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those who are arriving at the...who are getting the benefit by reason of the limitation. So we have quid pro quos throughout this that keep the fund solvent and continue to assess those who are benefiting.

SENATOR CHAMBERS: So Senator Brashear--I'm speculating, I'm theorizing--if the case that Senator Janssen mentioned that involves that facility in Fremont, where the doctor apparently, from everything I've read, and others there, did not take proper precautions that would be required, and they may be amenable to a charge successfully prosecuted of malpractice, if we had, say, 100 people filing such lawsuits, and if the amount that each would recover, when added to all the other amounts, would be more than what is currently in that fund, should they prevail, at what point would the surcharge kick in? At the point of the filing, no money has been drawn down from the fund. Until judgments become final, or settlements are reached, no money will be drawn down from the fund. Would the surcharge come in place...well, at what point would the surcharge come in place...or come into action, if you know?

SENATOR BRASHEAR: The language, Senator Chambers, is that the director may at any time analyze the fund to determine if the amount in such fund is inadequate to pay in full all claims allowed or to be allowed during the calendar year. Upon such determination, et cetera.

SENATOR CHAMBERS: And if--again, just speculating--if a surcharge were put in place, and there were settlements arrived at, would that surcharge--and the fund with the amount that currently is in it would not be depleted, so the surcharge put surplus money in--would there be a setting off of the amount of that surcharge against the amount that these physicians may be required to pay in the future? Or would that be like a windfall to the fund, and once extracted the surcharge is gone, it's into the fund and the physicians have paid it, and there is no recourse for them?

SENATOR BRASHEAR: I believe that once the surcharge is levied, based upon the statutory tests, and the surcharge is paid in, it is the fund and it is not owed back and there is not a claim