

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 16, 2003 LB 146

statute. We also have that our hospitals must have an aggregate liability of at least 600...no, the aggregate liability for practitioners is \$600,000, so that the limits are established there. We then utilize the surcharge, which you have heard Senator Don Pederson talk about, provided under the scheme to aggregate monies which are administered by the state of Nebraska. And if you refer to the fiscal note, which is available to you, you'll see that we have, as of 12-31-2002, we have a balance in the fund which is the reinsurance or the excess insurance, so to speak. I'm using those terms descriptively. We have a balance in the fund at December 31, 2002, of \$54,787,592. Now that...you'll also notice from the fiscal note that we have had as much as \$62,625,074 as of 12-31-1998. Premiums are adjusted for our physicians and our hospitals under this statutory scheme in accordance with the needs of the fund. So whatever is happening elsewhere and whatever you've heard in national seminars focusing on a national, medical malpractice insurance cost or premium problem is not applicable in Nebraska and cannot be applicable unless this statutory scheme, which has served us for, I think I can safely say, decades now, were to fail, one of the reasons that a number of us here are working at updating this is so that this is not an arbitrary limit; that it is not...it was never intended to be locked in stone without regard to what's happening in the world of economics. Somehow, some way, I think that would effect its constitutionality if we put a cap in place and leave it forever and it becomes unreasonable. That's why the doctors and the hospitals, through their associations, have participated in this negotiation which would result in the first increase in this cap which has occurred in 11 years. And as I told you earlier in the opening, the increase is exact...almost exactly to the rounded number that which would have occurred if the Consumer Price Index had been applied for each of the years throughout the 11 years that we have not raised the cap. And drawing upon my experience, and it may be limited but I think I'm right on this, we've also not had multiple episodes exceeding the cap. But we have had...we have now had a case in which the award was greatly in excess of the cap and that's why the issue, in its entirety, is before our Nebraska Supreme Court and pending there. I cannot but urge you in the strongest of terms, notwithstanding the division, to adopt this second