

April 13, 1982

LB 378

to try and streamline the process, make it quicker and easier to follow, make it less costly, provide an even balance in terms of decision making so the provider is not given the advantage...

PRESIDENT: Time is up.

SENATOR WESELY: ...I say support the amendment and urge your adoption of it.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, initially I would note that Senator Wesely indicated that I provided inaccurate information to you with respect to the manning levels of the Department of Health. The information was taken directly from a document published by the Department of Health, Budget Justification for Fiscal Year '82, SHPDA program which is published by the Department itself, the Department of Health itself, and I have a copy of it if anyone would like to see it and the information on other states was taken from similar documents in those other states and so I stand by the information which I provided to you earlier. I think it is clearly accurate. It comes from the Department of Health's records themselves. As to the Wesely amendments, I think that Senator Wesely's amendments create some very serious problems as far as the certificate of need process is concerned. Senator Wesely attacked LB 378 and he talked a lot about certificate of need and many other things but he didn't give you a very good description of what his amendment does and perhaps there is justification for that because these amendments are contrary to the current federal regulations which require reconsideration hearings upon specific grounds as well as upon administrative appeals. So the amendments which Senator Wesely suggests that we adopt are contrary to federal regulations. The final stage in the procedures which Senator Wesely advocates in his amendments deprive a certificate of need applicant of due process of law. The Department of Health would accept or reject a suggested decision in a private ex parte proceeding. The applicant or any affected party is denied the right to cross examine the staff of the Department and to even request reasons for their action. The applicant or affected parties would be deprived of the rights to present its case to an impartial body. Under the Wesely amendments the staff would be unaccountable and unquestionable, moreover, the appeal to the courts would be meaningless. Appeals to the courts are on the record which are established by the Department, therefore, the applicant and affected persons or a local committee would be unable to challenge, cross examine or rebut the Department's actions