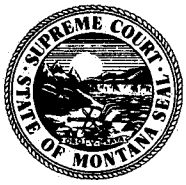
EXHIBIT 4
DATE 3/13/07
SB 124

The Supreme Court of Montana
Office of Court Administrator

Lois Menzies
Court Administrator
e-mail: lmenzies@mt.gov



301 South Park Avenue, Room 328
PO Box 203005
Helena, Montana 59620-3005
Phone: (406) 841-2944
Fax: (406) 841-2955

TESTIMONY ON SENATE BILL NO. 124
Submitted by Lois Menzies, Court Administrator
Montana Supreme Court

In a criminal case, the court may order a defendant to undergo a psychiatric examination to determine if the defendant is fit to proceed in the case. Who pays for this examination depends on who requests it. If the court or prosecutor requests the examination, the cost of the examination and associated expenses (e.g., room and board, medication) are paid by the Office of Court Administrator (OCA). If the public defender requests the examination, these costs are paid by the Office of State Public Defender (OSPD). Additionally, if the court determines that, based on the results of the examination, the defendant is unfit to proceed, the court may commit the defendant to the Montana State Hospital for treatment. The OCA pays for this treatment as well.

Because the OCA, OSPD, and State Hospital are funded through the general fund, the requirement for the OCA and OSPD to pay for these costs generates a general fund shuffle of money with no net gain to the general fund. Under current law, the OCA and OSPD must pay the State Hospital with general fund money which is then returned to the general fund by the State Hospital.

The Judiciary Branch has struggled with inadequate funding for District Court costs since state assumption of these costs in 2002, and has be forced to seek supplemental appropriations to pay these obligations. In fiscal years 2005 and 2006, the Office of Budget and Program Planning instructed the Judicial Branch not to pay the State Hospital for unfit to proceed costs so that the Branch could pay other district court obligations, such as indigent defense costs. In addition, the Branch was able to reduce the size of its supplemental appropriation request by not paying the State Hospital. However, the Judicial Branch, as well as the Department of Public Health and Human Services, has received recommendations from the Legislative Audit Division to pay these statutory obligations. In response to the recommendations, the Judicial Branch is seeking money within its $2.5 million supplemental appropriation request this session to pay these expenses for fiscal year 2007.

The Office of Court Administrator believes that it makes good fiscal sense to remove the statutory requirement for the OCA and OSPD to pay for services provided by the Montana State Hospital. We urge your support for this bill.