

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

[LB13 LB33 LB56 LB76 LB174 LB215 LB278 LB371 LB399 LB403 LB433 LB446 LB464
LB470 LB656 LB657 LB658 LB659 LB661 LB725 LB744 LB766 LB772 LB773 LB806
LB967 LB1056 LB1079 LR432]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the seventeenth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Senator Bolz. Please rise.

SENATOR BOLZ: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Bolz. I call to order the seventeenth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: I have a hearing notice from the Health and Human Services Committee signed by Senator Campbell as Chair, a confirmation report from the Natural Resources Committee offered by Senator Carlson as Chair, the lobby report to be inserted in the Journal as required by statute, as well as several reports and acknowledgment thereof received in the Clerk's Office, available for member review. That's all that I have, Mr. President. (Legislative Journal pages 421-422.)

SENATOR GLOOR: Thank you, Mr. Clerk. (Visitors introduced.) We now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, Senator Dubas would offer a confirmation report involving four appointments to the State Highway Commission. (Legislative Journal page 398.)

SENATOR GLOOR: Senator Dubas, as Chair of the Transportation and Telecommunications Committee, you're recognized to open.

SENATOR DUBAS: If you will indulge me, I left my notebook down in my office, so I need to run down and get it. I'm...I apologize.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR GLOOR: Members, we will continue with the agenda while Senator Dubas retrieves her notebook. Mr. Clerk.

CLERK: Mr. President, Senator Davis would like to withdraw LB1079. [LB1079]

SENATOR GLOOR: Senator Davis, you're recognized on your motion to withdraw. [LB1079]

SENATOR DAVIS: Thank you, Mr. President. I move to withdraw LB1079. After LB1079 was introduced, a better way to approach the issue was addressed by the bill and the bill is no longer needed. [LB1079]

SENATOR GLOOR: Thank you, Senator Davis. Members, you have heard the opening on the motion to withdraw. Are there senators wishing to be recognized? Seeing none, the question before the body is, shall LB1079 be withdrawn? Those in favor vote aye; those opposed vote nay. Have all voted who care to? [LB1079]

CLERK: 27 ayes, 0 nays, Mr. President, to withdraw LB1079. [LB1079]

SENATOR GLOOR: LB1079 is withdrawn. Returning to the legislative confirmation report, Senator Dubas, welcome back (laughter). [LB1079]

SENATOR DUBAS: Colleagues, please forgive me. I'm sorry. Grabbing the wrong notebook and totally caught me off guard. So I will catch my breath here. (Laughter) We had...Mr. Clerk, will you help me; do I present these all at one time or one at a time?

CLERK: These are...no, Senator, it's one report; you have four names on it, all appointed to the State Highway Commission, so...

SENATOR DUBAS: Correct.

CLERK: ...one vote.

SENATOR DUBAS: All right, thank you very much. We had a confirmation hearing on four individuals to be reappointed to the State Highway Commission. We have Mr. Jerome Fagerland from Atkinson, Nebraska; Mr. Ronald Books from North Platte, Nebraska; E. J. Militti, Jr. from Omaha, Nebraska; and Mr. Don (sic) Leafgreen from Gering, Nebraska. As I said, these were all reappointments to the Highway Commission, all very well qualified. Two of the hearings via telephone; two of the appointees came in person and testified. As I said, very well qualified, a lot of experience on the commission and understanding of highway issues. So I would encourage a green light on the confirmations of Mr. Jerome Fagerland, Mr. Ron Books, E. J. Militti, Jr., and Don (sic) Leafgreen.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR GLOOR: Thank you, Senator Dubas. Members, you've heard the report from the Transportation and Telecommunications Committee. Are there senators wishing to be recognized? Seeing none, the motion before us is the acceptance of the legislative confirmation report. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 423.) 33 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR GLOOR: The confirmation report is approved. The Chair recognizes Speaker Adams.

SPEAKER ADAMS: Thank you, Mr. President. Members, as Speaker I am going to make a minor adjustment in the early half of the agenda this morning to consider a rule suspension on the part of the Judiciary Committee and Senator Ashford. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Mr. Speaker. Mr. Clerk.

CLERK: Mr. President, Senator Ashford would move to suspend Rule 3, Section 14, so as to allow the Judiciary Committee to conduct a public hearing on AM1734 next Wednesday. [LB464]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized on your motion to suspend. [LB464]

SENATOR ASHFORD: Thank you, Mr. President. This amendment deals with the attendance issue that the body has weighed in on on at least two occasions over the last four or five years and is the result of work done over the interim with various groups and school superintendents to, hopefully for the last time, develop language that will clearly set forth the...what the school district's responsibility is regarding attendance and what the requirement is or their authorities are when attendance gets to a certain level. This is, in my view, clarifying language, though I agree with the Speaker, certainly, that does require a hearing or should have a hearing. So that is what this motion is about. We would have a hearing on next Tuesday...or, I'm sorry, not Tuesday--we don't meet Tuesday--next Wednesday. And then, ideally, the amendment would be a part of a package of juvenile justice bills that would be eventually amended onto LB464, which deals with juvenile court jurisdiction. So with that, I would...and I do want to thank Senator Christensen for his efforts and Senator Krist, obviously, for his leadership on this matter. And I think we've...we have a good resolution in this particular amendment. So with that, I would move that the rules be suspended to allow us to have a hearing in sort of short...with a short time frame. The parties who have been working on this for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

some while are all in the loop. They know about the hearing...or they know about the amendment and have been informed about the date, informally obviously; the public needs to be informed as well. So thank you, Mr. President. [LB464]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on the motion for rule suspension. We now move to floor discussion. Senator Chambers, you're recognized. [LB464]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Ashford a question or two. [LB464]

SENATOR GLOOR: Senator Ashford, would you yield? [LB464]

SENATOR ASHFORD: Yes. [LB464]

SENATOR CHAMBERS: Senator Ashford, I see a bill number on the board, LB464. [LB464]

SENATOR ASHFORD: Right. [LB464]

SENATOR CHAMBERS: Is it a bill that was introduced? [LB464]

SENATOR ASHFORD: Right. [LB464]

SENATOR CHAMBERS: So what are we suspending the rules for? [LB464]

SENATOR ASHFORD: No, the...the...I'm sorry, it's not...you're...good point. LB464 is on the floor now on Select File. So it would...this is...there is no actual bill that encompasses this subject matter that was introduced. [LB464]

SENATOR CHAMBERS: So LB464 is a bill that's out here right now. [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: And you're asking to suspend the rules for what purpose? [LB464]

SENATOR ASHFORD: To have a hearing on this language on the issue of school attendance. [LB464]

SENATOR CHAMBERS: And what does LB464 deal with? [LB464]

SENATOR ASHFORD: It deals with expanding the jurisdiction of the juvenile court to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

more serious felony offenses, to require that the filings occur in the juvenile court and not in the adult court. That's what LB464 generally is about. [LB464]

SENATOR CHAMBERS: I don't want to offend you, could you speak into the mike; do you mind? [LB464]

SENATOR ASHFORD: I'm sorry. I found a cold this morning on my way down here. [LB464]

SENATOR CHAMBERS: Okay. [LB464]

SENATOR ASHFORD: So... [LB464]

SENATOR CHAMBERS: So you said LB464 does something about the juvenile court system. [LB464]

SENATOR ASHFORD: Well, it expands the jurisdiction of the juvenile court to take more serious criminal offenses directly into the court. It has...it's the only bill that I could see that had juveniles as the subject matter and therefore would be germane. [LB464]

SENATOR CHAMBERS: And LB464 is on Select File now. [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: When you say it expands the jurisdiction, does that mean that a case that ordinarily...wait a minute, let me ask it a different way. Does it mean that if there is a thought of sending a case that involves a juvenile to either adult court or juvenile court, it will be sent to juvenile court first and the prosecutor must persuade the court to move it to adult court? [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: That's what LB464 does? [LB464]

SENATOR ASHFORD: Yes. Yes. [LB464]

SENATOR CHAMBERS: And this that you're asking us to look at now...I was just handed a copy of the amendment... [LB464]

SENATOR ASHFORD: Right. [LB464]

SENATOR CHAMBERS: But as slow as I read...I'm going to ask you a few more questions. [LB464]

Floor Debate
January 31, 2014

SENATOR ASHFORD: Okay. [LB464]

SENATOR CHAMBERS: And then I'll have a chance to read this material. And I'm glad that I have it, because I can scan it. Is there a bill that deals with these issues that you are going to have a hearing on? [LB464]

SENATOR ASHFORD: No, not that I can...maybe, but I haven't been able to locate a bill that is... [LB464]

SENATOR CHAMBERS: So this would be a hearing on an amendment? [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: Thank you, Senator Ashford. I have to chew on that for a while. Members of the Legislature...that's all I'll ask you right now, Senator Ashford, thank you. Remember, I voted against the rules. I think what Senator Ashford is trying to do, from what I've gathered, is hold a hearing on an amendment that might be attached to a bill already before us. And apparently...let me ask Senator Ashford another question so I won't presume anything. [LB464]

SENATOR GLOOR: Senator Ashford. [LB464]

SENATOR CHAMBERS: The information that would be in the amendment you would want to attach has not itself had a hearing yet, is that true? [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: Why was it not offered as a bill? [LB464]

SENATOR ASHFORD: It could have been offered as a bill. The thinking...first of all, we had to finalize the language and make sure that it was going to be acceptable to the... [LB464]

SENATOR GLOOR: One minute. [LB464]

SENATOR ASHFORD: ...various parties, and that took some period of time, going past the time for introducing the bill. That's the primary reason, is we ran out of time, Senator Chambers. [LB464]

SENATOR CHAMBERS: Senator Ashford, you're aware, I think, of the fact that I've had some concerns about the way these truancy issues are handled. [LB464]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: And this amendment deals with truancy issues. [LB464]

SENATOR ASHFORD: Correct. And you are one of the motivating factors in us getting onto this a little more seriously. [LB464]

SENATOR CHAMBERS: Well, being objective, that cannot determine my position right now. And I won't go beyond the time that I have, because I think it's about out now. Thank you. [LB464]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Ashford. Senator Janssen, you are recognized. [LB464]

SENATOR JANSSEN: Thank you, Mr. President. And if I could...I know Senator Ashford is a bit under the weather this morning, but I would like to ask him to yield to a quick question from me, if Senator Seiler is done with him just yet. [LB464]

SENATOR GLOOR: Senator Ashford, would you yield? [LB464]

SENATOR ASHFORD: Yes, Senator Janssen. [LB464]

SENATOR JANSSEN: This is a...is this in response to, you know, the bill that was passed...obviously, it is, but I've heard considerable backlash from... [LB464]

SENATOR ASHFORD: Right. [LB464]

SENATOR JANSSEN: ...my particular county, being a senator that represents one entire county, that the burden has been pushed down to the counties, it's getting very expensive for them to follow this and in...sometimes unnecessary. That's the argument I hear. And maybe, is this...is this in... [LB464]

SENATOR ASHFORD: It's part of it. It's part of it, Senator Janssen. The...there have been two criticisms. One is that the school district has--various school districts, one in particular--has been sending cases to the county attorney for action prematurely, prior to the school working through the issues with the families. That's one of the criticisms. I think there has also been some county criticism of...or county board-type criticism regarding the cost of having these matters come into the county juvenile justice system. So I believe that's a valid point, and this amendment does address those things. [LB464]

SENATOR JANSSEN: Okay, well, I would certainly be supportive of addressing those issues, even though it calls for suspending the rules. Not that he needs it, but I think

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

Senator Chambers has more questions, so I'll yield the balance of my time to Senator Chambers, if he'd like it. [LB464]

SENATOR GLOOR: Three minutes and five seconds, Senator Chambers. [LB464]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Janssen, with a condition. I'm over here trying to read in my slow, plodding way what this amendment is and was hoping that Senator Janssen would continue his discussion. But there are some things that I can ask Senator Ashford. Senator Ashford, the amendment I'm looking at is numbered AM734. [LB464]

SENATOR GLOOR: Senator Ashford. [LB464]

SENATOR CHAMBERS: Well, here's the question I'm going to ask... [LB464]

SENATOR ASHFORD: I have the wrong amendment, for some reason. But go ahead and ask the question. [LB464]

SENATOR CHAMBERS: Well... [LB464]

SENATOR ASHFORD: Go ahead. I...I... [LB464]

SENATOR CHAMBERS: Okay, well, let me ask you about this. This amendment that I'm looking at talks about members on a council. Is that the... [LB464]

SENATOR ASHFORD: Part of the amendment talks about a council created to address these issue, yes. [LB464]

SENATOR CHAMBERS: And if you could tell me, what direction is it intended that this legislation will go? [LB464]

SENATOR ASHFORD: That...my intention would be that we would...in the legislation, there would be a council that would be created that would oversee these programs across the state that school districts are already required to have regarding attendance, to make sure that they are addressing the concerns of parents and school districts and...then they're working together collaboratively. That's the idea of the council. It's not essential, Senator...I mean, it's not...the material part is in the language of how we require school districts to act when there is a great deal of absenteeism. That's...that's...those are the guts...that's the guts of the bill. Then the council is an oversight council. And the committee will have to address that issue when we look at it. [LB464]

SENATOR CHAMBERS: Does the...either the amendment or your intention change the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

way things are done now, legislatively; or does it say this council is supposed to review things and recommend changes? [LB464]

SENATOR ASHFORD: It's a recommendation to the Legislature, if there need to be additional changes. But what it would do is it would allow some oversight to make sure that these policies that the 243 school districts have are meeting the needs of parents and children. And that was the idea, and that's what it is. [LB464]

SENATOR CHAMBERS: But... [LB464]

SENATOR ASHFORD: But it doesn't have, to your point, procedurally it doesn't have the ability to create new rules apart from... [LB464]

SENATOR CHAMBERS: Well, okay. What I was indicating was, the amendment that I'm looking at deals primarily with this council, but that wouldn't be the only thing that you want to attach to this bill, or is it? [LB464]

SENATOR ASHFORD: There is an additional language change which says, which I think is the core of the amendment, that says that if a young person is... [LB464]

SENATOR GLOOR: Senators, your time has expired. But, Senator Chambers, you're on your next five minutes. [LB464]

SENATOR ASHFORD: If a young person has been excused from school for a period of 20 days, that it's not required that the county attorney be notified and that action be taken, which has been the problem, I believe, with some of the school districts, including Omaha Public Schools primarily, but there may be others. And so it's to remove that requirement, so that the county attorneys will not be required to...or the school districts have misinterpreted, I think, the idea that they have to send, at 20 days, they have to send these children over to the juvenile court. I am suggesting in this amendment that's not so and that they... [LB464]

SENATOR CHAMBERS: So...excuse me. The language that would be in the legislation would say that if a child has been excused; is that what you were saying? [LB464]

SENATOR ASHFORD: Correct. [LB464]

SENATOR CHAMBERS: For how many days? [LB464]

SENATOR ASHFORD: Well, 20 days has always been that benchmark date, that says at 20 days you're required...the school district is required to turn over these juveniles to the county attorney for further review. We're taking that out and saying that if they've been excused by the school district pursuant to the school district's own policies, that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

there is no requirement to contact the county attorney. [LB464]

SENATOR CHAMBERS: What about this talk that some people were giving about an excuse signed by a doctor? [LB464]

SENATOR ASHFORD: That's out. That's... [LB464]

SENATOR CHAMBERS: And... [LB464]

SENATOR ASHFORD: ...one of the concerns that had been raised by individuals in Omaha, that how can they, especially people who are in poverty, they don't even have access to a physician, let alone get a written...or it's difficult to have access to a physician, let alone get a written excuse. So that's been taken out. [LB464]

SENATOR CHAMBERS: That's all I'll ask you now. Thank you, Senator Ashford. Members of the Legislature, I'm inclined to support the rule suspension. And I was hoping we could get some things in the record to give an idea of the direction that is going to be taken. I don't trust the juvenile court because there's a female judge named Liz Crnkovich who I think is one the cruelest people, one of the least competent judges, and there's no way to get her removed. The Supreme Court is aware of her activities, the negative attitude toward her and the way she conducts affairs in her courtroom. So I've got to ask Senator Ashford at this point another question that's not directly related to his amendment. [LB464]

SENATOR GLOOR: Senator Ashford, would you yield? [LB464]

SENATOR ASHFORD: Yes. Thank you. [LB464]

SENATOR CHAMBERS: Senator Ashford, is there a bill that you know of to expand the number of juvenile court judges in Douglas County? [LB464]

SENATOR ASHFORD: There...actually, there is a bill that...you're...good point. I mean, there is...a bill has been...or there has been a bill filed this year to do that. So there is actually another juvenile bill. I had forgotten about... [LB464]

SENATOR CHAMBERS: Has it had a hearing yet? [LB464]

SENATOR ASHFORD: It has not. [LB464]

SENATOR CHAMBERS: And it will be before the Judiciary Committee? [LB464]

SENATOR ASHFORD: Correct, yeah. [LB464]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Thank you. Members of the Legislature, in the past there were bad judges. And I opposed the addition of any judges when you have a bad situation. So I want the judges and whoever else is interested in that bill to know that I'm opposed to it. And as long as I'm in the Legislature, and as long as Judge Crnkovich is on the bench, I'm going to do all I can to prevent anything from being done to increase the size of the juvenile court. As long as she can handle cases and be abusive toward parents and children and counsel, the juvenile court is dysfunctional. And I don't believe in adding to a dysfunctional system. There was a judge...I don't remember her name. Let me ask Senator Ashford a question. [LB464]

SENATOR GLOOR: Senator Ashford. [LB464]

SENATOR CHAMBERS: Senator Ashford, it's been a while, but there was a... [LB464]

SENATOR GLOOR: One minute. [LB464]

SENATOR CHAMBERS: ...female judge who sent her employees on errands; what was her name? [LB464]

SENATOR ASHFORD: Well, the only...I remember Judge Buckley. [LB464]

SENATOR CHAMBERS: Yeah. Thank you. [LB464]

SENATOR CHAMBERS: And what I had said on the floor... [LB464]

SENATOR ASHFORD: I'm not...I don't know if she... [LB464]

SENATOR CHAMBERS: That's... [LB464]

SENATOR ASHFORD: ...did that. [LB464]

SENATOR CHAMBERS: I and I think then-Senator Lindsay had raised that issue. And I had pointed out that she is going to be a dead cat on the line for anything being done to benefit that court system. And she resigned. I was told by people in the court system, and I won't give their names because it's not important at this point...but sometimes that's the only way you can have action taken of the kind that's needed. And I don't believe that as long as some children can be treated unfairly and harshly by one arm or tentacle of the juvenile court and others are treated a different way, there is something endemically... [LB464]

SENATOR GLOOR: Time, Senator. [LB464]

SENATOR CHAMBERS: ...wrong. Thank you. [LB464]

Floor Debate
January 31, 2014

SENATOR GLOOR: Senator Chambers, you are in the queue next, but this is your third time, sir. [LB464]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask the Speaker a question, if I may. [LB464]

SENATOR GLOOR: Senator Adams, would you yield for a question? [LB464]

SPEAKER ADAMS: Yes, I will. [LB464]

SENATOR CHAMBERS: Senator Adams, is it appropriate for me to offer an amendment to the rules suspension, if you know? [LB464]

SPEAKER ADAMS: I don't think that it is, but I don't know. [LB464]

SENATOR CHAMBERS: Okay, thank you. I won't offer it. But I was going to extend the discussion a bit further if I could. I am very serious about what I'm talking about. I want that word to get back to the district judges, to the county judges, and to the Chief Justice. He cannot by himself do anything about what I'm talking about. But he has influence. And either he can take seriously what I'm saying or he need not. The other judges in Douglas County, on both the district court bench and the county court bench in addition to the juvenile court bench, can sit back and do nothing, if they choose. But I'm going to oppose every bill that comes through here that would in any way impact favorably that court system in Douglas County, and when I say "favorably," what the judges are asking to be done. And that might seem to some people to be a harsh and heavy-handed way to deal with the courts. And I intend it to be exactly that. And they need to know that I'm not just blowing smoke. I will take this approach. That lady judge Crnkovich has been on the bench too long. She feels untouchable, and apparently she is. She is a member of a family named Green (phonetic), and they used to have a lot of political power in Douglas County. But that's not enough to protect her from her conduct that I think rises to the level of being unethical. I don't want to see the attempts to make corrections in that bad truancy law, which is another of those enacted while I was not here. I don't want to see those things derailed, because the law as it is just provides more lambs for a predatory judge. And if you all want to talk to some of the people who have been in that court as observers and whose children are going through, and see the terror, the trepidation, the trembling, the crying of some people because of what that judge does, you might understand what I'm talking about. Nobody, in any position, is untouchable as far as I'm concerned, not even people in this body who are running for Governor. They're here, and when I have something to say or address to them, I'm going to do it. And I was...I had my attention called to an article where Senator McCoy, who couldn't answer questions on the floor, was Tweeting--birds tweet; men speak--Tweeting and explaining why he wouldn't say anything. He thinks I'm out of line

Floor Debate
January 31, 2014

for asking questions to people who are running for office. So running for office excuses you from your duties as a legislator? Well, if he thinks his Tweets are going to deter me, he's wrong. And when an issue comes up where I want to ask him a question, I'm going to ask him, and he can say all he wants to, "No, I'm not going to yield." But that cuts no ice with me. [LB464]

SENATOR GLOOR: One minute. [LB464]

SENATOR CHAMBERS: And I say that to make an additional point, or to underscore a point. I don't care what a person's title is, I don't care what a person's job is; when those people put themselves in a public position voluntarily, they're going to be treated by me like all public officials ought to be treated and should expect to be treated, even when they haven't spoken but they've Tweeted. Tweepers. Tweeping, but not speaking. No belly for speaking, but strong fingers for Tweeping. I'm not high-tech, but I think you Tweet with your fingers; I think. I stand to be corrected. And it might be a good opportunity for somebody running for Governor to correct me. And I think somebody is awfully arrogant and puffed up with self-pridefulness to think that he's the only one I've asked questions of. Senator Carlson is running for Governor. [LB464]

SENATOR GLOOR: Time, Senator. [LB464]

SENATOR CHAMBERS: Thank you, Mr. President. [LB464]

SENATOR GLOOR: Senator Wallman, you are next in queue. [LB464]

SENATOR WALLMAN: Thank you, Mr. President. Fellow Nebraskans, friends all, as we probably realize when we put young children into the court system at an early age, what is the benefits? You know, we talk what's the purpose? Is this a good purpose or a bad purpose? I don't think that's the way to go, folks. Some people have jobs before...I dealt with this on the school board. Some people have jobs, and so they will be tardy every single day. But they're working; they pass their grades. So this is an onerous thing, to turn children over to this county court system and to the...I don't know about the judge in Omaha, but I've been in a different county, with a young child. So I do know how this works. You're putting...like Senator Chambers says, these children are scared. And why do we want to do that to our children? It behooves me to know why we would do this. And so I will vote for the rule suspension and hope something definitely better comes out than mandatory going to the county court system. Thank you, Mr. President. [LB464]

SENATOR GLOOR: Thank you, Senator Wallman. Are there other senators wishing to be recognized? Seeing none, Senator Ashford, you're recognized to close on your motion to suspend the rules. [LB464]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR ASHFORD: Thank you. Just very briefly, I do want to express to the body that there has been a substantial number of...there's been a great deal, I should put it this way, participation in trying to find the right way to address this issue, to provide balance to make sure...we want children in school, obviously, but we don't want a heavy hand out of balance with the goals of what we're trying to achieve. So, again, thanks to Senator Christensen and his efforts; he's done a great job--and Senator Krist, of course--on this entire issue. So I would just urge the body to adopt...it takes 30 votes, I believe, to suspend the rules in order to do this and...so that we can have a hearing and get this language out to you so we can adopt, hopefully, adopt the language into the law. Thank you. [LB464]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the closing on the motion to suspend. The question before us is, shall the rules be suspended? As Senator Ashford pointed out, this motion requires 30 votes. Those in favor vote yea; those opposed vote nay. Record, Mr. Clerk. [LB464]

CLERK: 31 ayes, 0 nays, Mr. President, on the suspension of the notice provision. [LB464]

SENATOR GLOOR: The motion is adopted. Mr. Clerk, for some items for the record. [LB464]

CLERK: Mr. President, pursuant to that action, the Judiciary Committee gives notice of hearing for Wednesday, February 5. I have amendments to be printed--Senator Sullivan, to LB967 and LB725--and a Reference report regarding LR427. That's all that I have, Mr. President. (Legislative Journal pages 424-426.) [LB967 LB725]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with our agenda, Select File.

CLERK: Mr. President, LB278, briefly discussed yesterday; no Enrollment and Review amendments. I do have a priority motion. Senator Schumacher would move to bracket the bill until April 17 of 2014. [LB278]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on your motion to bracket. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This bill on its face would seem to be a rather simple little bill, something maybe administratively wanted by the Secretary of State, probably would move through with very little attention if there were no thinking that were done. I was intending yesterday to offer a couple of floor amendments addressing issues in the bill, issues that I was going to take a look at, as it appears, because the language is fairly simple and the changes fairly simple. It appears that prior to this bill, or prior to this bill becoming law, the law

Floor Debate
January 31, 2014

was and is that you could get the entire contents of the database regarding corporations and the Uniform Commercial Code for a price. And in two parts in the pertinent language on page 3, "and" is stricken and replaced with "or." Seems to me what you now get is half of what you could before. And that doubling of the fee, or doubling of the rate, seems not to have been justified by the record. And I was going to offer an amendment to have that discussion about "and" and "or" and may still do that if this bracket motion fails. And then also it appeared in the language that we were removing a \$2,000 limit for somebody to download something over the Internet. Two thousand dollars to download something over the Internet? That seems to be a really high limit the way it is. Why would we remove it? This piece of legislation was last amended, and these fees set prior to, 2003. With newer technology, things get cheaper over time, not more expensive over time. And if they could do it with a \$2,000 limit in 2003, why do we need to completely remove the limit in 2014? Are we just seeing a fee-increase bill? Has there been a inundation of requests, an overloading of the bandwidth out of the Capitol or wherever this server...Kansas or someplace that it's located? I'm not sure if it's here or there, but I know the company that's behind it is Kansas. Why remove this limit? Why put this additional burden on the taxpayer and on the commercial area? And I was writing up the proposed floor amendments when Senator Pirsch rather eloquently took to the microphone and explained how we really don't want to do anything rashly, too fast, things we might regret, things without understanding what we're really doing, things of how this interplays with other parts of the way we do electronic government in this state. And I stopped writing up the floor amendment and instead wrote up this bracket amendment, because Senator Pirsch suggested an interim study to look at these fees, the real reasons why these changes, a conceivable doubling in fees or removal of the limit of fees, were needed. And I would assume that such an interim study would also then branch off into very interesting things that maybe are time for review because it's been 15 or 20 years since they've been reviewed. Because even to download some of these things over the Internet and pay these fees, in Nebraska, unlike a lot of other states, you've got to have a membership in a private company and pay an annual membership fee in order to do it. A lot of these things in Nebraska government can't be accessed until you're...unless you buy a membership in a private company. And I think it is very appropriate that we say, wait a minute, before we double or halve what you get for your money, effectively doubling the fees before we remove limits on the fees, we pause a minute and do as suggested by Senator Pirsch and let's think about this through the summer and begin to look at the issues of electronic government in Nebraska, not only at this level but also at the county level. And we're going to find in that process some really, really scary things: who owns electronic government, who owns the records, who has the technical knowledge in order to be able to go in and do this. Is it a state employee? Is it a private company that could go belly up or be bought by the Arabs? And you'll find the same thing at county government levels. And also when you record deeds and mortgages, that oftentimes it's out-of-state companies with virtually no control and no oversight and who could conceivably be bought by anybody anywhere around the world that are in the middle of our very

Floor Debate
January 31, 2014

streams of commerce and, once in the streams of commerce and our streams of government, are so entwined with them that you can't unravel them. And if something would go "kafooeey" with them, we wouldn't know what we were doing, and we'd have a real problem. And so when they're in that position, they naturally kind of almost have a natural monopoly and then want to raise their fees, double their fees, take limits off of their fees. Because one way or another even though these are paid to the Secretary of State, there's an income chain, I believe--we'll have to study it--that goes through a contract, back through a private contractor. So I don't think we want to double fees on people. We had a hard time a couple of years ago raising the fees a couple of bucks for the Game and Parks Commission, on the little stickers on your window. We have a hard time raising fees and taxes in this state. And a doubling of fees, a removal of limits, limits that were good and technically capable in 2003? We need more money now, when we have faster computers, faster Internet? Something isn't right with this picture. And this is part of a big problem that may come to bite us rather soon. And I would suggest that when we dig into this we'll find some anticompetitive elements that are designed to raise the cost of competitors to the present provider, make it less creative to interact with our data on the Internet because we've increased the cost, we've eliminated competition; I think we'll find very interesting things. But I did not hear in the entire debate and presentation on this matter any real reason for halving the service available, in subsection (d) and subsection (f), taking out the "and" and putting in an "or," or any cost analysis or any other reasoning why we want to take a limit that was good in 2003 with slower machines off so that somebody can charge more now. And I think it's a good idea just to say, wait a minute, maybe this is part of a bigger picture, maybe we should kind of do what we did with the tax modernization thing, back off instead of making knee-jerk things that may be difficult to reverse, if we find out that these fees are excessive or not needed. It would be hard to reverse this, what we would do today. Maybe we should just back off and study it. And I think Senator Pirsch's suggestion that we take a look at this over the summer with a resolution, a study resolution, directed at this and directed at the general idea of where we are in this state, who controls electronic government, who owns it, how could we access it if the computers or the contractor that we have turns to be unfriendly or sells to a foreign power, all those issues. They are the kind of things that people on a board of directors of a company, whether it's... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR SCHUMACHER: ...whether it's Target or whether it's the board of directors of this state--that's the people in this Legislature--find it easy to ignore, easy to look the other way on, easy to blow off. And all of a sudden, you have got a mess on your hands. This entire approach was first conceived because it was cheap and easy and quick in the mid-1995 era and is not necessarily the way one would do it now, given the various resources that are now available. I would encourage everyone to very carefully consider this bracket motion. We have no evidence that there's a compelling rush to do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

this today or that there's compelling harm that...if we don't do it. So I would encourage everyone to support the bracket, and let's make sure we know what we're doing in this area before we do what is hard to undo. Thank you, Mr. President and members of the body. [LB278]

SENATOR GLOOR: Thank you, Senator Schumacher. (Doctor of the day and visitors introduced.) Members, you've heard the opening on the motion to bracket. We now move to floor debate. Senator Pirsch, you are recognized. [LB278]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And I would like to thank Senator Schumacher. And again he, as, often, as he does, he thinks outside the box. And so I appreciate, you know, his concern. But, in fact, as you look at this, it is...it's not a whodunit; it's not a complex bill. It is, in my opinion, a simple...simple little bill. What it was...one of the...the heart of it is simply a semantic change from the word...what the Secretary of State's Office provides, a...currently it's called a "letter"; it changes the terminology from "letter" to "certificate" to better emulate what surrounding states do. It does certify the same thing. While we had the statute up, a simple clarification of existing practices...and I think that's important. Existing practices, as I'll explain here, seem to be in order. With respect to the issue that Senator Schumacher indicated, the crossing out of the word "and" and the insertion of the word "or," with respect to the two databases, it is not a half of services per dollar or doubling of the money, as he asserts. This practice of charging separately for the two databases has been going on, is going on, based upon the existing language, and for a long time. So the existing practice is not changing. It...because of the unfortunate choice of the word "and" historically, it leaves it ambiguous or vague. And so while we have this statute opened up, I understand, it would be more precise, for clarification, even though the longtime existing interpretation and the standard of practice in the Secretary of State's Office was to charge separately for each database. So it's not changing anything substantively, but it is making that, I think, more clear to the outside world what the situation is with that. So I appreciate the opportunity to just comment on that. And then, again, we talked about the provision which...right now there is a cap, say, for those corporations, these exclusively large corporations, national companies who are engaged in the business of data mining, largely out of state, who enter into the state of Nebraska and would like to obtain the state's information in a way that they can easily use commercially and make money on. Yeah, I mean, when you get to the point where you're...right now there has been no market whatsoever, even with these large out-of-state companies, for huge, huge amounts of this data. And there's no anticipation that that would change. But should that happen, and say a large New York company comes and requests our Secretary of State to make available all these...all the information in possession of the Secretary of State so that they can sell that information across the world. And, well, then if there's a cap on it and the Secretary of State...and keep in mind, this data is not held all digitally. There's always this statement back and forth that all this is just pushing a button and it's digital information. No, we're talking

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

about information that is only on paper right now... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: ...and some from 1996 and before. So you're obviously going to have to employ labor for those type of records. There's nothing that prohibits that. So it's not just simply pushing a button. But if you don't allow them to commercially charge out-of-state large companies, then you're going to have to rely on taxpayers of Nebraska to subsidize the commercial enterprises outside the state. And so I just end with this. This is a little bill; there may be some larger issues that are not framed by this bill that Senator Schumacher wants to explore and, you know, involving, I think he said, who owns e-government and selling information to foreign powers who might be unfriendly. I think that that might be a good, you know, I'd leave it up to him if he wants to have an interim study. But this is a simple little bill, and it's good for the people of the state of Nebraska, so that they're not subsidizing with their tax money... [LB278]

SENATOR GLOOR: Time, Senator. [LB278]

SENATOR PIRSCH: ...outstate. Thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Pirsch. Senator Chambers, you are recognized. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I want to clear the air on something before too long. And before Senator Janssen gets out of here, I want to ask him a question, if he will yield. [LB278]

SENATOR GLOOR: Senator, would you yield? [LB278]

SENATOR JANSSEN: No; I mean, yes. Yes. [LB278]

SENATOR CHAMBERS: Senator Janssen, they say evil companions corrupt good manners; so you'd better be careful who you associate with. [LB278]

SENATOR JANSSEN: (Laugh) [LB278]

SENATOR CHAMBERS: Senator Janssen, are you running for higher office? Or do you intend to? [LB278]

SENATOR JANSSEN: Yes. [LB278]

SENATOR CHAMBERS: Have I asked you questions on a variety of bills and subjects, even sometimes straying from the subject of the bill itself that's before us? [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR JANSSEN: I...yes, you have. [LB278]

SENATOR CHAMBERS: Did you feel I was out of bounds in asking you those questions? [LB278]

SENATOR JANSSEN: I generally enjoy our banter back and forth. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator McGill if she would yield to a question. [LB278]

SENATOR GLOOR: Senator McGill, would you yield? [LB278]

SENATOR MCGILL: I'd be happy to. [LB278]

SENATOR CHAMBERS: Senator McGill, are you running for, or do you intend to run for a statewide office? [LB278]

SENATOR MCGILL: I am. [LB278]

SENATOR CHAMBERS: Have I asked you questions, sometimes searching, close questions, on a variety of issues? [LB278]

SENATOR MCGILL: Yes, you have, Senator. [LB278]

SENATOR CHAMBERS: Did you feel I was out of bounds for asking you those questions? [LB278]

SENATOR MCGILL: No. [LB278]

SENATOR CHAMBERS: Thank you very much. I'd like to ask Senator Carlson a question, if he would yield. [LB278]

SENATOR GLOOR: Senator Carlson, would you yield? [LB278]

SENATOR CARLSON: Yes, I will. [LB278]

SENATOR CHAMBERS: Senator Carlson, are you running for Governor? [LB278]

SENATOR CARLSON: Yes, I am. [LB278]

SENATOR CHAMBERS: Have I asked you on innumerable occasions questions on subjects directly in front of us by way of a bill or an amendment, or subjects outside of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

what was specifically in front of us? [LB278]

SENATOR CARLSON: Yes. [LB278]

SENATOR CHAMBERS: Did you feel that I was out of bounds by asking you those questions? [LB278]

SENATOR CARLSON: No. [LB278]

SENATOR CHAMBERS: Thank you very much. Members of the Legislature, the reason I say that, people on this floor express their views. I'm not high-tech; the only way I know when somebody is "Tweedling" is when I read it in the newspaper. So I've got to counteract that on the floor, not hiding behind one of these little phones or whatever they "Tweedle" on. In fact, there's a song I ought to sing to him: Tweedily deedily dee; tweedily deedily dee; tweedily deedily dee. And that's for Senator McCoy, who has the audacity to arrogate to himself the notion that he's the only one running for office that I ask questions of. That's silly. And for all those to whom he's Tweeting, I hope they watched the exchange this morning. But I'm going to tell you all what I intend to do that will help make it easier for Senator McCoy, who's running for Governor and doesn't want to answer any questions, that I'm seriously contemplating, when this session is over today, going down to the courthouse or wherever I have to go to change my name to Hatfield. Then maybe he'll come out. But whether he does or not, the Legislature will roll on. I do have some questions to ask Senator...go ahead, you're getting up...Senator Pirsch. And I... [LB278]

SENATOR GLOOR: Senator Pirsch. [LB278]

SENATOR CHAMBERS: And I won't ask the series of questions to him, because he's running for office, I've asked him questions, I've bantered with him, and I have some questions to ask him now about the bill itself. Senator Pirsch, I had mentioned yesterday, even when I didn't see you here, that you had... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR CHAMBERS: ...brought to me the kind of information you had said you would obtain. And that is true. Have I made it clear to you that I'm not high-tech and these are areas that I'm not expert in or even well-versed in? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: Thank you. And that's the only thing I want to ask, so it won't seem like I'm blindsiding Senator Pirsch by now kind of siding with "Professor" Schumacher. He understands what is going on in this area. I have no idea what format

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

information is kept in. I have no idea what is tapped when a person requests from a public official's office information that is accessible through use of high-tech electronic means. My time is... [LB278]

SENATOR GLOOR: Time, Senators. [LB278]

SENATOR CHAMBERS: ...probably up, so I'll turn on my light. [LB278]

SENATOR GLOOR: Senator Schumacher, you are next in the queue. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Will Senator Pirsch yield to a question? [LB278]

SENATOR PIRSCH: Yes, I sure will. [LB278]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Senator Pirsch, you're currently running for State Auditor, is that correct? [LB278]

SENATOR PIRSCH: I have announced, yes. [LB278]

SENATOR SCHUMACHER: And is it the duty of the State Auditor to read the laws and regulations that are promulgated in this state and see if they are being applied properly, particularly in terms of collecting the correct amounts of money, by the various members of the executive branch and the administrative offices? [LB278]

SENATOR PIRSCH: Well, that's part of it, yes. [LB278]

SENATOR SCHUMACHER: Okay, but that definitely is part of it. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR SCHUMACHER: Making sure that they're getting the money that the statutes instruct them to collect. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR SCHUMACHER: And that they're not letting somebody slide. [LB278]

SENATOR PIRSCH: Right. You don't want... [LB278]

SENATOR SCHUMACHER: Right. [LB278]

SENATOR PIRSCH: ...taxpayer dollars going... [LB278]

Floor Debate
January 31, 2014

SENATOR SCHUMACHER: Okay. [LB278]

SENATOR PIRSCH: ...to unauthorized uses. Correct. [LB278]

SENATOR SCHUMACHER: And if one of the rules was that you collect 50 cents for a bar of candy and a package of gum and you found that the administrative agency was collecting 50 cents for the candy bar and another 50 cents for the package of gum because they were reading "and" to mean "or" and they were saying, "Well, we've just been doing it this way," would you let them...give them a passing grade? [LB278]

SENATOR PIRSCH: No, if the law is quite clear that something...I'll just comment in general, that if the law is quite clear that you're supposed to be doing X, Y, and Z, then X, Y, and Z has to be done. [LB278]

SENATOR SCHUMACHER: So you would say that if they were charging...they were interpreting "and" to mean "or" and charging twice what the law allowed them to charge, you would stop them. [LB278]

SENATOR PIRSCH: I'm saying, if that's a clear matter of law, yes. [LB278]

SENATOR SCHUMACHER: Okay, so when the particular bill here in question says that the entire contents of the database of corporations and Uniform Commercial Code shall be X amount of dollars and you found that they were saying, "Yeah, but we know the Legislature can't write," and their "and" meant "or," and they said, "We've been doing it as if it said 'or' because that's the way we want to do it," would you give them a passing grade? [LB278]

SENATOR PIRSCH: Well, I...I'm not sure, in your hypothetical, that I necessarily understand the background that you're saying. But if you're...I can just tell you in general, if something is a clear matter of law, that they're not following it, then the Auditor should step in. If with respect to specific situations, I mean, that's...that's what...you'll have to have a legal analysis, so... [LB278]

SENATOR SCHUMACHER: Senator Pirsch, where did you go to law school at? [LB278]

SENATOR PIRSCH: University of Nebraska here in Lincoln. [LB278]

SENATOR SCHUMACHER: A very good law school. And did they teach you in law school the difference between "and" and "or"? [LB278]

SENATOR PIRSCH: They did. [LB278]

Floor Debate
January 31, 2014

SENATOR SCHUMACHER: And could you explain to the body the difference between "and" and "or?" [LB278]

SENATOR PIRSCH: Well, if...I..."and" means in certain situations "with," and in other situations, where the use of the word "or" is, it means "instead of," so... [LB278]

SENATOR SCHUMACHER: Okay. So if somebody says, "You have to pay 50 cents for a candy bar and a pack of gum"... [LB278]

SENATOR PIRSCH: Um-hum. So...but you're...you're saying that... [LB278]

SENATOR SCHUMACHER: ...what are you going to charge them if you're selling a package of gum and a candy bar? [LB278]

SENATOR PIRSCH: Right. But...okay...but you're applying the analogy; that isn't the specific words that are written on here. And that's what we have to (inaudible). "For the entire contents of the database regarding corporations and the Uniform Commercial Code, but excluding electronic images, \$300 weekly subscription rate." [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: And so that is, I mean, the reality of it is, is that is the manner in which...that it has been practiced. And that's my... [LB278]

SENATOR SCHUMACHER: Okay. [LB278]

SENATOR PIRSCH: ...I guess, point in saying that it's been a longtime practice. [LB278]

SENATOR SCHUMACHER: And, Senator Pirsch, when you go and audit somebody and they say, "Yeah, we know what it says, but, you know, as a practicality of the matter, this is the way we've always done it; so would you please just get out of our office and give us a passing grade?" What are you going to do? [LB278]

SENATOR PIRSCH: Well, then you'll have to look at the merits of the claim. If it clearly does not pass muster, then you...you should not accept that. You have that role in that office. But in this case, you know, you have to look at such factors as legislative intent. Do we have the records of the floor debate in which this legislation was passed? I don't know. But I'm being told...you had brought the issue up, and I can tell you that that issue I specifically addressed with Colleen Byelick, and she said that that was the long-time... [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR GLOOR: Time, Senators. [LB278]

SENATOR PIRSCH: ...interpretation. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President. [LB278]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Pirsch. Senator Chambers, you are recognized. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Pirsch a few more questions. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: Senator Pirsch, if we did not strike that \$2,000 from the bill, how would that harm what this bill is intended to achieve? [LB278]

SENATOR PIRSCH: But if I can ask so that I understand what your... [LB278]

SENATOR CHAMBERS: Sure. [LB278]

SENATOR PIRSCH: ...proposition is. So you're saying, should you leave the stricken language in line 8 and 9 the way that it's proposed in this bill, such that the words, "not to exceed \$2,000 per request for batch requests," and you're suggesting if that was left but the entirety of the bill other than that were...was stricken, is that your proposal? [LB278]

SENATOR CHAMBERS: Let me phrase it this way. If the stricken language in lines 8 and 9 on page 3 were to be reinstated, how would that hurt...would that gut the bill, in other words? [LB278]

SENATOR PIRSCH: I see, okay. Is it a necessary component? On lines 8 and 9...so that language I just described, "not to exceed \$2,000 per request for batch requests." Again, there are...I think it would substantively, I mean, in reality--there's theory and there is reality--in reality, that type...such a request has never actually been made, so we're dealing with only the future. And, in theory, should somebody walk in the door from New York or California wanting massive data from the state, I do think in such a scenario it would...it would make a difference, because it doesn't just...we don't just have a cap on those users, then, and just say, as much as you want, even if it includes us having to go hire additional labor, employ people or hire providers, some vendors, to take what we all agree is written documents from 1996. And I don't know how far it goes

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

back in, you know, I don't know how many decades it goes back that are in storage, to scan those into computers or somehow process them such that they are...could be made digitally available. And so I do think that, in theory, yes, that that would have a substantive effect. [LB278]

SENATOR CHAMBERS: Okay, before my time runs out... [LB278]

SENATOR PIRSCH: Sure. [LB278]

SENATOR CHAMBERS: ...that is highly speculative, but that's the kind of question that I ask. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: And that has never happened. [LB278]

SENATOR PIRSCH: No. [LB278]

SENATOR CHAMBERS: But with this language, it seems to me that what Senator whom I refer to as "Professor" Schumacher has suggested... [LB278]

SENATOR PIRSCH: Um-hum. [LB278]

SENATOR CHAMBERS: ...can happen, that it's a fee increase. That could be the way this would be administered without that \$2,000 cap. Is that true or false? [LB278]

SENATOR PIRSCH: Well, let me make sure that I clarify. The individual document request rate does not change, is my understanding, per the bill. We're talking about...the only thing that changes is if you're requesting such massive data that you must...I can't see any other way that you're one of those large national corporations in the business of data mining. [LB278]

SENATOR CHAMBERS: But if I may, because... [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: ...my time is running... [LB278]

SENATOR PIRSCH: Sure. [LB278]

SENATOR CHAMBERS: That has never happened. [LB278]

SENATOR PIRSCH: No. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR CHAMBERS: There is no contemplated set of circumstances on the immediate horizon which seems to indicate that will happen in the real world. [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR CHAMBERS: So to give me a comfort zone--and when I say "me," I want to embrace anybody who might have a similar question or concern--why don't we leave that there? But before you answer that, I'm probably out of time this time, but I'm going to put my light on, and I'm going to ask "Professor" Schumacher a question. [LB278]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Pirsch. Senator Schumacher, you are next in the queue. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Will Senator Pirsch yield to some questions? [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Oh, yes. [LB278]

SENATOR SCHUMACHER: Senator Pirsch, you keep referring to these records that are before 1996 that have not yet been photographed and put into an easily accessible click-of-the-button type of digital format and is the reason why you would need to lift this limit, which was...is that correct? [LB278]

SENATOR PIRSCH: That's part of it, not exclusively all of it. [LB278]

SENATOR SCHUMACHER: What's the rest of it? [LB278]

SENATOR PIRSCH: Well, I'm not certain that even if...your assumption is...and I don't think either one of us have the detailed breakdown, so anything...because I don't think it's at issue in this...directly in this bill and...but, you know, the assumption that all these images can easily just be...you touch a button and be, without cost, transported and, you know, housed, maintained, and guarded by the Secretary of State's Office and then can be, with the touch of a button, free of cost, transported to anybody who just wants the visual digital images, I'm not sure that that's a correct premise in all cases. [LB278]

SENATOR SCHUMACHER: Well, certainly it's not if they haven't been photographed and...or scanned into a system and put on the Internet. But we're talking about two things here. I've heard you repeatedly say the great expense comes in on these old, old records that have not yet been accessed...or they're just lying in paper form, in which case this wouldn't apply to them anyway. If you read line 6, number (e): For images of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

records accessed over the Internet or by electronic means other than a fax machine. So you couldn't get those, regardless, over the Internet or by electronic means because they're in a big old book lying around someplace. [LB278]

SENATOR PIRSCH: Um-hum. Well, and again, you know, I'm saying that the two different records exist, and it's, either way, it's not known that that is, I mean, that's...that's what the vendor...that's the information we have from the vendor. And I don't think we have any contrary statistics or... [LB278]

SENATOR SCHUMACHER: Is that the vendor that is now beginning to pull people off the floor through their high-paid lobbyist and all of a sudden involved here? [LB278]

SENATOR PIRSCH: I...I've not been made aware of that. I've... [LB278]

SENATOR SCHUMACHER: Okay. [LB278]

SENATOR PIRSCH: ...I've not had contact with the vendor. But I can tell you, my information was coming from the Secretary of State's Office, who relayed the vendor information. [LB278]

SENATOR SCHUMACHER: So, Senator Pirsch, would the old records, those things that are inaccessible by electronic means and over the Internet, the ones in the books someplace that would be so expensive to photocopy or to "picture-ize" or whatever, they're still accessible under the public records act, aren't they? [LB278]

SENATOR PIRSCH: I believe that the public...well, I don't want to get into areas of law in which I haven't reviewed recently. With respect to the public records act, I'm not sure that it's all accessible. I...I'm not entirely sure that it's all accessible and what the...if there's a different fee schedule. So I guess I...I can't really comment on that. [LB278]

SENATOR SCHUMACHER: But isn't this something we should know before we proceed here? Those...would you agree that those ones before 1996 or whatever, in that period, that have not been digitized, that they are not covered by the paragraph starting at line 6, page 3? We're not talking about those, because this says, "For images...accessed over the Internet or by...electronic means." This isn't talking about those. Would you agree to that? [LB278]

SENATOR PIRSCH: You're talking about lines 6 through 9, right? So... [LB278]

SENATOR SCHUMACHER: Right. [LB278]

SENATOR PIRSCH: "For images of records accessed over the Internet"... [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR SCHUMACHER: Right. [LB278]

SENATOR PIRSCH: ..."or by other electronic means"... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: ..."other than facsimile machine." Right. And then it speaks to 45 cents for a page or image. [LB278]

SENATOR SCHUMACHER: Right. [LB278]

SENATOR PIRSCH: And there's the cap on top of that. [LB278]

SENATOR SCHUMACHER: So, well, you said, "Right." So we're not talking about those old records that you keep bringing up as being so expensive. Right? They're not on the table here in that paragraph. [LB278]

SENATOR PIRSCH: Not in this particular passage, no. [LB278]

SENATOR SCHUMACHER: Okay, and that's the one...that paragraph is what we're amending. So we're only talking about those that already are digitized, that are on a computer, just like any other Web page, that, but for the pricing structure, you could get by "click here and download please." [LB278]

SENATOR PIRSCH: So...so I don't...I'm not sure that I accept the premise that the digitized images are just free...got there and are a button away by...without cost to the, you know, to the state. [LB278]

SENATOR SCHUMACHER: Well, the Internet line is there, that connects them to the Web; the server is there already; they've already had their pictures taken and are sitting pretty as you please under some "click here." And they must be... [LB278]

SENATOR GLOOR: Time, Senators. [LB278]

SENATOR SCHUMACHER: ...accessible over the...thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Pirsch. Senator Chambers, you're next in the queue. This is your third time, Senator Chambers. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Schumacher a question. [LB278]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB278]

Floor Debate
January 31, 2014

SENATOR SCHUMACHER: Yes, I will. [LB278]

SENATOR CHAMBERS: And before I ask on the mike, I'd like to ask him...but my time can be running. Thank you. Mr. President, members of the Legislature, I don't want to blindsides anybody, so I'm going to ask Senator Schumacher this question on the mike, if he will yield. [LB278]

SENATOR GLOOR: Senator, will you yield? [LB278]

SENATOR SCHUMACHER: I think the new practice is not to yield, but I'll go by the old rules. [LB278]

SENATOR CHAMBERS: Thank you, Senator Schumacher. And one of the things condemned by the "Holly Bible," on which a certain senator whose last name was contrary to that of the Hatfields had said this country is built on Christianity and the "Bible," and the "Bible" said: Woe unto those who forget the old ways. I just thought I'd throw that in. Senator Schumacher, would you be willing to, at least temporarily, withdraw your bracket motion? Because I have an amendment I would like to offer that takes us directly to what is being discussed in this part of the bill. And that's what we can get to instead of having to try to do everything on the bracket motion. And you can offer that later, because I checked with the Clerk. But would you be willing to, temporarily at least, withdraw your bracket motion? [LB278]

SENATOR SCHUMACHER: If...yes, I will, Senator. [LB278]

SENATOR CHAMBERS: Mr. President, I would like to yield the remainder of my time to Senator Schumacher. [LB278]

SENATOR GLOOR: Three minutes, fifteen seconds, Senator Schumacher. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President. We're dealing with three basic issues in the bill, the way it looks. One issue, which is...there's no controversy at all about, and that is calling what used to be called a "letter" a "certificate"; that occurs on page 2. I don't think there's any controversy with regard to that, and maybe there's some particular reason why a letter is different from a certificate and that would be good to administer. The other two issues are the difference between "and" and "or," whether that, in fact, is a doubling of what is legally chargeable by the Secretary of State. And the third issue is whether or not, now that we've established that this has nothing to do with old records that would be expensive to recreate, but just the new punch-and-click records that are already there, whether we should eliminate the \$2,000 cap, which was good enough in the old days and with old technology. So considering that maybe Senator Chamber has figured out a way to eliminate some of the provisions there that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

may be controversial and are a subject of this resistance and let the other ones go, I would withdraw the bracket motion at this time. [LB278]

SENATOR GLOOR: Is there any objection? Senator Pirsch, did you wish to be recognized? Seeing none, so ordered. Mr. Clerk, for an amendment. [LB278]

CLERK: Senator Chambers would move to amend, Mr. President, with FA184 (Legislative Journal page 426). [LB278]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your amendment. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I touched on this when I was talking to Senator Pirsch. And there was not time for me to ask all the questions and express my concerns, nor for him to answer and address what I was suggesting or asking about. So here is the amendment that I would offer. On page 3, in lines 8 and 9, strike the new matter, which would be the underlined word "and," then reinstate the stricken matter. And that stricken matter says, "not to exceed two thousand dollars per request for batch requests; and." That is the language that would be reinstated. When this bill was first before us, I had asked questions about this very language. My feeling and my inclination are to be skeptical when an agency of government comes in and points out a restriction or a limitation on what that agency or department can do. And the rationale, the only rationale, that will be given is that the restriction or limitation has never come into play; the agency or department never has exercised its authority in such a way that the restriction ever came into play, therefore, remove it. Well, the likelihood is that nothing ever came into play that would challenge the restriction is because the restriction is there. Now Senator Bloomfield, I would like to ask him a question or two, so I won't get off in deep water. [LB278]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB278]

SENATOR BLOOMFIELD: Yes, I will. [LB278]

SENATOR CHAMBERS: Senator Bloomfield, have you ever had a home, home on the range? [LB278]

SENATOR BLOOMFIELD: I guess I don't understand your questioning. [LB278]

SENATOR CHAMBERS: Have you ever lived in the...in a country setting? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: Have you ever seen an area that was very large and was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

fenced to keep livestock, and even equines, enclosed? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: As long as the fence is there, those animals will remain within that enclosure. Is that correct? [LB278]

SENATOR BLOOMFIELD: That's the general theory. It doesn't always work that way. [LB278]

SENATOR CHAMBERS: Now if, even with that enclosure, some recalcitrant or adventuresome four-footed critters will find it in their mind to challenge it and even succeed in getting out,... [LB278]

SENATOR BLOOMFIELD: Or in, as is the case. [LB278]

SENATOR CHAMBERS: ...or in, if we remove the fence, then it's pretty certain that they're going to range, more or less, free. Would you agree with that? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: Thank you. Members of the Legislature, here's what I'm getting at. The restriction could be why certain things are not done. But as soon as you remove the restriction, then those very evils that the restriction was designed to prevent will rear their ugly heads and an error in judgment will have occurred; a mistake would have been made. Nobody who supports this bill has indicated that the \$2,000 limitation has in any way hindered the activities, work, or duties associated with the Secretary of State's Office. Before I venture much farther beyond that, I'd like to ask Senator Pirsch a question or two. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: I would. [LB278]

SENATOR CHAMBERS: Senator Pirsch, did I understand you to say that this \$2,000 limit has never been reached so far? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: Thank you. That's all I will ask. And as I go farther, if I need to ask more questions, I will. The point I'm making is this: The bill has not been shown to be necessary. I know there is other language in the bill, but this is the part that troubles me the most. This is a blanket limitation where the Secretary of State is trying to raise

Floor Debate
January 31, 2014

the fees for certain designated information. That can be dealt with separately and apart from this. That's one of the reasons I didn't offer a kill motion. There could be a rationale given for the other part of the bill. But when you have two distinct subjects, there is a tendency to jump back and forth between both of them, draw comparisons, and neither gets the focus that it needs. This language ought to have the sole focus of an amendment, and that's what it has. I don't want anybody to think I'm saying I don't trust the Secretary of State. When I use the word "skeptical," that word is not to contain, when I use it, any moral judgment. It simply means that there are questions about whatever it is we're discussing that will cause me not to accept the way whatever it is has been presented to me. Based on my experience, when such a thing comes my way, I have a tendency to feel there is a motive behind it. As we have discussed this \$2,000 cap, there has got to be something going on that Senator Pirsch does not even know about, and that's why I'm not going to grill him on that. I don't think he has withheld from us any knowledge or information he had when we ask a question. But as he pointed out to Senator Schumacher, there are certain things, certain aspects of the law may be governing this or whatever they were talking about that would be beyond his knowledge, so he didn't want to venture off into that. I've asked him already, and he has answered, whether or not this limit has ever been reached, and the answer is no. It has...I have another question that I'd like to ask Senator Pirsch if he would yield. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Yes, I will. [LB278]

SENATOR CHAMBERS: Senator Pirsch, even though this limit has not been reached, has its very presence in the law hindered any activity of the Secretary of State's Office, that you're aware of? [LB278]

SENATOR PIRSCH: Has it hindered any execution of any duty thus far? [LB278]

SENATOR CHAMBERS: Yes. [LB278]

SENATOR PIRSCH: I'm not aware of any, if it has, up to this point in time, no. [LB278]

SENATOR CHAMBERS: Thank you. So here's what we're looking at. And now I'm not speculating; we have it from one who supports the bill. The \$2,000 limit has never been reached. Its mere presence in the statute has not hindered anything that the Secretary of State's Office is assigned to do. So in my mind, the conclusion is this: Leave the law alone. What do...I'd like to ask Senator Bloomfield another question or two. [LB278]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB278]

SENATOR BLOOMFIELD: Yes, I will. [LB278]

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Senator Bloomfield, are you...do you designate yourself a conservative? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: Is one of the principles, tenets, or belief of conservatives the following, "If it ain't broke, don't fix it"? [LB278]

SENATOR BLOOMFIELD: I believe that's pretty close. Sometimes... [LB278]

SENATOR CHAMBERS: Let me state it a different...if it... [LB278]

SENATOR BLOOMFIELD: Yeah, I'm going to let you go another way. [LB278]

SENATOR CHAMBERS: If it is not broken, damaged, or hurt in any way, do not tinker with it. [LB278]

SENATOR BLOOMFIELD: I prefer "If it ain't broke, don't fix it." [LB278]

SENATOR CHAMBERS: Oh, okay. (Laughter) From the discussion...have you followed the discussion that I've had with Senator Pirsch so far? [LB278]

SENATOR BLOOMFIELD: I have followed the discussion and I'm...I've also been looking at the bill. I helped vote this thing out of committee and I'm trying to go back and revitalize why. [LB278]

SENATOR CHAMBERS: Okay. Now here's... [LB278]

SENATOR BLOOMFIELD: But I'm still good with that vote. [LB278]

SENATOR CHAMBERS: Here's the question... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR CHAMBERS: ...that I want to ask you: If this \$2,000 cap has never been reached, nobody has asked for anything that required it, its existence in the statute does not hinder anything the Secretary of State's Office has to do, what reason could you give me to justify taking that out of the statute? [LB278]

SENATOR BLOOMFIELD: Just to tidy up the statute a little bit; thinking, you're probably never going to reach it, why have it there? [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Tighten it up, you mean, just by taking a few words out of the statute book? [LB278]

SENATOR BLOOMFIELD: Well,... [LB278]

SENATOR CHAMBERS: Did you vote this bill out? [LB278]

SENATOR BLOOMFIELD: Yes, I did vote this out of committee. [LB278]

SENATOR CHAMBERS: Well, then you've kind of got an interest in finding a reason that makes sense as to why you did it, don't you? [LB278]

SENATOR BLOOMFIELD: Yes, I do. [LB278]

SENATOR CHAMBERS: And I think my time is up. Thank you, Mr. President. [LB278]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Bloomfield. Senators in the queue wishing to speak: Schumacher, Pirsch, Chambers, and Bloomfield. Senator Schumacher, you're recognized. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President. Members of the body, I think Senator Chambers' suggestion is a good one. The "and" and the "or," while I think is legally significant and probably should have been caught by somebody long before this, that it's been done that way for years and years and years probably makes it logical to make that particular change, as does the innocuous change from the word "letter" to "certificate." So the core of the questioning and the uncertainty that is now pretty apparent with regard to this, and that there is something more happening than just tidying up an old law because what goes on is not going on if you're just tidying up an old law. And if you look through this bill, all these other paragraphs where they set fees, there are no limits. And perhaps it's one of the issues with term limits that no one back then is here now to explain why this particular limit was there. And I would surmise there was pretty good reason for it going in. And maybe that was in...had something to do with the computer or the old computer technology that was slower and less efficient. Who knows? But there was a reason. Or maybe it was a suspicion that there would be abuse and monopolization that could occur or certainly a deterrence to this information moving out to competing agencies, competing Internet providers and Web service providers and infringement upon what apparently has become a monopoly in electronic government. So whatever it was that's there, it's been pretty clearly pointed out that so far the...it has not been triggered and so far it's done no harm. But if you make a change, you should know why you're making the change, and so far no one has said why we're making this change. It's just kind of riding along for the show. And that being the case, given the interest that apparently there is in the economic side of this by somebody, we should go cautiously. It's been this way for at least 11 years. There's no

Floor Debate
January 31, 2014

compelling case been made or understood for the removal of this limit and, as a result, why are we here doing this? And the fact that we can't answer that question should tell us something. What we are seeing here is something that probably didn't get enough attention and debate in committee because maybe there wasn't enough time; maybe one feels a little hesitant to grill a witness and ask questions and delve into what's going on behind the scenes. But for whatever reason, it wasn't done. Maybe that's part of a systematic problem that we have with how we handle bills and getting information on bills, but that's a subject for another day. So I rise right now to say that I think my concerns with this particular bill have been addressed adequately for me to not try to raise this issue any further or prolong this discussion much farther if we adopt this particular amendment and then figure out what is going on this summer and how much money... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR SCHUMACHER: ...is at stake here, if any, and understand what we are doing and why we're doing it, rather than just doing it to be doing it to be doing it. Thank you, Mr. President. [LB278]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Pirsch, you are recognized. [LB278]

SENATOR PIRSCH: Well, thank you, Mr. President, members of the body. Yeah, again, I don't think this, you know, is a...I think this is a simple bill. And obviously I don't think anybody has any problems with changing semantically the term "letter" to "certificate" to better meet the needs and to fit in with other states who use that terminology. It's more of an industry-known type of semantic. So that's not really at issue. With...so there's two other issues been brought up. Right now the statute does say...since the whole...the...since it was opened up, the statute, because of that simple certificate semantic name change, the practice of the office was to always charge separately for the two subscriptions. So we're not substantively changing any business practice at all, is my understanding. And the language "and," which was brought up by Senator Schumacher, there is obviously circumstances like this where you say, well, the law may say, as to the rent of Senator Schumacher and the rent of Senator Christensen, \$300 per month. Well, you did use the word "and," but that doesn't mean that the \$300 necessarily for both of them together. I mean, that's...and again, what was in...it depends upon the intent of the Legislature and the longstanding practice of the Secretary of State that that means to them clearly that Senator Schumacher has his rent to pay and Senator Christensen has his rent to pay. There's not...I don't see that as substantively changing anything, and so I think it does help clarify the longstanding practice that the use of the word "or" would clarify beyond anybody bringing it up as a possible issue, though no one ever has. So it's just good housekeeping. And similarly, the third issue here that's been talked about with respect to having a cap on things and

Floor Debate
January 31, 2014

they said, well, if nothing has ever come up so far, even if for good...there's no sense having good housekeeping. You don't need to clarify anything...I'm sorry, not clarify, but you don't need to anticipate and proactively plan for the future in case that situation should ever arise. And just because it never has come up before doesn't mean that, as good housekeeping, we shouldn't anticipate that it may, it can. A hundred-year flood comes once in a long while. But what you need to look at when you encompass this thing...since we have the statute opened and we're doing good housekeeping, I think in good practice, anticipating...if it were to come, you'd want to encompass the probability which, granted, is...not come up but may come up in the future. That may be low, but the magnitude of harm to the taxpayers of Nebraska should that come up may be very significant. So there's no sense not being proactive for the future, though that has not occurred, to my knowledge, thus far. And again, it makes sense. It's...out of fairness, if you're charging per unit for the...for essentially right now every usable need and, you know, it accurately reflects, I don't...I haven't heard any objection that it accurately doesn't reflect the cost to the Secretary of State on a per-unit basis. [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: So, you know, I'm not sure it makes sense for the taxpayers to say, but if you go and demand millions of images we're just going to have a flat cap for you and that...we haven't had any information that's been stated that says, once you encapsulate that the cost to the taxpayers has been capped and, thus, the information should be made free to these data miners from other states so that they can repackage and commercially use the information. So I do think it's a little bill and I look forward to continuing the debate. Thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Pirsch. Chair recognizes Senator Chambers. [LB278]

SENATOR CHAMBERS: Mr. President, I will pass for now. I'm going to turn my light off and then I'm going to turn it on. [LB278]

SENATOR GLOOR: Senator Bloomfield, you are next in the queue. [LB278]

SENATOR BLOOMFIELD: Thank you, Mr. President. That's pretty sly there, Senator Chambers. You just saved five minutes' time because you knew I was going to engage you. I would like to ask Senator Chambers a question or two if I could. [LB278]

SENATOR GLOOR: Senator, would you yield? [LB278]

SENATOR CHAMBERS: Yes. [LB278]

SENATOR BLOOMFIELD: Senator, there are two things I want to bring up on this. And

Floor Debate
January 31, 2014

one of them probably should have gone to Senator Schumacher, but I'm going to go to you with the "and" or the "or," as well. If you walked into your friendly neighborhood Chevrolet dealer and he said to you the price of the Malibu and the price of the Impala are \$28,000, you're not planning on driving both of them out of there. I think the "and" is understandable where it's at and under your amendment that's staying there and I'm fine with that. But on the cap, if we had a bill that at the end of it said that Senator Bloomfield could flap his arms and fly to the moon, well, that's not likely to ever be reached, so taking it out of there I don't believe harms anything. And if you'd like to make comment on that, I wish you would. [LB278]

SENATOR CHAMBERS: Yeah. First of all, when Senator Bloomfield mentioned that he may flap his arms and fly to the moon, I thought of a song: (Singing) Fly me to the moon and let me play among the stars. Senator Bloomfield, I follow where you're going. And I don't know whether my answer is going to say the same thing you have in mind or not. But as you point out, it's not likely you would ever succeed in flapping your arms and going to the moon. But there is a possibility that you could. And if that's an undesirable result, nothing is harmed by having that in the statute, especially when it had been there a long time and there was a purpose for having put it there. So I would say let it stay there because as soon as we take it out, that's when Senator Bloomfield is going to take off his coat, he will shake the flesh off what we think are arms, wings will unfurl and, next thing we know, there he goes to the moon. I think we ought to keep it there. [LB278]

SENATOR BLOOMFIELD: At times you might be glad to see me gone, Senator. [LB278]

SENATOR CHAMBERS: Oh, actually, I wouldn't be. I'd be very disappointed. [LB278]

SENATOR BLOOMFIELD: Thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Chambers. Senator Schumacher, you are next in queue. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Will Senator Pirsch yield to more questions? [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Senator Pirsch, right now, if you look at page 3, line 1,... [LB278]

Floor Debate
January 31, 2014

SENATOR PIRSCH: Um-hum. [LB278]

SENATOR SCHUMACHER: ...the price for the entire contents of the database regarding corporations--and let's just forget about the Uniform Commercial Code language here--is, if I just want to have it for a week, \$300. Will you agree with that, that that's what that says? [LB278]

SENATOR PIRSCH: It does say \$300 weekly subscription rate. [LB278]

SENATOR SCHUMACHER: Okay. So I...how many corporations, LLCs, and things in that corporate database, amendments to corporate filings, corporate dissolutions...that has to be a huge, huge database, doesn't it? [LB278]

SENATOR PIRSCH: I really couldn't...I don't know numerically what that...you mean by large, but I would assume there is... [LB278]

SENATOR SCHUMACHER: Okay. [LB278]

SENATOR PIRSCH: In the ordinary parlance, yes, I would, sir. [LB278]

SENATOR SCHUMACHER: And even if we agree with your interpretation, for purposes of argument, that "and" means "or" and "or" means "and" in this particular case, the Uniform Commercial Code database is available for the same price, \$300. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR SCHUMACHER: Okay. Would you agree that the universal...Uniform Commercial Code database has got, like, the liens for all the cars, the liens for all the personal property sales, a huge, huge amount of data, every time the banker secures a transaction, it gets recorded there, that there's got to be tens of thousands, if not hundreds of thousands, maybe millions, of things in there? [LB278]

SENATOR PIRSCH: Well, I can only tell you that they said the entire...what they have visually imaged right now is some 2 or 3 million. [LB278]

SENATOR SCHUMACHER: We're not talking digitally imaged here. We're talking the entire database, except the visually imaged, which is just data anyway, but the entire thing, 300 bucks, and I can have it for a week. [LB278]

SENATOR PIRSCH: Okay. [LB278]

SENATOR SCHUMACHER: Okay. So \$300 gets you this humongous database without additional cost to the taxpayers, without the taxpayers being burdened, and it's right

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

there. That's the price. But if I take data in a different form off of a picture file or a PDF file that's been already done, finished, in storage, just a click to download it, and the ones and zeroes moving across the Internet look like just ones and zeroes of any other database when the data is moved, that suddenly we're worried about \$2,000 caps, \$2,000, and we're worried about paying 45 cents a page. Why, that would only be about 600 pages, a little 600-700 pages, and we know that we've got thousands and thousands of other pages that we're offering for \$300. Something is out of line there, isn't it, Senator? [LB278]

SENATOR PIRSCH: Well, I...and let me...I'm not sure that I accept your premise that it is just as without cost, without any additional cost to send huge, tremendously huge amounts of data as it is to move small bits of data. But... [LB278]

SENATOR SCHUMACHER: Well, small bits? The Uniform Commercial Code database, you say, is a small bit of data? [LB278]

SENATOR PIRSCH: I'm talking about relative. And, look, I'm not going to...I can only tell you that I don't have the technological background to get into the more general issue of...that involves every agency, department, or political subdivision that transfers electronically or offers types of imaging... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: ...or documents. [LB278]

SENATOR SCHUMACHER: I can appreciate that. [LB278]

SENATOR PIRSCH: But I can only tell you that we don't have any evidence that's been proffered that would contradict, and this has been the longstanding practice. [LB278]

SENATOR SCHUMACHER: Okay. Thank you, Senator Pirsch. We don't have any evidence. We don't know what we're talking about. We don't know this. We don't know that. But we've got a bill here and, what the heck, let's just let it roll with it. Members of the Legislature, when we don't know, we shouldn't act. And Senator Chambers' proposal with this floor amendment resolves the "don't know" part of this. Maybe a year from now Government can...will...Committee will have a better picture of what we don't know and do know. Maybe this is good idea, maybe it's a bad idea, maybe it's not an idea at all, but we will know what we're doing and we will have then done our job for the people of the state of Nebraska. That's our job. [LB278]

SENATOR GLOOR: Time, Senator. [LB278]

SENATOR SCHUMACHER: Thank you. [LB278]

Floor Debate
January 31, 2014

SENATOR GLOOR: Senator Chambers, you are next in the queue. [LB278]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Bloomfield attempted to address the and-or issue raised by Senator Schumacher. When we get through with this amendment, I'm going to offer one to leave that language alone. Here is what the existing language says. If you go to page 3, in line 1, I'm saying that for the record, "For the entire contents of the database regarding corporations and the Uniform Commercial Code." When you use that conjunction, you are tying two things together. When you use "or," that is not a conjunction. That is a disjunction. You're saying this on the left hand is distinct from that on the right hand, and separate. When you use the word "and," you are providing a linkage between the two things. The current law says that you get the information regarding corporations and the Uniform Commercial Code. You get both of those for this price that is listed. If you remove the "and" and substitute the word "or," it means you get that amount for each one of them. You are doubling what you currently can charge under the statute. And if the Secretary of State's Office has been charging double based on the language which is here, the Secretary of State owes some people refunds, in my opinion. And maybe this is something that the Auditor ought to look at to see just what has been going on. These are some hefty amounts. I'd like to ask though Senator Pirsch a question or two. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: Senator Pirsch, I'm doing the very thing I said would happen if one amendment covered more than one subject. But again, Senator Bloomfield raised it, so I'm going ask you. [LB278]

SENATOR PIRSCH: Okay. [LB278]

SENATOR CHAMBERS: The way the existing language reads with the word "and," which joins corporations plus the Uniform Commercial Code, that "and" means that one price covers both of them. Isn't that true? [LB278]

SENATOR PIRSCH: No. I mean, I think that's what at issue here. You're saying the two databases, corporations and Uniform Commercial Code, and you're asking me if it's quite clear from the "and" that that means both are one product, as opposed to two separate and distinct products,... [LB278]

SENATOR CHAMBERS: Right. [LB278]

SENATOR PIRSCH: ...the way that it's being...the way that it's long term been

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

interpreted and acted upon. And I think that's part of the reason that it's being brought here is just for certainty so that there is...it is above confusion, above the cloud, that we should, good housekeeping, put the word in, "or," to distinctly reflect what was intended is what the underlying premise of the bill that the Secretary of State provided, so that it's not a matter of anybody being able to come in and say there is a lack of clarity in that. [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR CHAMBERS: Well, I don't think there's a lack of clarity. There might be an interpretation by the Secretary of State's Office with which I disagree. But let me see if I understand you. You are saying the Secretary of State is interpreting that so that the "and" really means "or," and the two items are separate. [LB278]

SENATOR PIRSCH: Yeah. I think...and we've had...you know, as to the prices of the apartments, you know, of unit number one and unit number two, \$300 per month, so it doesn't mean you can rent one and two for \$300, thus, \$150 per month. What it...in that kind of illustration it would be \$300 per month for unit one and \$300 per month for unit two. [LB278]

SENATOR CHAMBERS: But that's not what we're talking about here. We're not talking about units in an apartment building where what you state for one applies to all. We're talking about two entities which are... [LB278]

SENATOR GLOOR: Time, Senators. [LB278]

SENATOR CHAMBERS: Thank you, Mr. President. [LB278]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Pirsch. Senator Pirsch, you are next in the queue. [LB278]

SENATOR PIRSCH: I'm going to waive. [LB278]

SENATOR GLOOR: Senator Pirsch waives. Senator Bloomfield, you are next in the queue. [LB278]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Chambers and...I wish you would interact with me again so we can discuss this. [LB278]

SENATOR GLOOR: Would you yield, Senator? [LB278]

SENATOR CHAMBERS: Yes, I will. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR BLOOMFIELD: I'm going back to the "and" or the "or" on line 2... [LB278]

SENATOR CHAMBERS: Yes. [LB278]

SENATOR BLOOMFIELD: ...of page 3. [LB278]

SENATOR CHAMBERS: Yes. [LB278]

SENATOR BLOOMFIELD: As you are determining that to be...that it combines both of them, what if the entity only wants one? Does the Secretary of State say, no, I can't sell you just the Uniform Code, I have to give you both of them? [LB278]

SENATOR CHAMBERS: Well, you can say you want less than what is offered, but you don't want to have the Secretary of State give you less than what the statute says you're entitled to. If I say, I want a dozen eggs, and they say...but I really only am going to get six of them, they say, well, once open that carton, you're going to have to pay for a dozen, you can take as few as you want. So this is a situation where the two are together and you get both of them. And apparently there was a time and there are people now who would want both of them, and there is one price that covers the two of them. [LB278]

SENATOR BLOOMFIELD: Well, and that's where we have our difficulty. I don't believe that the one price was ever intended to cover both of them. [LB278]

SENATOR CHAMBERS: Not trying to be smart-alecky on this, I was not here when this was done and I don't think you were. So we're both giving our opinion, correct? [LB278]

SENATOR BLOOMFIELD: Yes, we are. [LB278]

SENATOR CHAMBERS: Now if we give our opinion based on the way language in the English language...how grammar is constructed, when you have "and," that is joining two things together. That's what "conjunction" means. You are joining two things together. This language in the statute joins these two items. [LB278]

SENATOR BLOOMFIELD: Well,... [LB278]

SENATOR CHAMBERS: And if that were not the case, the Secretary of State wouldn't be coming in here saying, drop the "and" and change it to "or." [LB278]

SENATOR BLOOMFIELD: Well, again, following that same line, if you can buy...if it says "and" and that is rock solid, concrete, which I don't believe it is, then you have to take them both because they're packaged together, and I don't believe we need to go there. We've been there. I believe we need to get away from that and make it "or."

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

[LB278]

SENATOR CHAMBERS: Well, when I say "joined together," I don't mean that the paper on which information about corporations and the paper on which information about the Uniform Commercial Code are physically joined together. They are two separate bodies of information and I believe... [LB278]

SENATOR BLOOMFIELD: That's because...I believe that's the way it was intended to be, Senator. [LB278]

SENATOR CHAMBERS: Say it again? [LB278]

SENATOR BLOOMFIELD: And I believe that's the way it was intended to be, that they were two separate bodies of information. [LB278]

SENATOR CHAMBERS: And you get two for one, the price of one. [LB278]

SENATOR BLOOMFIELD: The...it...no, I don't believe that was the intent of the language and I think this is merely a cleanup language and... [LB278]

SENATOR CHAMBERS: And you voted this bill out of committee, didn't you? [LB278]

SENATOR BLOOMFIELD: I certainly did. [LB278]

SENATOR CHAMBERS: And that was one of the changes in the bill. [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: You wouldn't want to go against what you supported earlier, would you? [LB278]

SENATOR BLOOMFIELD: I have been known to when I've been convinced that I was... [LB278]

SENATOR CHAMBERS: That's not the way I asked the question, my good friend. You wouldn't want to do that, would you? [LB278]

SENATOR BLOOMFIELD: I'm not totally opposed to it. But I don't believe in this case that I need to. [LB278]

SENATOR CHAMBERS: Well, since that's not the amendment before us, will you support the amendment that I have up there now? [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR BLOOMFIELD: To leave the \$2,000 limit in there and remove everything else? [LB278]

SENATOR CHAMBERS: Yes. [LB278]

SENATOR BLOOMFIELD: I think probably I would, and then next year we can deal with the... [LB278]

SENATOR CHAMBERS: The "and" or "or"? [LB278]

SENATOR BLOOMFIELD: If there's...no, we could leave the... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR BLOOMFIELD: We take it to "or," and if there's really a reason that the Secretary of State wants the limit removed, I think he can come back and tell us. In hearing we had two people. We had no opposition to the bill. We had Senator Pirsch introduce the bill and a lady from the Secretary's Office supported it. So with the information we had and the information I still see, I don't believe it's a bad bill. And again, I think removing the \$2,000 doesn't make a hill of beans. It's, again, like saying I can fly to the moon when I can't--doesn't add anything to the bill--so taking it out doesn't remove anything from the bill. Thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Chambers. Senator Chambers, you're next in the queue. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I've been in this Legislature a long time and there are certain types of bills that do not draw members of the public. The public at large may not even be aware that this kind of language exists in the law. There would be a limited universe of people. So the mere fact that there was not a large turnout or even anybody speaking against it does not mean that what is being presented is valid. When the legislation, the proposed legislation, comes before us, our job is to analyze it and see whether or not it should be accepted and placed into the statute in the form of a law. There is no reason to strike the language that my amendment that's up there right now deals with. I had stated that I would take these items one at a time so they wouldn't get intermixed. Senator Bloomfield brought the "and" or "or" into it again, reinvigorated it, so he forced me to discuss it before I intended to. But I don't mind discussing any part of the bill. But I want to keep the focus on what my amendment does right now because I do have an amendment to leave that language alone, and I will tell you why. I don't think it necessarily results in a change in the way the Secretary of State will do business. But I am opposed to our taking words that have a clear meaning whenever the word is used and say, but in this instance it doesn't mean that because the Secretary of State does

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

not want it to mean that. I will get to that when that amendment comes up. But what I want to ask Senator Bloomfield to get clear on is a question if he would yield. [LB278]

SENATOR GLOOR: Senator, would you yield? [LB278]

SENATOR BLOOMFIELD: Yes, I would. [LB278]

SENATOR CHAMBERS: Senator Bloomfield, you had stated words to the...well, I won't go through what you said. Are you in support of the amendment I have pending now where we leave the \$2,000 cap in place? [LB278]

SENATOR BLOOMFIELD: I will probably support that amendment if we leave the "or" in place. And if you're going to come with another amendment to put "and" in there instead of "or"... [LB278]

SENATOR CHAMBERS: Then just resist it at... [LB278]

SENATOR BLOOMFIELD: ...I probably... [LB278]

SENATOR CHAMBERS: Then just resist it at the time. You know what people do if it looks like somebody is going to pass away? They say there are five stages that people go through. The first is denial; the second is anger; the third is depression; the fourth is acceptance; and the fifth one is something...oh, depression, then acceptance, then something else. But at any rate, you cannot get past one to the other. Some people do. On this that we're dealing with, why tie one to the other? If you can support leaving the cap, then resist the other one. So are going to support this amendment... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR CHAMBERS: ...to leave the cap alone? [LB278]

SENATOR BLOOMFIELD: I probably will, but I am going to look at it some more. That is not a promise to you, Senator Chambers, that I will support it. [LB278]

SENATOR CHAMBERS: Okay. When you say "probably," that's good enough for me. Members of the Legislature, I did stray off into a discussion of the other part about the information on corporations versus the information from the Uniform Commercial Code. What this amendment that I have up there now does is to leave alone language that is not addressing specifically either of those items. This language that Senator Pirsch, on behalf of the Secretary of State, is asking us to do away with is a cap... [LB278]

SENATOR GLOOR: Time, Senator. Senator Chambers, there are no senators in the queue. You're recognized to close on your amendment. [LB278]

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this language is a limit on what can be charged for certain information. That limit has never been reached. We have been told that it's not likely that it ever will be reached. But we don't know that. And as Senator Bloomfield discussed other aspects of the bill with Senator Pirsch, there are aspects of the bill which raised questions that Senator Pirsch cannot answer. He had talked about having a comprehensive study of this area that we're talking about. At this point, follow that first principle of medicine: First, do no harm. Since the issues around the cap and why an attempt is made to remove it are controversial, harm could result from removing it. No harm is done by leaving it. The one supplying the information has said it's doubtful that the cap would ever be reached. Leaving it in place while Senator Pirsch or whoever is of a mind to do so drafts a study resolution, we can study things the way they are. If there is a way that certain parts of the law are being interpreted and they have not been challenged, then let sleeping dogs lie. But once subjects are brought to our attention by way of legislation being proposed, all of those areas are fair game. Senator Pirsch even used the term "good housekeeping" in explaining why certain things are being tinkered with in this legislation. And I'm going to say this, which may not be the essential part of the bill: I'm hoping that we will agree to strike this cap. And, Mr. President? Mr. President? [LB278]

SENATOR GLOOR: Yes, Senator Chambers. [LB278]

SENATOR CHAMBERS: I would ask for a call of the house. [LB278]

SENATOR GLOOR: There has been a request to place the house under call. The question is, shall the house go under call? Those senators in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB278]

CLERK: 23 ayes, 0 nays to place the house under call, Mr. President. [LB278]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. I'd ask all unauthorized personnel to leave the floor. The house is under call. Senators Ken Haar, Ashford, Bolz, Davis, Schilz, and Garrett, please return to the Chamber and record your presence. Senator Chambers, all members are accounted for. How would you like to proceed? [LB278]

SENATOR CHAMBERS: Machine vote. [LB278]

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question is, shall the amendment to LB278 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

CLERK: 25 ayes, 14 nays on the amendment, Mr. President. [LB278]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk, raise the call. Items for the record? [LB278]

CLERK: Thank you, Mr. President. Your Committee on Government, chaired by Senator Avery, reports LB766, LB772, LB806 to General File, and LB744 to General File with amendments. I have notices of hearing from the Agriculture Committee, the Business and Labor Committee, signed by their respective Chairs. Enrollment and Review reports LB33, LB174, LB446, LB656, LB657, LB658, and LB659 as correctly engrossed, as well as LB56, LB76, LB215, LB371, LB403, and LB470 as correctly engrossed. (Legislative Journal pages 427-429.) [LB766 LB772 LB806 LB744 LB33 LB174 LB446 LB656 LB657 LB658 LB659 LB56 LB76 LB215 LB371 LB403 LB470]

Mr. President, the next amendment I have to LB278, Senator Chambers' FA185, Senator. (Legislative Journal page 430.) [LB278]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on FA185. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I do appreciate the fact that people listened to what the discussion was. And this is one of those times that I've said...I mean I've demonstrated what I had suggested. If there is a subject about which I'm not versed on but there's somebody who is, I will listen. And when I listened to what Senator Schumacher was saying, I was convinced that the language that is currently in the green copy of the bill should not be there and removing it would not hurt anything; that if worse came to worst, we could still have the opportunity to do something about changing the law because it wouldn't be likely that a lot of bad situations would happen, and that's why I pushed on what I had tried to do when we first discussed it. Now we come to the and-or matter. Senator Bloomfield is of the opinion that the word "and" somehow does not join two ideas together. Senator Kolowski is an educator. If I stated...I would like to ask Senator Kolowski a question. [LB278]

SENATOR COASH: Senator Kolowski, will you yield? [LB278]

SENATOR KOLOWSKI: Yes, of course. Thank you. [LB278]

SENATOR CHAMBERS: Senator Kolowski, if you...in order to be an educator at the level you were in, it's obvious that you've got an undergraduate degree. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR KOLOWSKI: Yes, sir. [LB278]

SENATOR CHAMBERS: When you were going through what all of us who went through that faced where you have to pick your courses and you go through all these lines, if there's something that says, history and science, \$100, and it's listing courses, if you joined those two...that's not a good example. If you have two items and you put the word "and" between them, does that join them or have the effect of creating a separation between the two of them? [LB278]

SENATOR KOLOWSKI: I would read that as joining them, sure. [LB278]

SENATOR CHAMBERS: Thank you. And that's all I wanted to ask from you. Now I'd like to engage with Senator Bloomfield. [LB278]

SENATOR COASH: Senator Bloomfield, will you yield? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: Senator Bloomfield, ordinarily speaking, if you can forget what we're talking about right here where your mind is like concrete, all mixed up and permanently set...and I saw you laughing. He heard that even before I did. He probably made it up. But at any rate, in ordinary circumstances, when you use the word "and," what do you use that word...what purpose does that word serve? [LB278]

SENATOR BLOOMFIELD: Senator Chambers, I believe we may be trying to compare apples and oranges. [LB278]

SENATOR CHAMBERS: No. That... [LB278]

SENATOR BLOOMFIELD: And that is a separation. [LB278]

SENATOR CHAMBERS: That's not the grammatical correct to state what you're talking about. When you make a comparison, you either compare something "to" if there's some disagreement about them or compare something "with" if they're similar. But you don't use the word "and" when you're making a comparison. [LB278]

SENATOR BLOOMFIELD: Would you not agree that it is common to compare apples and oranges? [LB278]

SENATOR CHAMBERS: Well, I don't say it like that. But my... [LB278]

SENATOR BLOOMFIELD: I think the vast majority of people do. [LB278]

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Okay. Thank you, Senator Bloomfield. Let me just make my little comments. When I use language and we're in a setting such as this, I may slip up and misspeak. But when I'm conscious of what I'm saying, I try to use language in the way that it is to be used. So I'm going to give an example. If we put four things in a series--one, two, three--then we put the word "and" in front of the fourth one, that means they are all to be taken together. Food...we say this: The minimum...the minimal needs of a human being are food, shelter, clothing, medical care, and peace of mind. That means all of them are necessary, all of them. But if you say bread, water, soda pop, milk, or Kool-Aid, it means any one of them or means that they are not to be taken as a unit. They're all put there but they are distinct. When you put them there and join them with the word "and," they are all a unit, and that's the way the court interprets language when a bill comes before the court for interpretation. The words "and" and "or" are very important and they play a distinct role when it comes to legislation or, for that matter, anything else. If Senator Bloomfield were a general and he said, we're going...today we're going to have to fight the Germans, the French, the Spanish, or the Italians, it means only one of those will we have to fight, only one. But if you say, the Germans, the French, the Spanish, and the Italians, we have to fight all four of them. That's the way language is used. And when we're coming to something like this where fees that would be charged to the public are concerned, we should be precise in what we're talking about, and the current law uses the word "and." I'd like to now ask Senator Pirsch a question. [LB278]

SENATOR COASH: Senator Pirsch, will you yield? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: Would you yield, Senator Pirsch? [LB278]

SENATOR PIRSCH: Oh, I...yes, I would. [LB278]

SENATOR CHAMBERS: Oh, okay, thank you. Silence usually gives consent, but around here, you know, you've got to be sure. [LB278]

SENATOR PIRSCH: I'm sorry, I was a little bit too quiet with my first response. [LB278]

SENATOR CHAMBERS: No, that's all right. Right, I... [LB278]

SENATOR PIRSCH: Yeah. [LB278]

SENATOR CHAMBERS: Senator Pirsch, you may not have followed the exchange I had with Senator Bloomfield. But have you read cases by the Supreme Court where they're talking about more than one item? For example, they may say a certain offense exists if, say, you resist an officer by force, threat, or evasion. That means any one of

Floor Debate
January 31, 2014

those, doesn't it? [LB278]

SENATOR PIRSCH: It could, in the opinion of the court. [LB278]

SENATOR CHAMBERS: The court says it means any one. But if you say, force, threat, and evasion, if any one of those is absent, you don't have the offense. The "and" means all of them must be present. When we use the word "and" in this statute, if the word is taken in its ordinary meaning, then it joins what precedes it to what follows, wouldn't it, in ordinary parlance? [LB278]

SENATOR PIRSCH: Well, I can only...I'm not sure. I'm not going to...I can't get into the...I haven't boned up on, you know, statutory construction with respect to those "and/ors," but in terms of looking at court cases, historical court cases...but I can only say that that is the premise that was...the Secretary of State's Office approached me with this is that because of the way that this particular sentence was written, utilizing the "and," ... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR PIRSCH: ...that it was, in their opinion, a reasonable and longstanding practice of interpreting that to mean that you could have separate charges for the two. [LB278]

SENATOR CHAMBERS: Senator Pirsch, since I asked you that question without much time, I'm not going to pursue it. But that is the next thing that I will pursue and maybe you can be thinking about it because my time is up. Thank you, Mr. President. [LB278]

SENATOR COASH: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President. Members of the body, I was...I thought I saw Senator McGill here a minute ago and she's not here. So if she's listening, I'm looking for her because I'd like her to have some equal time here. But, Senator Pirsch, will you yield to a question? [LB278]

SENATOR COASH: Senator Pirsch, will you yield? [LB278]

SENATOR PIRSCH: Yes, I will. [LB278]

SENATOR SCHUMACHER: Senator Pirsch, on page 4 of the bill it talks about all the fees collected pursuant to this stuff that we've been talking about today are going to be deposited in the Records Management Cash Fund, and then that shall be distributed as provided in agreements between the State Records Board and the Secretary of State.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

Do you know how that money flows at all? [LB278]

SENATOR PIRSCH: No, I do not. [LB278]

SENATOR SCHUMACHER: Okay. And... [LB278]

SENATOR PIRSCH: I mean, if you're asking for the in depth, the amounts and everything, I mean, I... [LB278]

SENATOR SCHUMACHER: Right, and... [LB278]

SENATOR PIRSCH: Generally, conceptually, obviously, there's that language. But... [LB278]

SENATOR SCHUMACHER: To what those agreements say and how that works and who...what private companies and parties might be also party or beneficiaries of those agreements. [LB278]

SENATOR PIRSCH: I don't know the specific terms of the agreement that has...that may or may not exist between the State Records Board and the Secretary of State, no. [LB278]

SENATOR SCHUMACHER: Senator Pirsch, how important do you feel it would be for the State Auditor to have a thorough understanding of how that money flows and whether or not it is flowing in a way that is a conservation of the resources of this state? [LB278]

SENATOR PIRSCH: Well, since that isn't, you know...we are in the Legislature and have a separate and distinct function, and so we have to concentrate on this floor on our duties and our tasks. Certainly, the State Auditor is an important...plays an important function and I don't want to speak toward...to the historical performance or anything of that. But I can say that... [LB278]

SENATOR SCHUMACHER: And I'm not asking you to speak to historical performance. I'm just wondering that in the context...we've got to put in some management and some control and some judgment making and some review of and oversight in this procedure. And is this an area where you feel the State Auditor should have a major role in the oversight of these agreements and these deals and the consideration paid for these deals? [LB278]

SENATOR PIRSCH: I feel a little bit uneasy in getting into the politicking type of...side of things with respect to State Auditor runs because that's overall...you've asked me, what should a good State Auditor do? And what this bill...really, the scope of this is legislative

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

policy and we're a separate branch. And so we should be concerned...what's best for the citizens of the state of Nebraska. And I feel that to the...this was brought because I feel to the extent that we are...the taxpayers of Nebraska are subsidizing out-of-state commercial interests, then that's...so to the favor of, you know, to what could happen in the future, I think that from a legislative policy it's...and based upon my...the...what we all...the limited information that the entirety of the Legislature has, which is from the Secretary of State's Office and from...that they in turn have derived from the vendors, that that is what I'm being told is...represents a fair amount so that we're not subsidizing. [LB278]

SENATOR SCHUMACHER: Okay. Thank you, Senator Pirsch. I'm not trying to pin you down as to what you might or might not do as Auditor. I'm just trying to find out what mechanism that you see, because you've served in this body for almost eight years now, as the way that we get accurate information that we can make judgments. Clearly, as you just said, we have limited access to how... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR SCHUMACHER: ...we can figure out what's going on. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR SCHUMACHER: And maybe I can ask the question this way: If not the Auditor, then who has got the authority to dig into this and find out how this money moves and whether these fees are being really at a rate in the best interest of the people of the state? [LB278]

SENATOR PIRSCH: And I thank you for that question. And the answer is we have to look in the mirror. It is truly us. It is, and that's why we have a process here. But the Legislature has committees and they...if, in fact, that it was a hotly concern...red-flagged area, I think we would have gotten into it by now. But if we raise this issue at this time, certainly I think we can get some more detailed information to you if you have specific questions that I can...I will be more than happy to see if I can get specific... [LB278]

SENATOR SCHUMACHER: So one final thing before maybe we run out. So is... [LB278]

SENATOR COASH: Time. [LB278]

SENATOR SCHUMACHER: Sorry. [LB278]

SENATOR COASH: Thank you, Senator Schumacher. Senator Avery, you're recognized. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR AVERY: Thank you, Mr. President. I have been in contact with the Secretary of State's Office and feel compelled to address the issues that we've been discussing because this bill did come through the Government Committee. I will tell you that the Secretary of State has over 3 million records in his possession, and these are all subject to requests for access to these records, over 3 million. This bill is designed to bring the law as it is currently written into sync with existing practice. The Secretary of State has always treated requests for records of corporations separately from records...requests for records of the Uniform Commercial Code. The objective here is simply to bring the law into accord with the current practice, and that is all that they're seeking to do there. So the changes on page 3 are not crucial. What is important though to the Secretary of State, and far more important than the changes that are contained on page 3, is the change that is present on line 22 of page 2. This changes the word "letter" to "certificate." For an electronically transmitted certificate indicating whether a business is properly registered with the Secretary of State and authorized to do business in the state, the charge is \$6.50. It's important that this remain in the bill because a letter does not have the same legal standing as a certificate. A certificate carries the state seal. A letter does not. So I would ask you, if you are considering voting for this current amendment, that you keep in mind that this is simply an attempt to bring the practice...the law in sync with the practice that's going on right now. I would like also to address the relationship the Government Committee has with the Secretary of State's Office. We have a good relationship with the Secretary of State's Office. It is our experience that Secretary Gale is a man of honor and that we have traditionally been able to trust that office to bring things to us that are primarily designed to improve the operation of his office. I have known Secretary Gale for a good number of years. We have always had a good relationship with that office and I think we will continue to do so. We...when a bill comes to us from the Secretary of State's Office that is largely technical, as this bill was, we do not question any underlying motives, we do not look for any tricks. [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR AVERY: What we do is respect the Secretary of State's Office to bring things to us that are, in fact, needed to improve the operation of the office. That's how I see this bill. If you want to change, additionally, items on page 3, then I don't think that does great harm. But please do not tinker with the language on page 2. That is more important and I think we should keep that in mind. Thank you, Mr. President. [LB278]

SENATOR COASH: Thank you, Senator Avery. Senator Chambers, you are recognized. [LB278]

SENATOR CHAMBERS: Mr. President, members of the Legislature, when the bill was presented early on, substituting the word "certificate" for "letter" was emphasized, and I

Floor Debate
January 31, 2014

have not questioned that at all. I will not, even though I'm going after this and/or, I'm not going to into the certificate/letter matter on page 2. But here's what I will do: If this amendment that I'm offering with reference to "and" and "or" is not accepted, then we will have an amendment to the bill...to the existing law. That amendment would strike the word "and." In its place would be the word "or." We have to judge legislation based on how we understand it, and I'm basing mine on the way I understand language. Senator Bloomfield makes me think of this commercial that I've mentioned to you all where I think it's...well, I know that it has to do with how to learn a foreign language, and it may be called the Rosetta Stone. And two guys are face to face and one is looking right at the other, but the other is kind of looking past him. And no matter what the guy says who is looking directly at the other one, the one looking past him says: Guten morgen, mah nahm is Brad (phonetically). So then the guy looking at him is going to try to engage him, so he makes another comment. And then the one he's looking at kind of leans forward so the man asking the question thinks he's going to get an answer, but he gets the same thing: Guten morgen, mah nahm is Brad (phonetically). So when I asked Senator Bloomfield a question: Good morgen, mah nahm is Brad (phonetically). I'm going to ask him a question or two anyway because we're right on the matter of the and/or. [LB278]

SENATOR COASH: Senator Bloomfield, will you yield? [LB278]

SENATOR BLOOMFIELD: Yes, I will. Good morgen (phonetically), Mr. Chambers. [LB278]

SENATOR CHAMBERS: Ess your nahm Brad (phonetically)? [LB278]

SENATOR BLOOMFIELD: No. [LB278]

SENATOR CHAMBERS: Okay. Senator Bloom...now you've got me unsure whether it's Bloomfield or "Broomfield." Senator Bloom... [LB278]

SENATOR BLOOMFIELD: And what was your name again, Senator? [LB278]

SENATOR CHAMBERS: (Laugh) Epaphroditus. That's the French version, Guillame is the French. The...I meant Epaphroditus is the Greek. But that's not my "nahm" (phonetically). (Laughter) Anyway, I look at this language that's in the statute now. Had this bill not been brought to us, I would never, unless somebody who is a constituent asked me what does this mean, but this is not an area of the law that draws my interest for any purpose ordinarily. But once it's put in front of us and I begin to see how it is interpreted and applied, then it is my responsibility to change what I think needs to be changed. And before I ask you this question, I want to address something that Senator Avery said, and even if he's not here I want it in the record. I don't have any reason to question the motives of Secretary of State Gale. I've worked with him on a number of

Floor Debate
January 31, 2014

issues. He has given me very good information,... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR CHAMBERS: ...enlightened me on subjects, so that's not even what I'm talking about. I'm looking at the language of the law and the way I think that language ought to be applied. Where the word "and" exists, you are still insisting that it really means "or," that it's not intending to say that you get information from these two sources for that one price that's listed in the statute. That's still your position? [LB278]

SENATOR BLOOMFIELD: Yes, that is still my position. The price of two things may be the same and "and" can be used. And that is my understanding of what has happened. That is not what has been done. And I think correcting this to "or" probably is the proper thing to do. [LB278]

SENATOR CHAMBERS: So then you would be opposed... [LB278]

SENATOR COASH: Time, Senators. [LB278]

SENATOR CHAMBERS: Thank you, Mr. President. [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR COASH: Senator Chambers, you are recognized. [LB278]

SENATOR CHAMBERS: So, Senator Bloomfield, you would be opposed to the amendment that I have up there? [LB278]

SENATOR BLOOMFIELD: Yes, I will. [LB278]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I cannot change Senator Bloomfield's mind on this because he sincerely and genuinely believes in the incorrect application of the rules of grammar. And when somebody believes in that which is incorrect, sincerely, then I will not try to alter that sincere belief, although it is sincerely wrong. If we here in a class where English is being taught, and grammar, let's say eighth grade because by the time you reach that level in grade school most of what there is to know about grammar they will have taught you. Senator Bloomfield held up four fingers. I don't know if he meant he was four years old or that he was in the eighth grade for four years. But nevertheless, by the time you get out of grade school, most of what you're going to need to know about grammar you have received. They say there are eight parts of speech, and that depends on how you look at that, whether there are eight or more, which I'm not going into. But there are conjunctions; there are disjunctions; there are correlatives. Correlatives make two things equal. Hmm. There is

Floor Debate
January 31, 2014

an approach I could take which, if Senator Bloomfield's mind was open, I could get him. But they show you that if you're going to use "either," then the word that goes with that is "or," "either/or," and the negative would be "neither/nor." But you don't say "neither/or," "either/nor." They go together. And even if somebody mistakenly puts the two together that shouldn't be joined, in the context that they use it you may understand what they're really trying to say and it won't matter. But in legislation it does matter and courts construe that word "and" in the way that the word "and" is commonly and ordinarily used, and the way that it is ordinarily used is to join or connect that which precedes it to that which follows. So when there are two items and they are corporations, the other one being the Uniform Commercial Code, when you put "and" between them, that is telling you that when you put your money down you get both of these sources of information or information from both these sources. If it says corporations and Uniform Commercial Code for \$300 for a weekly subscription, when you put down \$300, you get both of them. That's the way I interpret this. If you want to leave the "or" as it is in this statute and reject my amendment, then I'm going to try to cut these amounts that are charged in half. So if you get one of them, instead of \$300, you pay \$150 for the weekly subscription. For the monthly subscription, instead of paying \$1,000,... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR CHAMBERS: ...you pay \$500. And for twice monthly service, instead of paying \$800, you pay \$400. It's exorbitant in either case. But you're not going to take that exorbitant amount which is charged for both of them and say, we're now going to split these two things apart and you pay that exorbitant amount for each one of them. That is an exorbitant fee increase. And let's say that the Secretary of State has always applied the law in the way that Senator Bloomfield is saying, that even though the word "and" is there, this large amount is charged, then that amount has to be cut so that if you're going to stick by his practice, then he can't get that full amount. [LB278]

SENATOR COASH: Time, Senator. [LB278]

SENATOR CHAMBERS: Thank you, Mr. President. [LB278]

SENATOR COASH: Thank you, Senator Chambers. There are no other lights in the queue. Senator Chambers, you're recognized to close on FA185. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, what this amendment does is to strike the new language, reinstate the stricken language. That's all that it does. It leaves everything as it is. Let me ask Senator Bloomfield a question, and he may not know the answer. So if you don't, Senator Bloomfield, I'll ask Senator Pirsch. Is it your understanding that even though the word is "and," the Secretary of State applies it as though it was "or" and you separate these two items and

Floor Debate
January 31, 2014

charge this full amount for each one of them? [LB278]

SENATOR BLOOMFIELD: Yes, that's my understanding that that's the way it has been done. [LB278]

SENATOR CHAMBERS: Well, if you accept my amendment, the law would simply stay as it is. Is that correct? If I strike the new language and reinstate the old language, the law stays the way it is right now. Do you agree? [LB278]

SENATOR BLOOMFIELD: The language will stay the same but I think the discussion that we have had on the floor might force a lot of questions to be asked that... [LB278]

SENATOR CHAMBERS: Oh, then somebody might say, I've been overcharged. [LB278]

SENATOR BLOOMFIELD: No. [LB278]

SENATOR CHAMBERS: Now we've brought light and knowledge to the populace and they might, now that we have awakened them, as public officials are supposed to do, they might want to tell the Secretary of State: Straighten up and fly right and cut this price in half. [LB278]

SENATOR BLOOMFIELD: No. I think probably more likely what we would get is somebody would try to take advantage of the discussion we have had here and not necessarily to the good of the state but just because they say that we can create some havoc. I believe changing the law or changing the word does no harm, much as leaving the cap did no harm. [LB278]

SENATOR CHAMBERS: Suppose somebody goes to court now on the basis of our discussion. That's going to be...that's going to cost some money, isn't it? [LB278]

SENATOR BLOOMFIELD: If... [LB278]

SENATOR CHAMBERS: And suppose the court agrees with me that when you use the word "and," then that includes both of them. [LB278]

SENATOR BLOOMFIELD: And if we have changed the word to "or," we won't have that problem in the future. [LB278]

SENATOR CHAMBERS: But then you're going to have to cut that price in half. So if you...if I agree to withdraw my amendment and let the word "or" be substituted, are you willing to cut these prices in half? [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR BLOOMFIELD: No. [LB278]

SENATOR CHAMBERS: You're unreasonable, are you aware of that? [LB278]

SENATOR BLOOMFIELD: I've been told that before. [LB278]

SENATOR CHAMBERS: But are you aware that it's true? [LB278]

SENATOR BLOOMFIELD: I've never noticed it in me, no. [LB278]

SENATOR CHAMBERS: Well, now that somebody is telling it to you, somebody whom you respect and in whom you have confidence is telling you, do you accept it now? [LB278]

SENATOR BLOOMFIELD: Unfortunately, Senator Chambers, I've known you to be wrong every great once in a while. It's a rarity, but I have seen it happen. [LB278]

SENATOR CHAMBERS: Thank you. How much time do I have, Mr. President? [LB278]

SENATOR COASH: Two minutes. [LB278]

SENATOR CHAMBERS: Two minutes. I'm going to try to sum this up in the two minutes. Senator Bloomfield is correct that we may have alerted the public to something in the law which, based on the way the law is written, would show that the way it has been applied is not correct. We can either put "or" where it is, which they want to do, and cut these prices in half; or we can say "and," and give you both of them and leave the fees as they are. But you can't have both, in my opinion. If I lose the vote on striking the "or" and leaving the "and" alone, you will have amended the existing... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR CHAMBERS: ...law to separate these two bodies of information and you have to pay, in my view, based on the fees, double in order to get both of them. So if you do that, my next amendment, and it's up there, is to split these fees. Then it doesn't matter if you say information on corporations or information from the Uniform Commercial Code. You then pay half this total amount for whichever one you want; and if you want both of them, then you pay the full amount that's here now. But it shouldn't be both ways where you're going to get half for double what you ought to be paying. This is not the kind of subject that will be followed closely. But I want to assure everybody that I am correct. And anybody who knows what the word "and" means will be aware that I'm correct. [LB278]

SENATOR COASH: Time, Senator. [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house. [LB278]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB278]

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call. [LB278]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Lautenbaugh, please check in. Senator Crawford, please check in. Senators Conrad and Lathrop, please return to the Chamber and record your presence. Senator Brasch, please check in. Senator Lathrop, please return to the Chamber and record your presence. Senator Chambers, all members are present. How would you like to proceed? [LB278]

SENATOR CHAMBERS: Excuse me, Mr. President. Were you asking... [LB278]

SENATOR COASH: How would you like to proceed, Senator Chambers? [LB278]

SENATOR CHAMBERS: Oh, machine vote. [LB278]

SENATOR COASH: Members, the question for the body is, shall FA185 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Senator Chambers. [LB278]

SENATOR CHAMBERS: Roll call vote. [LB278]

SENATOR COASH: Thank you, Senator Chambers. Mr. Clerk, there has been a request for a roll call vote. Please read the roll. [LB278]

CLERK: (Roll call vote taken, Legislative Journal page 430.) 20 ayes, 15 nays, Mr. President, on the amendment. [LB278]

SENATOR COASH: FA185 is not adopted. Raise the call. Mr. Clerk, do you have another item? [LB278]

CLERK: I do, Mr. President. Senator Chambers would move to amend with FA188. (Legislative Journal page 430.) [LB278]

Floor Debate
January 31, 2014

SENATOR COASH: Senator Chambers, you're recognized to open on FA188. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President, as I had indicated, if that amendment had been adopted, I would not offer this one. What this amendment does, if you turn to page 3, you will see several fees listed. The first one, in line 3, says "three hundred." I would reduce that by half so it says "one hundred fifty." In line 4 is the fee of "one thousand." I would strike "one thousand" and insert "five hundred." In line 5, the fee is "eight hundred." I would strike the "eight" and insert "four." Now I will tell you what this accomplishes if the amendment is adopted. Had you approved of the amendment I offered, you would simply have left the law the way it is right now. By putting "or" you have substantively changed the law. One package, based on the way the law reads right now, has been split into two. It's like an amoeba. Before it divides it is a one-celled creature. When it divides, it becomes two one-celled creatures. You have now divided the amoeba, and whatever would have applied to that amoeba before it divided is not going to apply in the same way now that it has divided into two since before the amoeba divided, and that would be where these two items are that one unit, information on corporations and information on the Uniform Commercial Code. While the "and" was there, those two were as one. By rejecting my amendment, you leave the green copy, as presented to us by Senator Pirsch, where you get rid of the "and" and insert "or." A court will look at a change that the Legislature makes in the law. The fact that this change was made does not mean anything other than that the change was made because I don't want to clue you to anything. Since you have divided the two, there should not be that full amount charged for each part which, under the law, should have been charged for the two of them. You wouldn't like that in a grocery store--onions, 8 cents apiece; two for 20 cents. This that I'm offering is reasonable. First of all, look at the nature of the information. And it's not going to cost this much money to make that available. Some of these fees that these entities charge make money. I would like to ask Senator Pirsch a question. [LB278]

SENATOR COASH: Senator Pirsch, will you yield? [LB278]

SENATOR PIRSCH: I would. [LB278]

SENATOR CHAMBERS: Senator Pirsch, did you ask in any discussions you had with the Secretary of state whether any amount is realized from these fees in excess of what it cost to make that information available, or was not that subject discussed? [LB278]

SENATOR PIRSCH: That particular subject wasn't discussed. I do understand that usually there's RFPs that are let with respect to Nebraska... [LB278]

SENATOR CHAMBERS: Thank you, and I'm not going to pursue it any further if you hadn't discussed it. Members of the Legislature, fees ought not to be profit makers. Whether you like those individuals or entities which, or who, will seek this information,

Floor Debate
January 31, 2014

they comprise the public who are to be served. And the fees should not be designed to make money. This is taxation without representation because those who are here to represent the interests of the public are ignoring the responsibility. You know what a tax is? You give up money and you don't have anything that you can show for it in return. If you pay a fee, then you are giving value for value, quid pro quo. You're giving something which is worth a certain amount on the left hand that is the equivalent of the worth on the right hand. When the fee brings in more money than the cost of providing the service, it is a tax. It can be called a fast shuffle. When you talk about a tax on property, you are not saying you pay this tax because you're getting a certain return for the number of dollars that you pay. If Senator Garrett and I live on the same street and there is a streetlight down at the end of the block where he lives and another one at the end of the block where I live, and he's a rich guy because he's double-dipping, the streetlight...he's going to pay more on his house because it's valued more and they assess it at a certain value and he pays more tax than I pay on my little hovel at the other end of the block. But his streetlight is not going to be a higher wattage than mine because he pays more tax on his house. The tax is not based on the service that he's getting when it comes to the streetlight. So when you have a fee, it should not produce profit. It should allow those providing the service to recoup the reasonable cost of providing the service, and that's what makes it a fee. These amounts are exorbitant, especially when you now break up, by the way you've amended the statute, two sources of information which were a unit under the existing law. I'd like to ask Senator Bloomfield a question. [LB278]

SENATOR COASH: Senator Bloomfield, will you yield? [LB278]

SENATOR BLOOMFIELD: Yes. [LB278]

SENATOR CHAMBERS: Senator Bloomfield, would you support this amendment that I'm offering? [LB278]

SENATOR BLOOMFIELD: No. [LB278]

SENATOR CHAMBERS: Was the cry..."Taxation without representation is tyranny," have you ever heard that? [LB278]

SENATOR BLOOMFIELD: I have. [LB278]

SENATOR CHAMBERS: Do you believe that this amounts to a tax if it produces more than it costs to provide the service? Is that in the nature of a tax? [LB278]

SENATOR BLOOMFIELD: I believe it could be but I have not been convinced yet that... [LB278]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2014

SENATOR CHAMBERS: That's why I'm making it hypothetical, not that you necessarily know that. But if a charge that is placed on the public for a service and that charge is designated a fee, not a tax, should the fee consist of a greater amount than it costs to provide that service? [LB278]

SENATOR BLOOMFIELD: It certainly shouldn't be less than it costs to provide that service, so... [LB278]

SENATOR CHAMBERS: You'd flunk a law school exam because they don't ask you what something is not. They ask you what it is. You'd say... [LB278]

SENATOR BLOOMFIELD: There are many reasons, Senator Chambers,... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR BLOOMFIELD: ...why I never attended law school. [LB278]

SENATOR CHAMBERS: Senator, well, you'd flunk a grade-schooler exam. If they ask you what is a bird and you say a bird is not a crocodile, you didn't answer the question that was asked even though what you said is true in the broader context. But this examination is to test your knowledge of the subject we're testing for. So if you view an examination which asks you a question about what one thing is, then anything you say which it is not would have to be a correct answer as you reckon things. So if I said, what is a wall, you'd say, it's not a door, I'd have to say, correct. You don't believe that yourself. Thank you, Mr. President. [LB278]

SENATOR COASH: Thank you, Senator Chambers. Mr. Clerk. [LB278]

CLERK: Mr. President, thank you. I have a certain items for the record. I have a hearing notice from the Education Committee signed by Senator Sullivan. New resolution, LR432, is by Senator Dubas. That will be laid over. Motions to be printed with respect to LB13 and LB399. I have received three conflicts of interest statement. Those will be on file in the Clerk's Office, available for member and public review. Name adds: Senator Conrad to LB773, LB1056; Senator Garrett to LB433; Conrad to LB661. (Legislative Journal pages 431-432.) [LR432 LB13 LB399 LB773 LB1056 LB433 LB661]

Mr. President, a priority motion. Senator Adams would move to adjourn the body until Monday morning, February 3, at 10:00 a.m.

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned.