

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
November 19, 2008

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SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this the fifth day of the One Hundredth Legislature, First Special Session. Our chaplain for today is Senator Carlson. Please rise.

SENATOR CARLSON: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the fifth day of the One Hundredth Legislature, First Special Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and reviewed LB1 and recommend that it be placed on Select File. A new resolution, LR7 by Senator Schimek, expressing the Legislature's condolences to the family of Bernice Labeledz. And I have the report of registered lobbyists for the period of April 17 through November 18. That's all that I have, Mr. President. (Legislative Journal pages 63-66.) [LB1 LR7]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on today's agenda. Mr. Clerk, the first bill, LB2. [LB2]

CLERK: LB2, Mr. President. Senator McGill, I have no amendments to the bill. [LB2]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB2]

SENATOR MCGILL: Mr. President, I move LB2 to E&R for engrossing. [LB2]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk, LB1. [LB2 LB1]

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CLERK: LB1, Mr. President. Senator McGill, I have no amendments to the bill. [LB1]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB1]

SENATOR MCGILL: Mr. President, I move LB1 to E&R for engrossing. [LB1]

SENATOR LANGEMEIER: The floor is now open for discussion. Senator Lathrop, you are recognized. [LB1]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I wanted to address the body this morning on this subject as we move what appears to be an inevitable bill changing the safe haven law. I want to talk about two things. One is what I observed at our hearing. The Judiciary Committee had a thoughtful hearing and heard from people on both sides. And I have to tell you, before I went into that hearing I had misgivings about changing the safe haven law because it seemed to me important that people in crisis, families in crisis, have an access point to services. What we heard in the committee, what we heard with the testimony was that there were two sides to this story. There is the side of those who are desperate. There is the side of those who are looking for help; families truly in crisis, with children threatening suicide and behaviors that they cannot control and cannot access services. But we also heard the other side, the side that Senator Chambers has championed through this process, and that is the consequences to the kids who are left off at the hospital. And my conclusion after the hearing was that the issue is too big to decide in the context of the safe haven bill. There is too much broken about the way we do business when it comes to providing services to children, yet I had some concerns about those families that we would shut off. I have done a little bit of research, legal research on existing law, and I've provided you a copy of a statute that's been passed around this morning, it's 43-248. You will see--and I hope I make you more comfortable with what we're doing today--you will see that law enforcement has authority to pick up juveniles without a warrant under certain circumstances, and I think those circumstances are going to make you comfortable with what you're doing today. I'd like to explain how this statute works. If law enforcement sees that a juvenile has violated a law, a municipal ordinance, or if they see a felony happen in their presence, they can pick a juvenile up without a warrant. But they can also pick up a juvenile if the juvenile is seriously endangered in his surroundings and immediate removal appears necessary for the juvenile's protections. Law enforcement can also pick up a juvenile believed to be mentally ill and dangerous, as defined in 71-908, and that's simply someone who is dangerous to themselves or others; and law enforcement can pick up a runaway. I believe that the current law will provide an access point. If a juvenile is picked up under this statute, law enforcement takes them to a detention center. They have...the county attorney in each of the counties in Nebraska then makes a determination whether to file a status offense against that juvenile, which means that they are ungovernable; they are some of the things that we've heard about

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in these stories relative to people who have availed themselves of the current safe have law. In short, people in the state of Nebraska need to know that there is a remedy. We are not abandoning them and those families in crisis. They still have an access point. It is to call law enforcement and to explain to the law enforcement officer that their children or their child fits within one of these categories. And you will see down in the annotations, the annotations are simply Supreme Court decisions which have interpreted this law, that this approach also preserves the liberty interests of the parents and the continued custody of the child. So what we have in 43-248 is existing law that will allow and provide a remedy for these families if they simply call law enforcement and insist that law enforcement take the juvenile into custody if any one of these circumstances are present. And as I listened to the testimony in front of the Judiciary Committee, I think most of the cases that we heard about, the people that have availed themselves of the safe haven law do fit within the parameters of this statute. And so we do not leave these families in crisis out in the cold by amending the safe haven law. In fact, what we need to do is redirect them to existing law, tell them that law enforcement is required and obligated to attend to the needs of a child in crisis,... [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR LATHROP: ...and that we don't need to have a law broken before law enforcement can intervene for a child with a mental illness or a child who is otherwise in immediate danger. Those are my remarks, and thank you, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Those wishing to speak, we have Senator Synowiecki, Carlson, Chambers and Pirsch. Senator Synowiecki, you're recognized. [LB1]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Members, there was a lot of discussion yesterday relative to behavioral health in the state of Nebraska and relative to particularly some of the reforms that have been initiated on the legislative side--legislative initiatives relative to reform. And I think it was Senator Erdman, yesterday, spoke of particularly western Nebraska, Region I and Region II, and their response to LB1083 reforms. I'm speaking of the Nebraska behavioral health reform plan. And I just want to, first of all, affirm what Senator Erdman indicated yesterday. Number one, there is a perception out there that the Legislature has sat idly by while some of these systems have deteriorated, and the perception is not the reality. The Legislature has been front and center in behavioral health reform in our state. We have not done as good a job with the children's behavioral health system, and the Legislature has tried to address that, particularly in 2007. I'll talk a little bit later about that. But when we look at the Behavioral Health Reform Act, the thesis of which tried to move our system of care from an institutionalized system of care to a community-based system of care, we have a lot of accomplishments and we have a lot to hang our hat on in terms of legislative-initiated reforms. Since passage of the Behavioral Health Reform Act, we've

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had a 30 percent increase in the number of individuals receiving behavioral healthcare in the community. The number of persons served in the community grew by more than 9,000 individuals. We've had a 47 percent increase in admission to identified community services. We've had a 10 percent decrease in individuals placed in involuntary emergency protective custody. I personally think that's because we have a broader array of services now available in the community than we did before the reform effort. We've had a 63 percent reduction in the number of involuntary committed persons admitted to the regional centers. And we've had successful closure of 251 adult behavioral health beds at the Hastings and Norfolk Regional Center. Now, when we say these beds were closed, those services did not discontinue. We simply moved those services to the community where these consumers' families, where the consumer support systems are available to them so that we can achieve recovery for consumers. Senator Erdman, I believe it was, and it might have been Senator Harms talked about the Panhandle. They've done an excellent job in terms of reform efforts. Region I and Region II, those systems are essentially entirely nondependent on regional center institutionalized care. They have virtually no referrals to a regional center out of the Panhandle. Now as you move east, in my home community with obviously more people, more providers, it's a little bit more complicated. The reforms took a little bit longer to ramp up. But in my area, but in Omaha, we have services in Omaha that we have never had before. Dual diagnosis services. We have crisis intervention services that were never before available in the metropolitan area. We have step-down services. We are truly developing--we are truly developing a full continuum of care in the Omaha metropolitan area that never was available before... [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR SYNOWIECKI: Thank you. And those services were never available prior to the passage of behavioral health reform. Now, the problem. The problem with all this is all these reforms were adult-oriented. LB1083, the Nebraska Behavioral Health Reform Act, did not--did not--differentiate between adults and children. Unfortunately, we focused almost entirely on the adult system of care, and I think we're seeing the results of that. And I'll talk, my next opportunity, about some initiatives and some planning that has evolved relative to the system for children. But in terms of the adult system of care, we have tended consistently to these reform activities. They have been funded, not quite to where some of the advocates would like to see the funding, but we have substantive results attained in terms of community-based care... [LB1]

SENATOR LANGEMEIER: Time. [LB1]

SENATOR SYNOWIECKI: ...and we are actually seeing productive results... [LB1]

SENATOR LANGEMEIER: Time. [LB1]

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SENATOR SYNOWIECKI: ...with recovery for consumers. Thank you. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Carlson, you're recognized. [LB1]

SENATOR CARLSON: Mr. President and members of the Legislature, as Senator Chambers indicated yesterday, I was afraid maybe this morning that we were going to have either no discussion or a very short period because the rails are greased and the train is headed down the track, but I appreciate the opportunity of being able to make a statement. I appreciate what Senator Synowiecki has said and takes the edge off a little bit of what I have prepared to say but I'm going to say it anyway. Yesterday, I challenged some groups in Nebraska to step forward and volunteer their efforts to satisfy many of the social needs of some of our citizens, and I think that these groups, in stepping forward, would help eliminate some of the problems that get to a point that youngsters are panicked and parents are panicked and they either don't know where to go for help...they just don't know what to do and they're crying for help. And these groups that I mentioned included the church, and I think that God would bless the efforts of the church if we took more of an attitude in the church of afflicting the comfortable and comforting the afflicted. Service groups, if each member would give some time to help the cause, if each gave a little it would make a world of difference. Charitable organizations: expanding services would give more purpose to these organizations and actually make fund-raising easier. If this doesn't happen and we as a Legislature at the next session see more need to expand services, we will be using tax dollars. Yesterday, Senator Lathrop and Senator Harms made comments. I respect their opinions, and in their experience in studying the Beatrice Center they've stated that better management would allow more services without additional dollars. I think their views must be taken seriously. HHS Committee: I'd like to kind of challenge and encourage Senator Johnson and Erdman on this, but they won't be with us next session, but I do respect and appreciate their views and I think Senator Hansen has other plans, but I would ask Senators Gay and Howard and Pankonin and Stuthman--and I value their opinions and their views--when we come back the next session, until you people that I've mentioned are comfortable to tell the rest of the Legislature that HHS is most efficiently using the dollars they have to provide services, I'm not in favor of increased funding for additional services. I think this is a prudent path to follow and I would encourage the Appropriations Committee to follow the same path. Thank you, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Chambers, you're recognized. [LB1]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm speaking for myself this morning and what I have done during this session. I am unalterably opposed to safe haven bills for the reasons that I've stated and I won't repeat them now. I had asked for a special session and my intent was to end the

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dropping off of these older children. I pointed out yesterday that for me this whole exercise brings into play the principle of the double effect. One action is placed but two results occur. Result A is desired; result B is not, but you cannot have A without B. I had said I would be a facilitator, which I've tried to be, rather than a terminator, and in my opinion that is the role that I more or less have filled during this special session. I'm going to vote green on the bill. If somebody were to just look at the votes, it would suggest that I've altered my opinion as to the safe haven notion. My green vote is a vote against the safe haven concept and in favor of bringing an end to dropping off these unfortunate children. They did not ask to come into this world. They did not choose the parents they may have been cursed with. They did not choose the guardian into whose hands they may have fallen. Senator Carlson, you know that I do not accept the scriptures, as they're called, the same way you do, but I believe there are statements contained therein which have value just as I find value in statements in Aesop's Fables; Roman, Greek, Norse theology; Jewish mythology; Christian legend. The one thing I will say which I have repeated from time to time, Jesus once was talking about how precious little children are to him, and he said if one were to offend these little ones it were better that a millstone be hanged around his neck and he be drowned in the sea. Rather than posturing and having the statement made over and over about how much we care for children, there has to be action which addresses the problems that these children have--problems not of their creating. They are not miniature adults. Even some of those who engaged in the behaviors that might bring horror to any of us or all of us as we listen, that child still is not culpable. [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR CHAMBERS: That child is a victim. And when these children who engage in what we call misbehavior are treated as though they have sat down with malice of forethought and determined they were going to deliberately misbehave, and we treat them with punishment and cruelty, then we are victimizing them twice and we are the ones who ought to have the millstone about our neck. We are the ones who ought to be drowned. I wanted to make that comment today because I have no intent on Final Reading to stop the bill, to clean the record up with reference to why I have done what I have done, and I do not feel comfortable voting for this bill but I'm going to. Thank you, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Dubas, you are recognized. [LB1]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I'd like to take this opportunity to thank the committee for allowing my bill to have a hearing and listening so attentively to all who came forward with their thoughts and concerns and very, very personal stories. I would also like to thank those who did come forward and share their very personal and private family pain with the hopes that what they've gone through will

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help us find solutions to this very, very real problem. I'd also like to thank those who have come forward with a willingness and a promise not to let this discussion end and that we will actually look for positive and constructive solutions to this problem. We are the decision-making body and we need to protect this legislative process, because with all of its faults and flaws it does in the end serve the people who send us here to represent them. But we also need to make sure that we have adequate and concise and accurate information if we're going to be asked to make these types of decisions. When I was working on my bill I was seeking some financial information, and my office contacted the Department of Health and Human Services several times just to try to find out exactly what are these children who are being dropped off, what's the cost, where's the money coming from, are they already in the system, is it money that's already been allocated for them, where's it coming from. And to date we have not received that information. I received a fiscal note on my bill after the hearing was over, so it's rather hard to argue the points if you don't have the information. We need to make sure that we expedite funding, not that we increase funding, not that we try to find ways to raid the tax coffers further. It's how do we expedite that funding so that the children and the "tweens" and the teens are actually getting the services that we were told are available to them. And I think the most important point that we need to remember is there is an incredible difference between what's available and what's obtainable, and I felt that I heard at the hearing on Monday that these services are extremely hard to obtain for the people who are really needing them. I think we need accountability and transparency in where this money is coming from, where it's going, and is it actually making it to the people who are in need of these services. So again I appreciate the discussion that we had yesterday. The very real commitment that I felt is coming from this body to continue to pursue this issue, recognizing that in seven days there's no way we can craft comprehensive and responsible policy to address this situation. And I recognized that when I drafted my bill and that's why I put the sunset in it, because I knew this is not the way to create good policy on such a short time frame, but I felt so strongly about the fact that these children might be left just hanging in limbo that I wanted to bring something forward. I am grateful that Senator Lathrop pointed out that there are some avenues available to these families and I hope they will be able to find them and use them to the best interests of their children and their families, and look forward to continuing to work on this issue and hopefully remembering that it is about the kids and we truly are judged by how we treat the least among us. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Synowiecki, you're recognized, followed by Senator Ashford. [LB1]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. I spoke earlier about the reform system, the Nebraska Behavioral Health Services Act reform which was passed in 2004 and how we mainly focused on adults. But let me tell you what happened in the meantime--and this probably is not one of our prouder moments as a state. What we ended up doing with children is, a facility that we sought to close--I'm speaking now of

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the Hastings Regional Center, a facility that we sought to close under reform activities. Because of its very nature it's an old building, it's a turn-of-the-century kind of environment for recovery, it's inefficient. And what we did was while we transitioned adults out of that facility, out of that treatment venue, the Hastings Regional Center, we moved kids into it. And right now...right now we have a 40-bed chemical dependency treatment unit at an old closed-down, essentially closed-down adult psychiatric hospital, and the cost is enormous to run this facility. I believe it's north of \$10 million a year for 40 beds--chemical dependency treatment unit. Now, what we attempted to do in the adult system of care is to regionalize or to put a preference in for community-based care...community-based care for our adult system. And as I mentioned earlier we've had some great success, some great milestones in that area. And a lot of the advocates in the children's behavioral health arena and including those present on the Children's Behavioral Health Task Force are continuing to advocate for a regionalized or a community-based system of care for children. Number one, we'll be able to get more treatment resources to more children. I think it's abhorrent that we spend north of \$10 million a year on a 40-bed treatment facility. We can serve more children in the community at a cheaper rate and probably, as we do in the adult system, draw down some federal assistance in that treatment, in that system of care. This is a very complicated system, and when this Legislature convenes next session this is going to overlap a lot of systems to get to what we need to get to. The LB542 Children's Behavioral Health Task Force identified several systems that are fragmented, and what you're going to have to do is look at this problem from all these systems that are entailed in children's behavioral health. You have the state Health and Human Services System, the education system, the judicial system, the child and family advocacy and support system, the behavioral healthcare delivery system, the primary healthcare delivery system, the law enforcement and criminal justice system, the public health system, the private or quasigovernmental human services system, and the foster care and adoption system, and it's no wonder why we have families who don't know where to turn, don't know where to go. And it should not be surprising, it should not be shocking that we have families who do not know how to navigate these systems. The task force is impaneled. It's impaneled until 2011. We have a plan published by the department pursuant to LB542. The plan published by the Department of Health and Human Services... [LB1 LB542]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR SYNOWIECKI: ...is entitled "Creating Change and Providing Hope for Nebraska's Children, Adolescents, and Their Families." I think a prerequisite for each of you that's returning is at least read the plan. Read the plan that the Department of Health and Human Services has set forth. Now again, there's disagreement on some important tenets of the plan. One of the first things you're going to have to consider when you reconvene, do we want to continue with a centralized, institutionalized system of care for kids at the regional center or do we want to have a regional-based system of

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care where you reach more kids, where it's cheaper, and where you have the treatment where the children's support system is available. It's an important, important decision that you're going to have make very early next session. I can tell you that there are members of the task force that fundamentally disagree with the plan relative to the institutionalized or centralized system of care approach within that plan. [LB1]

SENATOR LANGEMEIER: Time. [LB1]

SENATOR SYNOWIECKI: Thank you. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Ashford, you're recognized. [LB1]

SENATOR ASHFORD: Thank you. Very quickly, I would like to ask Senator Johnson and Senator Synowiecki the same question if they'd take about two minutes to answer each one as we end this discussion today. Senator Johnson, would you yield? [LB1]

SENATOR LANGEMEIER: Senator Johnson, would you yield? [LB1]

SENATOR JOHNSON: Yes. [LB1]

SENATOR ASHFORD: Could you tell us, in a general sense, where we should go here? Could you give us a general road map on how we approach this problem? And I'm going to ask Senator Synowiecki the same question. [LB1]

SENATOR JOHNSON: Certainly. And you know, I guess one of the things that we have successfully done with the last session of the Legislature is we have completed the reorganization of HHS. That's been functioning now for about a year, and the administrative side I think we can feel comfortable with. This actually was 12 to 15 years in developing and ending up with the system that we now have. It appears that this is off to a good start and, you know, I think that the people that are in the various responsible positions are doing a good job with a tough situation. But where do we go from here? Well, you don't take care of people with administrators, and so it does no good to have an office that people can come into and then are put on a waiting list, and so we have to move beyond that and develop what I see is various holes in our workforce that occur all over. There's the new Lasting Hope Center in Omaha which is a fabulous building complex, but even here they do not have the ability to hire enough psychiatric help or psychiatric nurses, so they aren't at capacity because of a shortage of workforce. So I think we have to look for how we can develop a greater workforce. Social workers get their mental health training in a master's degree program. The only master's program is at UNO. If the person from Broken Bow goes to UNO, they basically never go home. So should there be another program like that outstate? The other thing is this: We are not going to all of the sudden be able to distribute psychiatrists and so on all over the state,

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so can we make the existing caregivers out there better? And I think we can and develop innovative ways to make the family practitioner, the advance practice nurse, and so on, more up to speed on, you know, really quite a rapidly changing field. And then one last thing, and I think I was kind of surprised to develop this concept, and that is what has worked well for the Alcoholics Anonymous people for years and years now, of one person who is further along in recovery helping the person behind them. And you know, if you stop to think of it, that really works for all of us because it helps the person who is helped but it helps the helper as well. And so this type of relationship... [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR JOHNSON: ...I think we need to develop this whole team is what I'm saying and it's going to take some innovative ways of doing this. So thank you for your time and thank you, sir. [LB1]

SENATOR ASHFORD: Thank you, Mr. President. How much... [LB1]

SENATOR LANGEMEIER: Forty-nine seconds. [LB1]

SENATOR ASHFORD: How many other speakers are there? [LB1]

SENATOR LANGEMEIER: You would be third, again. [LB1]

SENATOR ASHFORD: Well, I'm going to wait until I come up again and then I'm going to ask Senator Synowiecki the same question. Thanks, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Howard, you're recognized. [LB1]

SENATOR HOWARD: Thank you, Mr. Speaker and members of the body. I just wanted to take a few moments to thank all of you who have committed yourselves to working on this issue. It's not easy and it's certainly not going to be easy. It's not going to be free either. I will have to tell you there will be a cost and I have no idea how much but it will be an investment. We do the super investment acts, reinvestment acts for our business. This would be an investment in people--well worth doing. I also want to mention my true trust in Speaker Flood. When he makes a promise his word is his bond. He has said this is going to be a priority next session and I believe that and I look forward to it and I thank him for making that commitment. I also want to thank people like Rhonda Hawks, Father Boes, Kathy Bigsby-Moore, people in our community that have offered themselves, their time, their expertise, to work not only the mental health issues but also on the issues we're going to be working on with children in our next session. I challenge the Department of Health and Human Services. They have to become a part of the solution and not to become a continuing part of the problem. They should, as time goes

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on, focus on putting their efforts into removing the barriers and not putting additional barriers in place to prevent families and children from receiving services. It's detrimental to everyone when our Department of Health and Human Services doesn't act as a Department of Health and Human Services. And finally I want to conclude by saying yesterday there was a reference made to Attorney General Robert Spire. I didn't know Robert Spire but I did know his daughter Louise very well. She was a friend of mine. And I keep a quote on my desk that her dad had said and I think it's so true. True justice will come when those who are not hurt are just as indignant as those who are. And I offer the remainder of my time to Senator Ashford. [LB1]

SENATOR LANGEMEIER: Senator Ashford, 2:50. [LB1]

SENATOR ASHFORD: Thank you, Mr. President. I would ask Senator Synowiecki if he, as he exits this body, to lend his experience and tell us, as I asked Senator Johnson, where should we go from here now? [LB1]

SENATOR SYNOWIECKI: Well, thank you, Senator Ashford. I think Senator Johnson very appropriately focused on the lack of qualified professionals in the system. He focused primarily on the adult system. As Senator Carlson mentioned fiscal responsibility, and I think one of the fundamental questions there needs to be assessed at the beginning of the next session is whether we continue this centralized system of care at the Hastings Regional Center and whether or not we mimic the adult system in terms of reform, where we regionalize and where we have a preference for community-based care. In the Governor's budget I believe there's an \$18 million capital appropriation and that is to move those children out from the psychiatric hospital at the Hastings Regional Center into a new facility. The sustaining cost is something like...and I don't...it's north of about \$10 million a year to sustain those 40 beds, and then on top of that you have the \$18 million appropriation for the capital to build a new facility. The first fundamental question you have to do as a Legislature is to assess whether that money could be better spent in the community, whether those resources can be more wisely deployed in a community-based system of care rather than a centralized, institutionalized system of care. Now I have a preference. I was a strong, strong, proponent of LB1083 and the adult system of care, so the first... [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR SYNOWIECKI: ...the first fundamental decision you're going to have to make as a body is do we embark on a new system of care, a progressive system of care, a regionalized community-based system of care, or do we maintain an institutionalized-looking system of care for kids. You've got an \$18 million appropriation for capital. You've got about \$11-12 million of sustaining funds. One thing I can assure you is that money could go a lot further and can serve a lot more consumers in the community as opposed to an institutionalized system of care. Thank you. [LB1]

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SENATOR LANGEMEIER: Thank you, Senator Synowiecki, Ashford, and Howard. Those wishing to speak, we have Senator White, Ashford, and Chambers. Senator White, you're recognized. [LB1]

SENATOR WHITE: Thank you, Mr. President. Colleagues, lest we leave here feeling too good about the opportunities available for the mentally ill, unrealistically, I want you to know that I represent, among other clients, a large number of the correctional officers in Douglas County, Nebraska. Though a police officer may choose to take a mentally ill person into custody, what fate do they meet? This last summer Senator Chambers filed a complaint against a judge who had such a person taken in, ordered him to be taken to a mental health facility and when he was there were no beds available. That is not uncommon. Actually that's far more common than finding a bed available. That individual was left handcuffed to a chair at that facility until such time as a bed actually became available. That, oddly enough, may have been the only lawful choice the judge had. You cannot knowingly release a mentally ill person without exposing the state, the county to liability. You cannot incarcerate a mentally ill person because they are incapable of committing a crime. They have no intent to commit a crime. So what happens to these folks? According to my clients, very often they, in fact, are incarcerated in facilities that do not have appropriate medication, do not have appropriate restraints. They cause enormous problems. They smear feces on the cells. They assault fellow prisoners. They are assaulted by fellow prisoners. They assault guards, all without the mental capacity to really commit a crime. Frequently, the police officers tell me that a person is taken into custody, and when they are looking for a place to put them they are driven for 12, 14, 16 hours in a patrol car from town to town looking for a mental health bed. Both police officers and correctional officers, who I represent, have told me this over and over again. Now that is not the failing of the police officer. That is not the failing of the judge. That is a failing of us and of this administration to provide necessary critical care beds. And we are not talking people who are a little "blue"; we are talking people with profound psychotic breaks with reality. That is the existing system. That is what we leave when we close the doors today or tomorrow or Friday on the special session, and that is the reality that the police, the correctional officers and our mentally ill citizens will continue to face. Thank you, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Ashford, you're recognized. [LB1]

SENATOR ASHFORD: Yes, thank you, Mr. President. I'm going to give most of my time to Senator Chambers to sum up, but I think we have a big job ahead of us and not much time to do it. We have about 40 days to come up with a plan to deal with the issues that Senator Johnson has identified and Senator Synowiecki and Senator White have identified. We have a pathway to move forward, and I think Senator Carlson made a

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great point and Senator Synowiecki made a great point: There is money in the budget to deal with some of these problems. And the Appropriations Committee next year will have a big job of working with the Health Committee to come up with a plan to put these ideas into fruition. But we can do it. We cannot fail. This is one of our...in my view, this Legislature, this week is doing some of its best work that I've ever seen, and I'm just very, very proud of all of us as a Legislature. It is critical work. It is the groundwork and the platform for the future, and we're fortunate that some of those who are leaving have the expertise and I know they're going to be around to help us get there. With that, Senator Chambers, I would...if you wish you may have the remainder of my time to sum up here. [LB1]

SENATOR LANGEMEIER: Senator Chambers, 3:40. [LB1]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, having gotten those other things out of the way that I did earlier, a couple of things have been said, especially by Senator Dubas, that encouraged me. For one thing, the Legislature must protect itself and its prerogatives as an institution. Based on that, when you all come back, those who will return--and you should try to persuade the new senators to go along--if any agency of government is recalcitrant when you're requesting information, you ought to pass legislation. The Legislature should never be on its knees, begging agencies or the Attorney General or the Governor to give information. The Legislature needs it. Enact a law mandating it, and make the deliberate refusal an impeachable offense if it's a constitutional officer, a punishable offense if it's an employee. Without me being here, I know nothing that drastic would be done, but I want to put something on your mind. If you allow people to disrespect you, they're going to. They will regard you as you regard yourselves, as members of the Legislature. Senator Dubas made a comment about her bill being given the opportunity for a hearing. I have not discussed on this floor my lawsuit against God. Reporters and others often miss the mark. They say I brought it to prove that anybody can sue anybody. No, that's an example to establish the main point which is that the doors of the courthouse in Nebraska must be open to every person in the state and every person is entitled to his or her day in court. That's the issue. No matter how unpopular the issue, no matter how reviled or unpopular the person raising the issue, the courthouse doors must be open--and I'm establishing that. Not only must the doors be open to let you get into the courthouse but if you play by the rules of the court you can take that issue all the way to the state Supreme Court unless they cut you off and put you in the appellate court. [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR CHAMBERS: But if the appellate court rules against you, you can then petition the Supreme Court for further review and still get it into the Supreme Court. So there are going to be people who will condemn me for suing God but they're going to

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have an issue and they have no place to take it but to court. And everybody is going to say you shouldn't do it, you're wasting the court's time. If you believe that that issue has merit, make the court tell you that. I will stop because the time is up and then I'll finish it when I get a chance. Thank you, Mr. President. [LB1]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Ashford. Senator Chambers, your light is next and you're recognized. [LB1]

SENATOR CHAMBERS: Thank you. I have many complaints brought to me by people who think that they have no place where they can seek redress, and I will say you can go to court. The fact that you take it to court doesn't mean that you will win. The person will say, well, everybody says it's frivolous. People have said my lawsuit is frivolous. No lawsuit is frivolous until a court declares it to be so. I don't care how outlandish somebody may deem it to be. It is not frivolous until a court makes that declaration, and even though the district court dismissed my lawsuit it was not on the basis of its being frivolous. It was dismissed on the basis of service not having been made on the defendant. But that's another issue. People should not be turned away from exercising a right, because others don't like it, because others don't like you. The constitution is in place to protect the minority. The majority can get their way. The majority can impose their will even when it's tyrannical. So the constitution is a limitation on that tyranny of the majority and by the majority. In some cases a constitution grants rights if they're civil in nature; in others, it simply protects and ensures right if that right is deemed to be what is called an inalienable or unalienable right. It's yours by virtue of you being a human being and no power on earth has the right to deprive you of it. They may have the might and by exercising that might can achieve it. On the legislative front, a demonstration of the same idea was made when the Speaker made it clear, and I was talking to Senator Dubas too that every bill introduced is entitled to a hearing. The Speaker doesn't determine that it's not entitled to a hearing. The Executive Board doesn't determine it's outside the call if we're talking about a special session. It is given its hearing. But I want to do a little teaching this morning. When an opinion was sought from the Attorney General as to whether or not Senator Dubas' subject matter was outside the call, the Legislature accepted what the Attorney General said. We could have challenged it. We could have ignored it. But the Legislature accepted it because you fear the Attorney General, you respect the Attorney General, but you're not feared and you're not respected. If the Governor pounds the table and says this is the way it will be in the proclamation calling the special session, the Legislature swallows spit and says, well, I guess that's the way it will be. There is a lot of wiggle room when a proclamation is issued by a Governor calling a special session. And one reason I didn't go into all of that was because I wanted us to focus on the one thing that we focused on. Were I coming back next session, I would have a whole lot to say about our prerogatives when a special session is called. But everybody knew that our time was going to be limited. We were going to try to have a laser-like focus, achieve one thing, and get out of here--and that was achieved. Now, Senator Carlson, the only thing that

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remains is for us to get out of Dodge. And I think that the Legislature did... [LB1]

SENATOR LANGEMEIER: One minute. [LB1]

SENATOR CHAMBERS: ...the best that it could under the circumstances in achieving the goal that most of us had in mind when we came here. There are things that were put into the legislative record that may be of value to those who were not here that will come after us and grapple with this issue. I'm not sad about leaving the Legislature. Somebody said, this is my last hurrah. (Laugh) I said, yes. They said, how do you feel about it? I said, I can sum it up in one word. They said, what's that one word? I said, hurrah. (Laughter) [LB1]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Seeing no other lights on, the motion before the body is the advancement of LB1 to E&R for engrossing. Speaker Flood has asked for a board vote and a record vote after. The motion before the body is, shall LB1 advance to E&R for engrossing? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1]

CLERK: (Record vote read, Legislative Journal pages 66-67.) 41 ayes, 6 nays, 2 excused and not voting, Mr. President. [LB1]

SENATOR LANGEMEIER: LB1 does advance. At this time the body will stand at ease until they return from E&R for engrossing. [LB1]

EASE

SENATOR LANGEMEIER: Speaker Flood, you're recognized for an announcement.

SPEAKER FLOOD: Thank you, Mr. President and members. A scheduling note: Tomorrow at 9 a.m. we will reconvene and we will be taking up committee confirmation reports. I want to thank all the committee chairs and those members of committees that were involved for processing the gubernatorial appointments, holding the appropriate hearings, and forwarding them to the Clerk. We will take those up tomorrow morning at 9 a.m. Obviously, it's a layover day for us. Anticipate Final Reading on Friday. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB1 and find the same correctly engrossed; LB2 correctly engrossed. A new resolution: Senator Gay offers LR8 congratulating the Papillion-La Vista girls volleyball team. That will be laid over. (Legislative Journal page 67.) [LB1 LB2 LR8]

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And a priority motion. Senator Kopplin would move to adjourn until Thursday morning, November 20, at 9:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned.