

there is lots of them, that have fairly small budgets. They are not going to be in a position to, I suspect, absorb a \$10,000...even up to a \$10,000 claim. It would take a separate appropriation. Some of those are cash funded agencies, regulatory agencies, and I would like to know if the payment is...normally, under those totally cash funded regulatory agencies, the claim comes out of their funds as opposed to General Fund money and I'm wondering in those circumstances is the claim against the Cash Fund or is the claim against the General Fund or who, in fact, will make that decision? And if Senator Elmer could answer any of those questions, I'd appreciate it.

SENATOR ELMER: Thank you, Senator Warner.

SPEAKER BAACK: Senator Elmer.

SENATOR ELMER: How much time?

SPEAKER BAACK: You have one minute but then your light is next, so you've got six minutes to answer those.

SENATOR ELMER: Thank you, Mr. Speaker. The intention of this measure is to provide for just compensation for the defense if the state Supreme Court, the Nebraska Supreme Court finds that rule or regulation unconstitutional. As far as the claims against state agencies, they would be handled just the same as they are now through the state claims process and ultimately approved by us here in this body, the Unicameral Legislature. Does that answer your question, Senator Warner?

SPEAKER BAACK: Senator Warner.

SENATOR WARNER: Yes, well, that answers the question, senator, but my problem is I'm not sure that it is appropriate to charge the...a cash funded agency, a regulatory agency, one that grants licenses, for example. I'm not sure that it would be appropriate to charge that agency whose source of funds are fees for attorney fees for an unconstitutional act that this body enacted, and it is not unusual, it seems to me, that we have in scope of practice, for example, that bills, that legislation enacted are questioned on a const...it's not a criminal violation, but it might be in some cases if the scope of practice had that kind of a penalty. It would seem to me that it's not quite appropriate to charge that against the agency.