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FLOOR DEBATE

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specification, can consider depositions, admissions, and affidavits. The amendment would add answers to interrogatories, and stipulations to the types of evidence that a court can consider, all appropriately so. Further, the first portion of the amendment deals with current Nebraska law which allows the discovery of documents or records in the possession of a person or business who is not a party to a case to be obtained only by deposition. In instances of getting a nonparty to litigation to produce documents, it's necessary that a deposition be noticed and arranged and, in fact, the services of a court reporter paid for, and the subpoena duces tecum issued. That exercise is unduly complicated and expensive and inefficient when, in fact, in most practical experience people simply want to respond by providing the documentation. The amendment would create a statute that would authorize an attorney to issue a subpoena without a deposition to gain access to records and documents from nonparties. Such an approach is in use under the present rules, the present federal rules of civil procedure, and in twenty other jurisdictions, hardly something new and strange. The amendment clarifies that other statutes governing specific kinds of records, such as bank records, will not be affected by this amendment. The Supreme Court, using its general rule-making authority, will draft the specific details of the rules governing the process for the parties to issue subpoenas and other corollary rules as is standard process. While the court is able to amend its discovery rules without legislative action, the Legislature has the authority to promulgate rules regarding subpoenas. As such, this amendment provides the court with the enabling legislation to complete the discovery rule changes regarding subpoenas of nonparties for records. The second part of the amendment, Sections 4, 5, 6, and 7, was introduced to the body as LB 354 and changes the process for posting of cost bonds in civil actions. Current Nebraska law requires a plaintiff, who is a nonresident of a county in which such plaintiff files a civil action, to furnish a surety or bond for costs that are likely to accrue in that action. If a plaintiff fails to furnish such surety or bond, the defendant may move to dismiss the plaintiff's case. Nebraska and Ohio are, we believe, the only two states that require a cost bond for a nonresident of a county where an action is brought. Ohio adopted that cost bond requirement in 1831. Nebraska