

SENATOR WARNER: Madam President, members of the Legislature, I think I probably have a question for Senator Rod Johnson. In reading at the bottom of page 4 and top of page 5 of your amendment, it...I assume this is new where there is reimbursement for damages by the department for someone acting on behalf of the department if there is some damage to the property while they're investigating or inspecting. I'm not sure what all that is involved. What I notice is that the reimbursement is to come out of the fund, but if the fund is inadequate, then they can file a claim under Section 76-705 which I am told is a condemnation statute, reverse condemnation statute. I'm not real clear on this. What I don't understand what the fund source is for that purpose. Obviously, the fund that we're creating in 409 or is being suggested in 409, on this basis is inadequate, but then you can file a suit and I don't know to what fund that recovery. I assume that is some sort of state money, but...could you answer or do you know?

SENATOR R. JOHNSON: Well, I'll try the best I can, Senator. Generally when a department is out investigating and they may have to go on property, there is possibility for damage to that property and, as I understand the way the language is written here, the department can reimburse that party whose property has been damaged by the fund. Now you're asking if the fund is inadequate, which obviously we're hoping it will not be inadequate, but if it is, where is the source of these funds that are provided in Section 76-705, and to be honest with you, I don't know, Senator. I'll have to look that up myself.

SENATOR WARNER: I would have conceivably, with what we have done on government liability in other legislation earlier this session and in all likelihood will not address that issue even though it was suggested we would, I don't know what kind of additional exposure or to what fund that it would go to. I would assume it could very well be General Fund money because if there is no other fund to attach that cost to with the way it is set up. Well, perhaps we can determine it before it is printed again, if there is a problem.

SENATOR R. JOHNSON: Senator, I will visit with Mike Linder right now, as a matter of fact, to find out if we can get you an answer before we vote on this motion to bring the bill back.

PRESIDENT MOUL: Thank you, Senator Warner. Senator Morrissey, followed by Senator Schmit. Senator Morrissey.