

SENATOR KRISTENSEN: What are we worried about? I'm just struggling with something.

SENATOR CHAMBERS: I'm listening to what Senator Beutler is saying.

SENATOR KRISTENSEN: Okay.

SENATOR CHAMBERS: And I'm inclined to go along with him when his amendment deals with those circumstances, what I think a judge should be able to make a determination as to whether or not the documents in question would be cloaked with confidentiality. And he lists in his amendment so I don't have to read them all, but you could see like if the confidentiality is asserted for a fraudulent purpose to avoid disclosure of information in an investigative, administrative or judicial proceeding that was under way for which the person had been provided written notification. In other words, an attempt is made to generate documents that will be subject to an investigation so that the contents of those documents will be confidential and they cannot be obtained. And I want you to know that I make a distinction between other sources of information that might be drawn on to get this document, but the investigator may not know about those other sources but the investigator knows that documents have been generated that pertain to these areas or believes that to be the case. That belief wouldn't be enough to take away the confidentiality cloak. It would go to the in camera hearing and the judge would have to make the determination. So what I'm asking you, in view of what appears to me...

PRESIDENT ROBAK: One minute.

SENATOR CHAMBERS: ...a narrowness in the drawing of Senator Beutler's amendment, what would these depository institutions have to fear because we're not just talking about banks, we're talking about credit unions or any place where deposits can be made under the law.

SENATOR KRISTENSEN: And I want to make sure I respond specifically because we're talking a little abstract in terms because I'm not sure I know exactly what document we may be after, but...