

January 25, 1982

LB 378

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to oppose Senator Wesely in his amendment. Initially I would like to say that I have requested the bill drafter and counsel to prepare an amendment for Select File which corrects the technical problem with the bill that Senator Wesely alluded to in his comments, that being whether the Department of Health could appeal to the appeal panel as well as the provider. We certainly should allow the Department of Health to appeal that decision as well as the provider. That was not something that was designed. That was a technical mistake in drafting the measure. Generally, I would think that the appeal panel is justified. I think that a review of the decision by the review committee or by the Department of Health, however the Legislature finally determines that issue is only appropriate, and I see no reason to eliminate the appeal panel. Secondly, I would talk about...I would question Senator Wesely's comments about a review in the courts. The courts do not review the substantive issues of the case. They look...it's an administrative review. They look to see whether there has been an abuse of discretion under the normal administrative laws. They do not determine whether or not the project is needed or whether it isn't needed. It is strictly an administrative review and so the appeal to the courts is really not of great significance. I guess with that I would close. I would oppose Senator Wesely's eliminating the appeal panel. I would make one other comment. When Senator Marvel called Senator Wesely and I into his office to try and resolve these differences, we agreed he would withdraw his 25 amendments and offer 5 amendments so that we could expediate things. In fact, it appears to me that he has shoved most of his 25 into 5 so we are really considering it the same way anyway. But I am happy to discuss the issue. I will be happy to debate any of these issues with Senator Wesely, but at this point in time I would urge you to defeat Senator Wesely's amendment.

PRESIDENT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I think possibly out of the items that Senator Wesely listed, there were 17 of them, this number 15 struck me as the most important, the appeal panel. When we can get an appeal panel that is provider dominated and the decisions are made as he said with no vote publicized and no public hearing, to me that is very important that we are not having any public input whatsoever or no public information obtained from the panel. I urge this particular amendment to go through. And as far