

It would be more appropriate to become a General Fund obligation and I'm not clear that that's at least a practice. It may not be that way. I know the practice is to charge a cash funded agency these kinds of claims if, in fact, the money is there.

SENATOR ELMER: Well, it seems to me that, through the state claims process, if it was of a sufficient size to be a...to cause a deficit within that agency if they have a small budget, then it would be up to us to make a deficit appropriation to cover it, as it is our responsibility under which that agency passed the law or regulation or rule under which it was found unconstitutional.

SPEAKER BAACK: Further discussion? Senator Ashford.

SENATOR ASHFORD: Thank you, Mr. Speaker, and members, I would rise to raise some concerns that I have about the bill as well and I will not go into long division. I think we're talking generally about two types of cases here and I think Senator Warner has brought out the concern that I had. When we talk in terms of ordinances, rules or regulations, we're talking about a variety of rules that are in city ordinances or in rules and regulations of state government which could call for some kind of a criminal penalty, not a nonfelony type of penalty, even a fine, I assume. Senator Elmer, does this statute also...if you would just answer a question for me, please.

SENATOR ELMER: Certainly, Senator.

SENATOR ASHFORD: Does this statute also cover constitutional cases or constitutional attacks on rules and regulations that would call for simply a fine, as well as imprisonment, or...

SENATOR ELMER: It would apply only to a criminal prosecution that's been initiated by the state or political subdivision, and only then in the event that they successfully challenged the unconstitutionality and had specifically asked for the ruling, and, thirdly, then only if the Supreme Court, at its own discretion, feels that the person that's made the appeal is justified in being reimbursed. And, then only in the amount that the Supreme Court feels it is fair.

SENATOR ASHFORD: Thank you, Senator Elmer. And, I understand that that is the intent of the bill. My concern, at this point, is that...is the breadth of the bill. I think what we are