

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...to strike that. But these issues are tied up in 77 because if the fund were there, this claim would have been paid.

SPEAKER BARRETT: Thank you. Senator Lynch. Thank you. The question has been called, it will not be necessary. We don't have any other lights on. Senator Warner, would you care to close on the advancement of your bill?

SENATOR WARNER: Yes, thank you, Mr. President, and members of the Legislature, just a couple of points. Under the provision of the bill, it's not the risk manager that makes the decisions, it is the Attorney General who directs the risk manager what to do and I understand there is concern with the Attorney General, but, nevertheless, that would be the office which would be making the decision as to whether or not, assuming there was an appropriation, anything was to be paid. I want to go back so we understand there is one thing that is significantly different when these go into federal courts where the state is involved as opposed to a private company. If, under a same set of circumstances, it was a private company, there is probably little question but what the company, the employer and perhaps as well as the employee and perhaps only the employer would be the one that would have the suit filed, but through federal court, this suit cannot be filed against the state. They go to the individual, not because the individual was acting outside of their responsibilities, not because it was malfeasance of office and not because they had performed something outside of what they were directed to do, but the state cannot be sued so it goes to the individual. I would maintain that if there is not proper supervision, then the state shares in that responsibility or has full accountability for that responsibility for having failed to give the kind of training, the kind of direction, the kind of supervision that permitted whatever the infraction might have been, whatever the discriminatory type of act that occurred. The state ought to be responsible for those kinds of acts if they are permitting them to go on and not direct it at the individual employee. Certainly, it's not hard to imagine what is the employee to do if they are directed by their supervisor. Well, yes, they can quit. It's not always an option that you have in life. Sometimes you have to proceed. Yet, under the law as it now exists in these cases, they become