

April 7, 1982

LB 602

SENATOR CULLAN: Mr. President and members of the Legislature, I yield to Senator Johnson in a second but at this point in time I would say to Senator Haberman that there are court decisions which would indicate, Senator Johnson can expand on that, but there are court decisions which indicate that the residency requirements which you propose are invalid because they restrict an individual's right to travel from one part of the state to the other and so they definitely would fall on the face of the constitutional challenge. The second point I would make is that counties already have the responsibility which Senator Johnson's amendments impose upon them or make clear, so there certainly is no additional burden to the counties as a result of these amendments. The only thing is that the counties' burden has not been adequately defined and that is what I think LB 602 is mainly about. Senator Haberman, I yield to Senator Johnson here for a second, but I think it would be prudent of you to withdraw your amendments.

SENATOR V. JOHNSON: Yes. Mr. Speaker and members of the body, Senator Haberman, I certainly understand what you are doing and I am not totally unsympathetic to it but the United States Supreme Court in a case called Shapiro versus Thompson held in 1969 that residency requirements in the welfare area were unconstitutional. They unconstitutionally infringed upon one's right to travel and, in fact, Senator VonMinden got an Attorney General's Opinion on his LB 684, as I recall, that dealt with how one can stop the migration of people from one state to another state and I believe the Attorney General held what Senator VonMinden was thinking of was unconstitutional. Now, clearly you know what we have done here is we have said, look, the Welfare Department can establish residency requirements so long as they don't exceed one year. We are giving the Welfare Department flexibility to work within the existing parameters of case law but we are not setting a time certain, Senator Haberman, and I am fearful that if you set six months as the time certain that could be found to be unconstitutional. I think that the provision we provided is better. It is in keeping with current case law and for that reason I would ask the body to reject your amendment. I would also ask you to withdraw the amendment simply because of the constitutional problems.

SENATOR LAMB: Senator Haberman to close on the amendment to the amendment.

SENATOR HABERMAN: Mr. President and members of the