression entity organized under the laws of this state,
11 any party state, or an agency of the government of the
12 United States.

13 (3) "Local government subdivision" means the local
14 governmental entity, other than state government, including
15 but not limited to incorporated towns and cities, townships,
16 and counties.

17 (4) "Mutual aid agreement" or "agreement" means an
18 agreement, consistent with the purposes of [this act], by
19 one or more fire protection services, emergency medical care
20 providers, or local government subdivisions of this state
21 with one or more fire protection services, emergency medical
22 care providers, or local government subdivisions of any
23 other state or the United States.

24 (5) "Party emergency service" means a fire protection
25 service, emergency medical care provider, local government

subdivision, or agency of the United States that is a party to a mutual aid agreement as set forth in [this act].

Section 4. Authorization to enter agreement -- general content -- authority. (1) Any one or more fire protection services, emergency medical care providers, or local government subdivisions of this state may enter into a mutual aid agreement with any one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States to provide emergency services to the area covered by the agreement. The agreement must be authorized and approved by the governing body of each party to the agreement that is not an agency of the United States government.

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

(3) A mutual aid agreement grants a fire protection service or emergency medical care provider of this state authority to operate outside of the state and grants authority for a fire protection service or emergency medical care provider of another state or the United States to operate within this state as if the fire service or emergency medical care provider were organized and operated under the laws of this state.

Section 5. Detailed content of agreement. The

agreement authorized by [section 4] must specify the following:

(1) the purpose of the agreement;

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

(3) the duration of the agreement;

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

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

(6) the exact chain of command or delegation of authority to be followed by party emergency services acting under the provisions of the agreement;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(8) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid agreement entered into between one or more fire protection services, emergency medical care providers, or local

1 government subdivisions of this state and one or more fire
 2 protection services, emergency medical care providers, or
 3 local government subdivisions of another state or of the
 4 United States, the parties to the agreement are the real
 5 parties in interest. This state may maintain an action
 6 against any fire protection service, emergency medical care
 7 provider, or local government subdivision whose default,
 8 failure, performance, or other conduct caused or contributed
 9 to a liability incurred by the state.

10 **Section 7. Agreement not to relieve agency of duties.**
 11 No agreement made under [this act] may relieve any fire
 12 protection service, emergency medical care provider, or
 13 local government subdivision of this state of a duty imposed
 14 upon it by law. Timely performance of such a duty by a joint
 15 board or other legal or administrative entity created by a
 16 mutual aid agreement may be offered in satisfaction of the
 17 duty.

18 **Section 8. Limitation of powers.** Except for the right
 19 granted by [this act] to jointly exercise powers, [this act]
 20 does not authorize any fire protection service, emergency
 21 medical care provider, or local government subdivision of
 22 this state to exercise a power that it is not otherwise
 23 authorized to exercise.

24 **Section 9. Submission of agreement to attorney**
 25 **general.** (1) As a condition precedent to an agreement

1 becoming effective under [this act], the agreement must be
 2 submitted to and receive the approval of the state attorney
 3 general.

4 (2) The attorney general shall approve an agreement
 5 submitted to him under [this act] unless he finds that it is
 6 not in proper form, does not meet the requirements set forth
 7 in [this act], or otherwise does not conform to the laws of
 8 Montana. If he disapproves an agreement, he shall provide a
 9 detailed, written statement to the appropriate governing
 10 bodies of the fire protection services, emergency medical
 11 care providers, and local government subdivisions.

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

15 **Section 10. Filing of agreement.** Within 20 days after
 16 approval by the attorney general, an agreement made pursuant
 17 to [this act] must be filed in the office of:

18 (1) each clerk and recorder of each county of this
 19 state where the principal office of one of the parties to
 20 the agreement is located; and

21 (2) the secretary of state.

22 **Section 11. Authorization to appropriate funds for**
 23 **purpose of agreement.** A fire protection service, emergency
 24 medical care provider, or local government subdivision of
 25 this state may appropriate funds for and may sell, lease, or

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

5 **Section 12. Effect of other law.** The procedures and
6 remedies provided in [this act] apply to the exclusion of
7 those remedies and procedures for interlocal agreements
8 generally under Title 7, chapter 11, part 1.

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 41

INTRODUCED BY GILBERT

A BILL FOR AN ACT ENTITLED: "THE INTERSTATE EMERGENCY SERVICES MUTUAL AID ACT; AND PROVIDING FOR INTERSTATE MUTUAL AID AGREEMENTS BETWEEN FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, LOCAL GOVERNMENT SUBDIVISIONS, AND THE UNITED STATES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [This act] shall be known and may be cited as the "Interstate Emergency Services Mutual Aid Act".

NEW SECTION. Section 2. Purpose. It is the purpose of [this act] to permit one or more fire protection services, emergency medical care providers, or local government subdivisions of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States in order to facilitate and coordinate efficient, cooperative firefighting efforts directed toward protection of life and property in areas transcending state boundaries that, due to geographic

remoteness, population sparsity, and economic or other factors, are in need of such services.

NEW SECTION. Section 3. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Emergency medical care provider" means a local government subdivision or other entity, whether public or private, licensed by the state to provide emergency medical services pursuant to Title 50, chapter 6.

(2) "Fire protection service" means a paid or volunteer fire department, fire company, or other fire suppression entity organized under the laws of this state, any party state, or an agency of the government of the United States.

(3) "Local government subdivision" means the local governmental entity, other than state government, including but not limited to incorporated towns and cities, townships, and counties.

(4) "Mutual aid agreement" or "agreement" means an agreement, consistent with the purposes of [this act], by one or more fire protection services, emergency medical care providers, or local government subdivisions of this state with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States.

(5) "Party emergency service" means a fire protection service, emergency medical care provider, local government subdivision, or agency of the United States that is a party to a mutual aid agreement as set forth in [this act].

NEW SECTION. Section 4. Authorization to enter agreement -- general content -- authority. (1) Any one or more fire protection services, emergency medical care providers, or local government subdivisions of this state may enter into a mutual aid agreement with any one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States to provide emergency services to the area covered by the agreement. The agreement must be authorized and approved by the governing body of each party to the agreement that is not an agency of the United States government.

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

(3) A mutual aid agreement grants a fire protection service or emergency medical care provider of this state authority to operate outside of the state and grants authority for a fire protection service or emergency medical care provider of another state or the United States to operate within this state as if the fire service or emergency medical care provider were organized and operated

under the laws of this state.

NEW SECTION. Section 5. Detailed content of agreement. The agreement authorized by [section 4] must specify the following:

(1) the purpose of the agreement;

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

(3) the duration of the agreement;

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

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

(6) the exact chain of command or delegation of authority to be followed by party emergency services acting under the provisions of the agreement;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(8) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

NEW SECTION. Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual

1 aid agreement entered into between one or more fire
 2 protection services, emergency medical care providers, or
 3 local government subdivisions of this state and one or more
 4 fire protection services, emergency medical care providers,
 5 or local government subdivisions of another state or of the
 6 United States, the parties to the agreement are the real
 7 parties in interest. This state may maintain an action
 8 against any fire protection service, emergency medical care
 9 provider, or local government subdivision whose default,
 10 failure, performance, or other conduct caused or contributed
 11 to a liability incurred by the state.

12 NEW SECTION. Section 7. Agreement not to relieve
 13 agency of duties. No agreement made under [this act] may
 14 relieve any fire protection service, emergency medical care
 15 provider, or local government subdivision of this state of a
 16 duty imposed upon it by law. Timely performance of such a
 17 duty by a joint board or other legal or administrative
 18 entity created by a mutual aid agreement may be offered in
 19 satisfaction of the duty.

20 NEW SECTION. Section 8. Limitation of powers. Except
 21 for the right granted by [this act] to jointly exercise
 22 powers, [this act] does not authorize any fire protection
 23 service, emergency medical care provider, or local
 24 government subdivision of this state to exercise a power
 25 that it is not otherwise authorized to exercise.

1 NEW SECTION. Section 9. Submission of agreement to
 2 attorney general. (1) As a condition precedent to an
 3 agreement becoming effective under [this act], the agreement
 4 must be submitted to and receive the approval of the state
 5 attorney general.

6 (2) The attorney general shall approve an agreement
 7 submitted to him under [this act] unless he finds that it is
 8 not in proper form, does not meet the requirements set forth
 9 in [this act], or otherwise does not conform to the laws of
 10 Montana. If he disapproves an agreement, he shall provide a
 11 detailed, written statement to the appropriate governing
 12 bodies of the fire protection services, emergency medical
 13 care providers, and local government subdivisions.

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

17 NEW SECTION. Section 10. Filing of agreement. Within
 18 20 days after approval by the attorney general, an agreement
 19 made pursuant to [this act] must be filed in the office of:

20 (1) each clerk and recorder of each county of this
 21 state where the principal office of one of the parties to
 22 the agreement is located; and

23 (2) the secretary of state.

24 NEW SECTION. Section 11. Authorization to appropriate
 25 funds for purpose of agreement. A fire protection service,

1 emergency medical care provider, or local government
2 subdivision of this state may appropriate funds for and may
3 sell, lease, or otherwise supply material to any entity
4 created for the purpose of performance of an agreement and
5 may provide such personnel or services therefor as are
6 within its authority to furnish.

7 NEW SECTION. **Section 12.** Effect of other law. The
8 procedures and remedies provided in [this act] apply to the
9 exclusion of those remedies and procedures for interlocal
10 agreements generally under Title 7, chapter 11, part 1.

11 NEW SECTION. **SECTION 13.** EFFECTIVE DATE. [THIS ACT]
12 IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

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A BILL FOR AN ACT ENTITLED: "THE INTERSTATE EMERGENCY SERVICES MUTUAL AID ACT; AND PROVIDING FOR INTERSTATE MUTUAL AID AGREEMENTS BETWEEN FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, LOCAL GOVERNMENT SUBDIVISIONS, AND THE UNITED STATES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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NEW SECTION. Section 2. Purpose. It is the purpose of [this act] to permit one or more fire protection services, emergency medical care providers, or local government subdivisions of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States in order to facilitate and coordinate efficient, cooperative firefighting efforts directed toward protection of life and property in areas transcending state boundaries that, due to geographic

remoteness, population sparsity, and economic or other factors, are in need of such services.

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(2) "Fire protection service" means a paid or volunteer fire department, fire company, or other fire suppression entity organized under the laws of this state, any party state, or an agency of the government of the United States.

(3) "Local government subdivision" means the local governmental entity, other than state government, including but not limited to incorporated towns and cities, townships, and counties.

(4) "Mutual aid agreement" or "agreement" means an agreement, consistent with the purposes of [this act], by one or more fire protection services, emergency medical care providers, or local government subdivisions of this state with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States.

1 (5) "Party emergency service" means a fire protection
 2 service, emergency medical care provider, local government
 3 subdivision, or agency of the United States that is a party
 4 to a mutual aid agreement as set forth in [this act].

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 6 agreement -- general content -- authority. (1) Any one or
 7 more fire protection services, emergency medical care
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 14 and approved by the governing body of each party to the
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17 (2) The agreement must fully set forth the powers,
 18 rights, and obligations of the parties to the agreement.

19 (3) A mutual aid agreement grants a fire protection
 20 service or emergency medical care provider of this state
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 23 care provider of another state or the United States to
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 3 agreement. The agreement authorized by [section 4] must
 4 specify the following:

5 (1) the purpose of the agreement;

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 7 of any separate legal entity created by the agreement;

8 (3) the duration of the agreement;

9 (4) the manner of financing the agreement and
 10 establishing and maintaining a budget therefor;

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 12 may include creation of a joint board responsible for such
 13 administration;

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 15 authority to be followed by party emergency services acting
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 18 real and personal property used in the agreement; and

19 (8) the method to be employed in accomplishing the
 20 partial or complete termination of the agreement and for
 21 disposing of property upon such partial or complete
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23 NEW SECTION. Section 6. Right of state in actions
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 2 protection services, emergency medical care providers, or
 3 local government subdivisions of this state and one or more
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 15 provider, or local government subdivision of this state of a
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 17 duty by a joint board or other legal or administrative
 18 entity created by a mutual aid agreement may be offered in
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 22 powers, [this act] does not authorize any fire protection
 23 service, emergency medical care provider, or local
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 2 attorney general. (1) As a condition precedent to an
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 12 bodies of the fire protection services, emergency medical
 13 care providers, and local government subdivisions.

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

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 18 20 days after approval by the attorney general, an agreement
 19 made pursuant to [this act] must be filed in the office of:

20 (1) each clerk and recorder of each county of this
 21 state where the principal office of one of the parties to
 22 the agreement is located; and

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 25 funds for purpose of agreement. A fire protection service,

1 emergency medical care provider, or local government
2 subdivision of this state may appropriate funds for and may
3 sell, lease, or otherwise supply material to any entity
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5 may provide such personnel or services therefor as are
6 within its authority to furnish.

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8 procedures and remedies provided in [this act] apply to the
9 exclusion of those remedies and procedures for interlocal
10 agreements generally under Title 7, chapter 11, part 1.

11 NEW SECTION. SECTION 13. EFFECTIVE DATE. [THIS ACT]
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