

TRANSCRIPT, PREPARED BY THE CLERK OF THE LEGISLATURE
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FLOOR DEBATE

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in the Nebraska Hospital-Medical Liability Act. The act currently provides that healthcare providers contribute a regular surcharge that funds the Excess Liability Fund, with the amount of the surcharge based on the healthcare provider's annual premium paid for maintenance of the current financial responsibility. That surcharge is currently being collected by the Department of Insurance. LB 146 would require the insurer that provides the coverage for healthcare providers to collect the surcharge and to remit it to the Department of Insurance within 30 days after receipt. LB 146 eliminates subsection (5) of Section 2 of the act, and has been...that has been rendered obsolete. The act provides that no action against a healthcare provider may be filed in court unless the claimant has filed his or her action before a medical review panel. The claimant may waive his or her right to a panel review. LB 146 would allow either party to request that a judge terminate the panel proceedings if the review panel has not been convened within six months of the panel proceeding. I might add that here I did offer an amendment at the public hearing to change the mandatory language of "shall" to the permissive language of "may," thus, allowing the judge to make a determination of whether he wishes to terminate the proceeding or not. I introduced LB 146 due to the rising malpractice insurance rates that in some states are driving doctors to extreme protests, including walk-outs and forcing hospitals to transfer seriously ill and injured patients out of the state. While Nebraska doctors have remained on the sideline, a pending state Supreme Court decision could eliminate the cap and thrust the state squarely into the debate. Under the cap, the state uses a liability fund to cover damages awarded in malpractice cases above \$200,000, but limits the total damage to \$1.25 million. Doctors obtain malpractice insurance that covers that first \$200,000 in damages, and pays a surcharge to finance the state's liability fund. According to an explanation of the surcharge by the Department of Insurance, the surcharge has increased from 5 percent in 1999, 20 percent in 2001, 30 percent...35 percent, rather, in 2002, and is increased to 50 percent for health care providers beginning January 1, 2003. In fact, the surcharge is not higher than 50 percent because the law does not allow a surcharge higher than 50 percent. Compounding the problem is the departure of a number of companies who formerly wrote coverage. Saint Paul