

The Honorable Bill Thomas
House Judiciary Committee
Capitol Station
Helena, MT 59620

February 4, 2003

Dear Representative Thomas:

It is my understanding that the Judiciary Committee will be considering executive action tomorrow on my bill (HB 418) - requiring the Dept. of Corrections (DOC) to pay for the incarceration costs of DOC probation violators.

The sole opponent to my bill, the DOC, indicated they were opposed for two reasons: 1) because of the cost (by now you should all have a copy of the fiscal note) and, 2) because they lack authority to move the prisoners from the county facility.

Also, there was some committee discussion that seemed to indicate a concern over whether or not the state would have to pick up the costs of a misdemeanor or a violator who was brought in to the facility on a "bench warrant."

With regard to the "bench warrant" issue, it is my intent that the bill *only cover the costs of probation violators if the Dept. of Corrections has ordered the arrest*. It is not my intent for the state to pick up the costs of "bench warrant" arrests. If an amendment is necessary to clarify this point, I will be amenable to such an action.

The matter of the "authority to move" issue raised by the DOC is a curious one. Clearly, the DOC authority is exercised at the time the Department orders the violator to be arrested. DOC is correct that, once in the jail, the Department has no authority to move them until the judge makes an order. DOC suffers no distinction here - no agency can move a prisoner, once arrested and detained and prior to a final disposition.

The Department's first reason for opposing the bill (the cost) is disconcerting to me. Regardless of the cost, it is a state bill to pay. When the Dept. of Fish, Wildlife and Parks arrests an individual on a game violation and places them in the county jail, DFWP pays the bill. When the Highway Patrol arrests someone and has them incarcerated in a county jail, the DOJ pays the bill. When the DOC orders an arrest for a parole violation, the DOC pays the bill. Why should this be different for a probation violation? I submit to you that it is no different and it is a bill that should be paid.

Rep. Thomas, I realize the difficult financial constraints we are all operating within during this legislative session. However, I think it is important that the State of Montana not shirk financial responsibilities by shifting costs that are attributable to a state agency to a local government. This is a direct tax shift to local property taxpayers.

I urge you to consider a "do pass" recommendation on HB 418.

Thank you,

Rep. Carol Lambert