

individual because the state could not be made a party. It is a party. We have a responsibility to be supportive of those employees under those circumstances. If the state has failed because of inadequate training, of inadequate supervision and inadequate funding, whatever the case may be, the state ought to have a responsibility back of that employee. If it is malfeasance, if they are taking...and certainly there are numerous court decisions over a period of time that would lay the ground work of what malfeasance of office might be, but if it is in that or other wanton misconduct on the part of an employee, then the process is there in order to not have the state participate in any financial responsibility toward that employee. The bill is based I think on fairness, whether or not there is too much or too little control under the Attorney General's office is not as much an issue in 77 as it perhaps is an issue with the whole process. I think this is a vast improvement over what we have. There is still legislative control to the extent of funding if that is one that wishes to utilize but it does address what is a fundamental unfair and inappropriate expectation on the state's part...

PRESIDENT: One minute.

SENATOR WARNER: ...of its employees as the situation exists and I would hope that the bill would be advanced.

PRESIDENT: Thank you. Senator Chambers, followed by Senator McFarland.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'm going to have to ask Senator Warner another question if he will respond, and this time I'm on page 4 of the bill.

PRESIDENT: Senator Warner, please.

SENATOR CHAMBERS: In subsection (4), Senator Warner, starting in line 11, it talks about the Attorney General filing copies of awards and settlements, and so forth, and "shall request the risk manager to make the required payments in situations where payments should be made." Then it says, "if funds are available from the indemnification fund." So if no funds are available, there will be no payout because nothing is there with which to pay. Let's say that funds are there but it's a situation where the Attorney General does not make a request that there be indemnification. The last line in that subsection seems to