

indicate that the employee could still file a miscellaneous claim for indemnification. Would that be correct?

SENATOR WARNER: Yes, under the current process.

SENATOR CHAMBERS: Even with this bill, I mean, that would not be changed at all by the addition of the new language?

SENATOR WARNER: I believe that, yes, is correct.

SENATOR CHAMBERS: Okay, that's the way I read it, too, but I just wanted to be sure. So that part does not bother me as it might have had it been a different answer. The reason I see what we're doing here in this bill as being associated with what Senator McFarland and I had talked about, if the Attorney General makes a blunder and the matter goes to trial because the Attorney General will not settle or they are going to show the inmate something and the state loses, then the Attorney General, through arrogance, has fostered a federal lawsuit that was unnecessary. We go a step below the Attorney General. Before it reaches that level, the Corrections Department conducts an investigation. Because they rarely rule on behalf of an inmate, we have another fostering of a federal lawsuit, and in at least three of the claims that we have before us that the Business Committee approved of, the Department of Corrections found nothing wrong. So the inmate has to go to court because there is no internal control of the Department of Corrections. By our willy-nilly, rubber-stamping and indemnifying these corrections people who continue to do these wrongs, we are encouraging the lawsuits that will cost the state more money. If the Corrections Department did its job, then we wouldn't have the cost of the lawsuit that must be indemnified, these filing costs, other fees associated with a legal action. When people can do things and not feel they are accountable for the wrong that they cause, what incentive is there not to do it? Yesterday, we bumped a penalty up to a mandatory prison sentence because we said, if you make these guys know there's a price to pay, they will stop selling drugs. But when it comes to these employees in the Corrections Department, the same philosophy does not hold. You want to hold them harmless. What the risk manager and what the claims board have done repeatedly is to say that in their judgment the misconduct does not rise to the level of the kinds of dereliction of duty that would not warrant indemnification. They want to make that judgment but they don't want the Legislature to make it. What we were told when these