

Approved 1-23-84
Date

MINUTES OF THE House COMMITTEE ON Ways and Means

The meeting was called to order by Bill Bunten at
Chairperson

1:30 ~~am~~/p.m. on Thursday, January 19, 1984 in room 514-S of the Capitol.

All members were present except:

Committee staff present: Lyn Goering, Legislative Research
Mary Gallagan, Legislative Research
Gloria Timmer, Legislative Research
Jim Wilson, Office of the Revisor
Dave Hanzlick, Administrative Assistant
Nadine Young, Committee Secretary

Conferees appearing before the committee:

Representative Ben Foster
Representative Patt Weaver
Gerald Chase, Topeka Sculptor
Reverend Dale Thomas, Northland Christian Church
Ann Heppenger, League of Women Voters
Representative A. L. Dempsey
John Brookens, Kansas Bar Association
Jerry Elliott, President of Wichita Bar Association
Warren Shaw, Topeka Attorney

Others present (Attachment I)

Chairman Bunten called the meeting to order at 1:45 p.m.

Hearing on HB 2643, an act providing for the placement of a statue of Ceres atop the state capitol.

Representative Ben Foster, who introduced the bill, gave a brief background on the activity that has taken place during the past few years concerning this subject. He provided written copy of a proposed amendment to the bill, which suggests striking the word "statue" and inserting in lieu thereof "or aluminum statue symbolic of the spirit of Kansas". (Attachment II)

Representative Farrar moved that the amendment to HB 2643 be adopted.
Seconded by Representative Heinemann. Motion carried.

Representative Patt Weaver spoke in opposition of the bill and provided the Committee with written testimony. (Attachment III)

Chairman recognized Gerald Chase, a Topeka Sculptor, who offered an alternative to the proposed statue, saying a bill will be forthcoming shortly. His suggestion is a statue called "Chief White Plume" of which a display is set up this date in the Capitol. He stated that this statue is an historic figure that opened the doors to the west during the Lewis and Clark expedition.

Reverend Dale Thomas of Northland Christian Church addressed the Committee as an interested citizen and as a representative of the church. He said the proposed statue would be a real affront to our people and suggested a more fitting statue be selected.

Representative Solbach commented on the architecture of our Capitol building, suggesting that perhaps Ceres would be a logical style because it celebrates the birth of democracy and goes along with the Grecian style of our Capitol building. Rev. Thomas stated he sees no semblance between this building and the Parthenon. He stated that because of so much publicity on this subject, he honestly believes the people of Kansas will not accept it.

Chairman then asked for a vote. Representative Heinemann said it is time to make a decision and stop rehashing; however he suggests an amendment to the bill. Representative Solbach asked if he has the language available to amend the bill. Representative Shriver made the motion to adopt as amended. Representative Luzzati stated she likes Representative Heinemann's idea.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Ways and Means,
room 514-S, Statehouse, at 1:30 ~~am~~/p.m. on Thursday, January 19, 1984

Representative Hamm said he likes the idea also, but is disappointed that we must keep coming back to this one thing. He offered to assist Representative Heinemann to come up with an amendment.

Representative Heinemann moved that HB 2643 be tabled. Seconded by Representative Luzzati. Motion carried.

Chairman turned to HB 2640, an act concerning the department of corrections; relating to compensation for persons sentenced to the custody of the secretary of corrections; amending K.S.A. 1983 Supp. 75-5211 and repealing the existing section.

Michael Barbara furnished written testimony (Attachment IV) attesting to the fact that, in his opinion, this bill must not be passed for the sake of the inmates as well as the people. He said it would be detrimental to the inmates and an unhealthy situation all around. Department of Corrections is strongly opposed to eliminating incentive pay for the inmates.

Ann Heberger, representing League of Women Voters, spoke briefly and offered written testimony (Attachment V) stating strong opposition to the bill.

Representative Dempsey also spoke in support of continuing incentive pay for inmates, saying it's good for prison morale.

Written testimony was provided by Sister Dolores Brinkel, Director of the Criminal Justice Ministry, although she did not appear personally. Her testimony states opposition to HB 2640. (Attachment VI).

After brief discussion, Representative Heinemann moved that HB 2640 be not passed. Seconded by Representative Duncan. Motion carried.

Chairman turned to HB 2634, an act concerning attorneys admitted to the practice of law in Kansas; imposing an indigent's defense services fee; providing for waiver thereof in certain cases; administration and disposition of revenue.

Jim Wilson took the floor and explained the bill to the Committee.

Representative Meacham asked if the attorney pays the \$200, does he still need to serve on the panel? The answer was no, if the waiver is granted.

Representative Farrar asked what is the estimated amount of money raised by these means. Jim Wilson replied that it amounts to about \$800,000.

Chairman briefly explained the contents of Senator Hess's proposal as he recalled from memory and stated that it was accepted by a majority of the interim Ways and Means Committee.

Chairman called John Brookens, who spoke in opposition of the bill and provided written testimony (Attachment VII).

Robert Tilton took the floor and spoke as an individual and representing Kansas Trial Lawyers. He stated he opposes passage of HB 2634 because it would be unfair and said that society as a whole should bear the burden. (Attachment VIII).

Jerry Elliott addressed the committee on behalf of the Wichita Bar Association and said "we endorse the comments made by Judge Brookens". He stated that his group opposes the bill.

Representative Hoy asked if he is suggesting that we have a public defender system. Mr. Elliott said, "I am not against a public defender system if it is adequately staffed".

Chairman recognized Jim Clark, representing Kansas County and District Attorneys Association. He stated that most county attorneys are in the lower economic group, less experienced and less paid. He takes issue with this bill as written. He suggests that there be an exemption for county attorneys.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Ways and Means,
room 514-S, Statehouse, at 1:30 ~~am~~ p.m. on Thursday, January 19, 19 84

Warren Shaw, a Topeka Lawyer appeared before the Committee and stated that he agrees with Judge Brookens and said that he opposes HB 2634.

No action taken on HB 2634 this date.

Chairman moved to HB 2655, an act concerning assessment of costs in certain cases involving the state; relating to reporting and payment.

Representative Chronister explained the contents of this bill, stating that it is basically a part of five different bills that deal with economic development and small business. (Attachment IX)

Representative Chronister called the Committee's attention to the fact that Jamie Schwartz of Kansas Department of Economic Development, appeared for this hearing, but had to leave before this item of business was taken up. Mr. Schwartz asked her to communicate to the Committee that he stands in favor of this bill.

After brief discussion, Chairman asked for a vote.

Representative Rolfs made the motion that HB 2655 be favorably passed. Seconded by Representative Hoy. Motion carried.

Meeting adjourned at 3:15 p.m.

GUESTS -- 1984

1-19-84

<u>Name</u>	<u>Address</u>	<u>Representing</u>
1. Gordon CRISWELL	KANSAS City	Gov.'s Policy OFFICE
2. Jim Brooker	Topoka	K B A
3. Bob Tilton	"	"
4. L. Ellen Richardson	Kansas City	Ks Catholic Conference
5. Ann Webberger	Oreland OK	L.W.V.K. + K.C.F.A.
6. Dennis Williams	Topoka	Dir of Budget
7. Rep. Pat Weaned	Barter Spgs	1 st Dist.
8. Rev. W. C. Thomas	Topoka	
9. Todd Epp	Topoka	KTWU-TV
10. ML Jenkins	Topoka	Speaker's Office
11. N. Zedeman	"	"
12. Rita M. Andrew	"	City of Topoka
13. Bob Hamming	"	Ag's office
14. Jim Daroun	"	Intermental Gov. Co. Sn. Com.
15. Ruth Walker	"	Ind. Sect. - AACT
16. Miriam W. Shaw	"	Self
17. T. A. Seckhart	Leavenworth	NAACP
18. Jerry Sloan	Topoka	OFF. of Jud. Admin.
19. Marjorie Wilson Bunn	"	" " "
20. Jerry G. Elliott	Wichita	Wichita Bar Association
21. Jim Clark	Topoka	Ks 6 th Dist. Atty. Gen.
22. Gerald B. Chase	Topoka	Self + White Plume
23. Carol Bell		Republican Party Self
24. David Baker	Topoka	Rep. Ruth Luzzatti
25. Becky Robling	Lawrence	Intern - KANA

PROPOSED COMMITTEE REPORT

MR. SPEAKER:

Your Committee on Ways and Means

Recommends that House Bill No. 2643

"AN ACT providing for the placement of a statue of Ceres atop the state capitol."

Be amended:

On page 1, in line 21, by striking all after "statue"; in line 22, by striking all preceding the word "was"; by striking all of lines 24 to 26, inclusive; in line 32, by striking "statue of Ceres" and inserting in lieu thereof "or aluminum statue symbolic of the spirit of Kansas"; in line 33, after the period by inserting "Such statue shall be cast in the form of the plaster model prepared for this purpose by Winslow Brothers of Chicago from sketches prepared by sculptor John Maloney."; following line 35, by inserting "Sec. 2. K.S.A. 1983 Supp. 75-3764c is hereby repealed."; in line 36, by renumbering section 2 as section 3;

In the title, in line 16, by striking "of Ceres"; in line 17, preceding the period by inserting "; and repealing K.S.A. 1983 Supp. 75-3764c, establishing a state capitol dome committee"

And the bill be passed as amended.

Chairperson

II

HOUSE WAYS AND MEANS
January 19, 1984

HB 2643

Testimony of Representative Patt Weaver

Mr. Chairman---members of the Committee,

I appear here today in opposition to HB 2643 that recommends the placement of Ceres, Roman goddess of agriculture atop the State Capitol.

Ceres was one of the Italic gods. Festivals in her honor were held to elicit her blessings on the crops in all their states, from seeding until harvest, with staple grain foods thought to be her gift to the people.

This certainly doesn't qualify her to be considered as a symbol of agriculture or the people of Kansas. Quite the contrary, it's the very reason people are offended at the thought of her being placed on top of the Capitol.

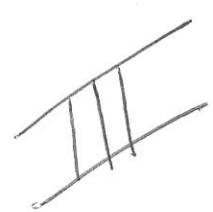
Kansas is considered the "Bread Basket of the World," but it is also part of the "Bible Belt" of this nation. Thousands of people in this State give thanks to God for our rich bounty of grain, and they don't want some bronze statute of a pagan goddess elevated to represent that bounty---and changing her name to the Spirit of Kansas won't change a thing. That's just an old product in a new wrapper.

Whether you agree with these feelings or not, why should we provoke the anger of thousands of Kansans with this issue when there are so many problems in this State that need addressing and demand our time and attention now?

Thank you,

Rep. Patt Weaver

Rep. Patt Weaver



FELLOWSHIP
BAPTIST CHURCH



1124 KANSAS AVE. — BAXTER SPRINGS, KANSAS 66713

PHONE: CHURCH — (316) 856-2456
RESIDENCE — 856-2638

Wayne Williams, Pastor

To The Legislature Body of Kansas,

I would like to speak about House Bill #2643 concerning putting a pagan goddess on our state capital building. I would hope that our great state of Kansas has come farther along than still wanting to praise or glorify a statue that has no value and the only meaning that we can understand is of a pagan culture.

The apostle Paul, as he walked up Mars hill, looked at all the pagan idols they had and there was one even to the unknown God. This is the one that we worship today that Paul introduced to them. Yes, it is the Lord Jesus Christ. He is the one that our great state is founded on and not on some goddess that man has made and has no control over.

Once again I am reminded that not all people know about the creation of God. I pray that our state legislature does not allow pagan idols to be a part of what we stand for.

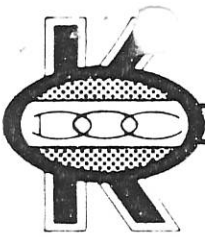
Respectfully submitted to those who have ears to hear and eyes to see what God has done.

In His Service

A handwritten signature in cursive script that reads "Wayne Williams". The signature is written in black ink and is positioned above the printed name.

Wayne Williams

"I am crucified with Christ: nevertheless I live; yet not I, but Christ liveth in me: and the life which I now live in the flesh I live by the faith of the Son of God, who loved me, and gave himself for me." Galatians 2:20



KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

MICHAEL A. BARBARA — SECRETARY

JAYHAWK TOWERS • 700 JACKSON • TOPEKA, KANSAS • 66603
• 913-296-3317 •

TO: HOUSE WAYS AND MEANS COMMITTEE
FROM: MICHAEL A. BARBARA, SECRETARY OF CORRECTIONS
RE: INMATE INCENTIVE PAY
DATE: January 19, 1984

BILL SUMMARY

HB 2640 provides that:

1. No inmate employed in prison work shall be compensated for the work performed.
2. Inmates employed by a private business may receive compensation.

BACKGROUND

Kansas inmates are currently compensated for work performed. The specific amount is set by the governor and shall not be less than \$.25 per day. The funds budgeted for incentive pay in all institutions in FY 1985 are shown on the attachment. The current pay scale is shown below:

<u>LABOR CATEGORY</u>	<u>PAY RATE</u>	<u>EXAMPLES OF JOBS</u>
Skilled labor	\$1.05 per day	Plumber, cook, barber
Semi-skilled labor	\$.75 per day	Plumbers asst., asst. cook
Unskilled labor	\$.60 per day	Maintenance, general labors
Student	\$.45 per day	GED, vocational training.

In addition, a relatively small number of inmates who are not working receive incentive pay. Examples include (1) inmates who are willing and able to work, but for whom there is no job, and (2) inmates who are ill and who will return to their jobs when they recover. Inmates who refuse to work are not paid.

While the practice varies slightly by institution, the state issues the following basic items to all inmates:

IV

HOUSE WAYS AND MEANS COMMITTEE

Page Two

January 19, 1984

comb	writing paper	pencils
tooth paste	soap	razor blades
tooth brush	stamped envelopes	toilet paper
clothes	linen	
tobacco (no manufactured cigarettes)		

DEPARTMENTAL POSITION

The Department is opposed to eliminating incentive pay for the following reasons:

1. The state's prison wage provides an incentive for inmates to work and to participate in educational programs. In a prison economy this very modest amount of compensation provides a genuine incentive.
2. Incentive pay enables inmates, if they so choose, to build up funds so that they can support themselves upon release until they are able to find a job. Gate money cannot by statute exceed \$250 and due to budget limitations has been limited to \$100 in recent years. Obviously, this stipend is very limited. To eliminate incentive pay eliminates any opportunity for inmates to supplement the limited available funds.
3. Incentive pay was originally adopted in part to insure that inmates with no outside financial resources would at least have a small amount of money. To eliminate incentive pay would create a class system of some inmates with no resources and the rest with resources, a very undesirable situation.

Finally, there is a concern that eliminating incentive pay could prevoke enough tension among inmates as to question the wisdom of eliminating it.

MAB:DB/pa

KANSAS DEPARTMENT OF CORRECTIONS

INCENTIVE PAY

FY 1985

<u>Institution/Program</u>	<u>Total Slots</u>	<u>Cost</u>
Correctional Industries	189	\$ 53,797
Kansas State Penitentiary	841	188,781
Kansas State Industrial Reformatory	770	150,658
Kansas Correctional Insti- tution at Lansing	169	30,628
Kansas Correctional-Vocational Training Center	220	27,495
State Reception and Diagnostic Center	2	767
Toronto Honor Camp	61	15,212
El Dorado Honor Camp	64	15,797
New Honor Camp (4 mo., FY 85)	64	5,266
Wichita Work Release Center	2	546
Topeka Work Release Center	0	0
Winfield Pre Release Center	65	15,405
Topeka Pre Release Center	144	23,673
	<hr/>	<hr/>
TOTAL	<u>2,591</u>	<u>\$528,025</u>

ABT:mkb
1/19/84

LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

January 19, 1984

STATEMENT TO THE HOUSE WAYS AND MEANS COMMITTEE OPPOSING H.B. 2640.

The League of Women Voters of Kansas has worked hard in previous years to assist in getting even small raises for inmates. We think that it is essential for those who work to be allowed to buy a coke, a tube of toothpaste, or whatever luxury can be afforded on .25¢ to \$1.05 a day.

Inmates who are lucky enough to have jobs, provide economic benefits to the state that otherwise would have to be paid for at minimum wage or better, and we believe that they should receive something for their efforts.

We are having a hard time understanding why a Bill of this nature would be proposed at a time when our prisons are filled to capacity, tension is, at times, acute, and control probably difficult to maintain at best.

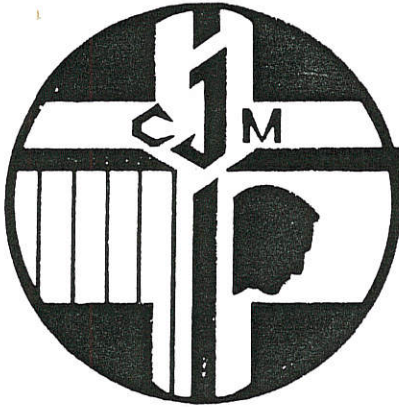
We urge you to oppose H.B. 2640.

Thank you for the opportunity to appear before you today.



Ann Heberger, Lobbyist
League of Women Voters of Kansas

V



Criminal Justice Ministry

229 South 8th Street
Kansas City, Kansas 66101
(913) 621-1504

Sister Dolores Brinkel, S.C.L.
DIRECTOR

TO: House Ways and Means Committee
FROM: Sister Dolores Brinkel, Criminal Justice Ministry
DATE: January 19, 1984
RE: H.B. 2640 Inmate Compensation

On behalf of the Criminal Justice Ministry of Catholic Charities for the Archdiocese of Kansas City in Kansas, I wish to publicly state my opposition to H.B. 2640 which proposes to eliminate compensation to inmates for work within the state correctional system during their confinement.

- I. Eliminating inmate compensation, which currently is a minimal amount of \$.45 to \$1.10 per day, would not be cost effective in the long run.
 - A. There is a danger to the prison staff because of violence between inmates resulting from attempts to "collect" inmate debt. Staff faces physical injury; the state faces payment of workman's compensation and loss of work time.
 - B. Paying inmates can alleviate tensions which may be fanned because the many inmates without pay would be indebted to the few inmates working for private business. Kansas prisons already experience riot producing tensions because of overcrowding.
 - C. Inmates without \$9 a month become dependent on other inmates for basic necessities or the state would have to provide these.
 - D. Inmate work with token compensation is an incentive to acquire good work habits. Without marketable skills, releasees are more apt to return to prison or be on public assistance.
- II. Eliminating compensation would affect inmate morale. The absence of compensation could foster an 'I don't care' attitude among inmates vis-a-vis work within the institution. It could foster a decline in personal pride and self esteem. It increases the likelihood of alienation of the small percentage of inmates working in the Zephyr program from the rest of the inmate population.

I believe that prisoners should be able to exercise the same rights as the rest of society with the exception of the right of movement. I believe inmates should receive compensation for their work. I oppose H.B. 2640 which would eliminate inmate compensation.

VII



KANSAS BAR ASSOCIATION

January 19, 1984

Re: H.B. 2634

Statement of Kansas Bar Association

Mr. Chairman and members of the Committee:

OFFICERS

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Glee S. Smith, Jr.

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KDIA REPRESENTATIVE:

Hon. William D. Clement
P. O. Box 1147
Junction City, KS 66441 (913) 238-6005

EXECUTIVE DIRECTOR

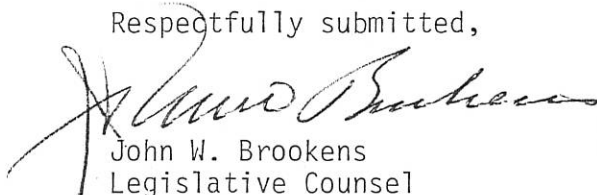
Marcia Poell
P. O. Box 1037
Topeka, KS 66601 (913) 234-5696

1. We believe the responsibility to furnish services to indigent persons is that of our society as a whole. It is not the financial responsibility of one small segment of our society, nor of the provider of that service.
2. Hospitals provide hospitalization services to indigents, including indigents charged with felony crimes.
3. Medical, Osteopathic, and Chiropractic doctors furnish medical services to indigents, including indigents charged with felony crimes.
4. Grocery stores furnish food services for indigents, including indigents charged with felony crimes.
5. Care homes provide care services for elderly indigents, including indigents convicted of felony crimes and released.
6. SRS and other social helping agencies provide services for indigents, including indigents charged with or convicted of felony crimes.
7. The above are a few examples of the social services provided indigents, including indigents charged with or convicted of felony crimes.
8. In each of the above cases, the provider of the service to indigents is not required to do so on a less than cost basis. None of the above providers is expected, nor required, to pay a special tax to fund that service.
9. The above services are provided by reason of moral duty and appropriate legislative action.
10. Lawyers provide legal services to people. Legal services to an indigent charged with a felony crime is not only an obligation created by statute--it is a requirement of our constitution. It is mandated by our constitution.
11. By present standards, the lawyer providing legal services in these cases is paid, many times, at a rate that does not cover office overhead expense.

VII

12. Now, HB 2634 seeks to impose a tax of \$200 on all lawyers who are not on an indigent defense panel as a condition precedent to retaining a license to practice law. We believe this tax is totally unjustified. We believe it is unjustified whether it is to be imposed on all lawyers or only on some of the lawyers of this State.
13. We respectfully request this committee report HB 2634 NOT BE PASSED.

Respectfully submitted,



John W. Brookens
Legislative Counsel

JWB:mj

POSITION PAPER - HOUSE BILL 2634

Our law firm consists of six lawyers of which four serve on the indigent panel for legal aid. These lawyers serve without pay and currently have three cases pending which will result in over \$1750 free legal services being provided to indigents.

One lawyer didn't sign up because she worked for the Appeals Court when volunteers were solicited. The other lawyer handled a criminal appeal at the request of the court two years ago at the court's request.

I oppose H.B. 2634 because it would be unfair to tax lawyers as a profession to provide legal services to alleged criminals so that their constitutional rights are protected. Society as a whole should bear this burden.

For years I represented federal prisoners on writs of habeas corpus free as part of my duties to the court.

Eventually a system was devised whereby lawyers were paid to represent indigent federal accused defendants. This system was funded by the federal government. Eventually a federal Public Defender was appointed by the court and all defendants are represented by him, so I am no longer called on.

I have never refused to represent a client that could not pay if he couldn't get an attorney and if his cause was just.

Young lawyers and unsuccessful practitioners are not able to pay \$200 in many cases as they barely make a living. Many lawyers do not practice law regularly but they like to maintain their licenses. My banker is a non-practicing lawyer who maintains his license. Many business people are non-practicing lawyers. Many lawyers serve on indigent panels for compensation far less than what plumbers charge. They do this because of their economic circumstances. I am sure some serve for other than monetary reasons.

Constitutional rights are too important for society not to adequately fund an indigent defense fund. Indigents deserve as good a defense as society can provide.

One group should not, in fairness, be singled out to carry this burden on a mandatory basis.

Respectfully submitted,

Robert E. Tilton
Robert E. Tilton

VIII

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

ROCHELLE CHRONISTER
ASSISTANT MAJORITY LEADER
REPRESENTATIVE NINTH DISTRICT
WILSON WOODSON COUNTIES
LIBERTY AND NEOSHO TOWNSHIPS
IN COFFEY COUNTY
ROUTE 2 BOX 321A
NEODESHA, KANSAS 66757

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN COMMUNICATION COMPUTERS
AND TECHNOLOGY
MEMBER CALENDAR AND PRINTING
WAYS AND MEANS

HB 2655 is follow-up legislation to that passed by this body a few years ago. K.S.A. 60-2007(e) allowed "the State of Kansas, or any agency thereof", to be subject to assessments for court costs and attorney's fees in case of a frivolous claim, defense or denial. The legislation before you calls for two things:

1) Section 1(a) is a reporting mechanism whereby any state agency which must pay costs under this statute must report the assessment, amount and reason for it to the Speaker of the House, President of the Senate and minority leaders of both bodies within 30 days after entry of the order making the assessment.

2) Section 1(b) says that payment of costs shall be made from the operating budget of the agency which conducted the litigation.

I believe a number of people were very supportive of the original legislation; however, since there is no reporting taking place, we have no way of knowing whether any state agencies in Kansas are being charged under this statute. The second section says that if the agency made a mistake so bad that they are assessed costs under this statute, that agency should suffer the consequences by taking those costs out of current operating expenses and not by charging the citizens of the state as a whole any further.

Every once in a while a "horror" story of frivolous court cases by the state surfaces, this would insure the legislature's ability to know whether the story was true. It should also guarantee that a state agency would be very sure of its facts before going to court.

IX