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SENATOR WEHRBEIN: Well, what happened is, in the ruling, the court...the private attorney was ruled incompetent. Now we're going to have a second trial on this very issue. And my point is, it's taxpayer money now being spent and spent and spent and spent, apparently which we have no control. And I just wondered if a private attorney had to use a counsel. There's no way to mandate that they get...defense gets truly professional advice, apparently. But the mistake is made, the public is going to pay, under this circumstance, anyway.

SENATOR BRASHEAR: There are a number of aspects to what you're asking. And I'm not certain how to give you the comprehensive answer. I just have to throw up the caution that this is a part of our judicial system. This is about justice. We don't want people convicted by utilizing, or being impaired by their utilizing incompetent counsel. And the judge has a duty and responsibility to appoint competent counsel when they appoint it. I don't know enough about your case to know whether the individual selected the counsel later determined to be incompetent, or whether the judge appointed someone.

SENATOR WEHRBEIN: I admit I don't...and I won't spend time on the...except, I'm toying with the idea, if we're going to use...have this agency set up at the state level and funded by the state level, and have retrials, maybe we ought to mandate some way that the Public Advocacy Agency...Defense Advocacy Agency has to be involved in order to ensure competent counsel. And I was just wondering if that was...

SENATOR BRASHEAR: The commission and its people are highly competent. I'm...

SENATOR WEHRBEIN: I concur.

SENATOR BRASHEAR: I think we have to also be careful. I think there are technical issues we have to deal with in terms of trying to mandate who shall use whom, in the interest of saving money and not allowing them discretion.

SENATOR WEHRBEIN: Yes. Thank you.