unless there was no wrongdoing on the part of the agency and otherwise it would come from the general fund.

SENATOR DWORAK: So the taxpayers are going to pay for these funds.

SENATOR REMMERS: Right.

SENATOR DWORAK: Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Beutler who has an amendment.

CLERK: Mr. President, Senator Beutler would move to amend LB 192. (Read the Beutler amendment as found on page 247 of the Journal). Senator, help me, I can't read the last sentence here.

SENATOR BEUTLER: And substitute the words "shall not".

CLERK: Oh, okay. "And substitute the words 'shall not'". (Reread the Beutler amendment).

SENATOR BEUTLER: Mr. Speaker and members of the Legis- lature, let me say to begin with I think this is a very good bill and it is only my intent to try to polish it up a little bit if, in fact, this is polishing, and I think this does help. Basically, the bill provides for the pay- ment of attorneys' fees and expenses under certain conditions, and then it says "except that the court is not required to award fees and expense if it finds that the position of the state was substantially justified." And what I want to change it to say is that "except that the courts shall not" instead of "is not required", "shall not award fees and expenses if it finds that the position of the state was substantially justified." In other words, if the court makes a finding that the state's position was substantially justified, then there is no way that it can award fees and expenses. Whereas, under the current language of the bill the court could make that finding and then go ahead and award fees and expenses anyway. But I feel that it is pro- bably the intent of the introducers only to award fees and expenses in those cases where the state's position was not substantially justified. So the substitution of the words "shall not" clarifies that situation. I would ask for your adoption of the amendment.

SPEAKER MARVEL: Senator Dworak, do you wish to speak to the Beutler amendment? Senator Beutler, do you want to close on your amendment? The motion before the House is

6547