

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

Business and Labor Committee
November 17, 2008

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The Committee on Business and Labor met at 10:30 a.m. on Monday, November 17, 2008, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a gubernatorial appointment. Senators present: Abbie Cornett, Chairperson; Kent Rogert, Vice Chairperson; Steve Lathrop; Amanda McGill; Norm Wallman; and Tom White. Senators absent: Ernie Chambers. []

SENATOR CORNETT: Well, I think we can skip a lot of the protocol. This is...welcome to the Business and Labor Committee meeting. We're here today for the appointment of Ms. Cathy Lang as commissioner to the Nebraska Department of Labor. The committee will first hear testimony from Ms. Lang herself, then we'll hear any testimony that we have in favor of the appointment, followed by any testimony against. And we will conclude with neutral testimony. There isn't anybody here, but if someone comes in I'll go over the filling out the testifier forms. If you have any printed materials to distribute to the committee, Cathy, just give them to the page and she'll distribute them. We are now ready to begin the hearing. Cathy, welcome. [CONFIRMATION]

CATHERINE LANG: Thank you so much, Chairwoman Cornett and members of the Business and Labor Committee. My name is Catherine Lang and I am appearing before you today as the Commissioner of Labor, recently appointed by Governor Heineman to this position. And it's my pleasure to be here. I am seeking your support for my confirmation as Commissioner of Labor for the state of Nebraska. By way of just a brief background, I have been a resident of Nebraska since 1971 when my family moved back to Nebraska after my Dad's service in the Navy. And I had the pleasure of living all over the United States in many wonderful places. I went to high school in Lincoln. I went to the University of Nebraska-Lincoln, graduated with a bachelor of fine arts in theater. About a year and a half after that, I went to law school and graduated in 1983. I started with the state of Nebraska in 1981 as a law clerk with the Department of Revenue. And I have been a state employee since that time. And it's been a wonderful experience for me. I was a lawyer for the Department of Revenue, working on sales and income tax cases, but my primary focus and absolute love was property tax issues. And in 1996, yeah no one believes that. (Laughter) There's even a headline that says, "She loves property taxes." In 1996, the Legislature fundamentally changed the state level of the property assessment piece. And I was privileged to serve as the Property Tax Administrator from '96 to '02 and then reappointed in '02 and would have served out my term, however, another unique opportunity presented itself when we, and the Legislature approved this, where we merged the Department of Property Assessment and Taxation back into the Department of Revenue, where I had started. And I served then for a short period of time, just about a year, as the Deputy Tax Commissioner with Doug Ewald. And now having the opportunity to then be appointed as Commissioner of Labor. I think many of you know that I don't have a background in labor. And the Governor was well aware of that when we had our discussions about this position.

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However, I think what I bring to the position that is of benefit to the agency and then therefore to the state is my experience in state government, both as a director and a deputy director in a leadership role. And I believe that my years of experience in state government...I understand how it works, I know the budget process, the personnel process and all of those things that go to underpinning the success of an agency. I believe that I bring the requisite knowledge, skills and experience to help the Department of Labor. And I'm very excited about it. I have...we've been having a great time for the last two months over there at the Department of Labor. Now certainly the agency has come through some very difficult times. And I just want to touch briefly on the financial situation, because I do believe that we have that well in hand. Over the past, I would describe it as, three to five years the agency was not presenting accurate and complete financial information internally within the agency. And what really happened is that the agency ended up overspending its federal resources to the tune of, the end accounting result is about \$4.4 million. And the agency has taken huge steps to correct that. We have a gentleman on board with us now who is our controller. He has a financial and accounting background. We are staffing that area of our agency with other persons with accounting backgrounds, which I think is vital. I had that same experience through property assessment as we were spun out to be a separate state agency. It was an area that we did not have anyone who had that expertise, and we hired a person who then helped us manage becoming a separate agency and managing a whole new set of books. And so I think that the steps that have been taken to have the kind of personnel that you need in that area is going to be vital for the success of the agency. And what we're doing now then as we entered into this fiscal year of '08-09 is we are managing within the resources that we have. And that has resulted, as many of you have seen, in office closures and staffing reductions. And I assure this committee that one of the things that we did as I came into the agency and we looked out across the reductions that we would have to make is that we needed to make them across the agency. My experience as the Property Tax Administrator has made me keenly aware of the importance of having a connection across the state to the greatest degree possible. It is never perfect. You cannot be everywhere, but you need to be beyond Lincoln, you need to be beyond Lincoln and Omaha, and you need to be across the state. You need to try and have a presence as broadly as you can. And so one of the things that we faced were looking at office closings. The first plan was to actually have seven offices close. We reduced that to four. Now that's still four communities that are now going to no longer have the services of Nebraska Workforce Development, Department of Labor right there in their community. But we are also then looking at new ways to model our business practices so that we can reach out as far as we can across the state. But in order to then live within our resources we did have layoffs in Lincoln and Omaha. We have had layoffs in administration, a number of layoffs in administration. So we are spreading, if you will, to the greatest degree we can, we are spreading that pain across the agency so that we're not trying to significantly cut one area as opposed to another. So coming into this year we are close, we believe we are close to living within our resources. When we hit the end of the first six months, when

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we hit December 31 and we get our books and records and we can examine where have we been this first six months, we will know whether or not we have any additional layoffs that we'll have to make. Now we hope we don't, but we won't know that until we get to the end of that first six months. So certainly, I will bring the committee up to speed as we move into the last six months of the year. The challenge that the Governor expressed to me as we discussed this opportunity for me to be the Commissioner of Labor was two areas of collaboration, one is within state government. The Governor is very keen on having all directors work together to the greatest degree that they can to maximize our efforts, maximize the benefits that we can present across the state to our citizens in any way, shape or form. So he challenged me to work not only within the administrative agencies of state government, such as the Office of CIO, State Personnel, Building Division, all of those sort of day-to-day operational aspects of the Department of Labor, but also challenged me to work directly with Department of Economic Development, Department of Revenue, and Department of Education in trying to achieve the goals that he has for the Department of Labor. As well then, his other area of collaboration is across the state with our workers, with our labor leaders, with our business leaders and our educational leaders. And for me then, too, coming into an agency where I didn't know anyone, I think for me as the Commissioner of Labor probably most importantly is to be a support to the agency staff. These are the subject matter experts. These are the individuals who are delivering the services at the ground level. My job is to be a support to them. My job is to be a leader to them, to help them focus and stay focused on the job at hand and to do it as efficiently as we can. These are, as you are all probably far more well aware than I am, absolutely vital services to the citizens of our state. I have been absolutely amazed at the responsibilities and duties that the Department of Labor has. Kind of reminds me a little bit of a tax agency with the whole unemployment insurance side of things but then hugely vital to the human resources, the human capital of our state in providing those services to our workers to try and connect them to find the jobs that our employers so desperately need, to help work with our education leaders to help our young people understand what's out there. When you graduate from high school, when you graduate with your associates degree, when you graduate with your four-year degree what's out there for you. Where can you go with that. What do you need to have when you get there. And how can we, the Department of Labor, be an integral part of creating that communication between labor, business and education. And so I think for me I see three visions, three initiatives for the agency. One is to maximize to the greatest degree possible the impact of the federal dollars that we receive. This agency is 98 percent federally funded. How can we maximize these federal funds to assist our citizens in finding a productive opportunity in our workforce, be it training dollars, education for these workers and that employment network that we have out there in our career centers. Second, to work with our business interests across the state to find those skilled workers needed for the jobs that we're trying to attract. We've got Department of Economic Development, Department of Revenue out there trying to attract businesses to our state. What can we do to help bring those workers to them ready and able to fill

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the jobs of the twenty-first century. And then lastly, which of course for me as a mother of a couple of, well, one last teenage kid (laugh), one last teenage boy, but certainly I've had the pleasure of raising two others. How can we work with education to assist them in understanding what are the skills necessary for this twenty-first century workforce. And how can we encourage our kids in school to understand the breadth of opportunity that's out there in all sorts of endeavors, from working with Tony Raimondo on Dream It, Do It, working with the Department of Education and with Future Force through the postsecondary education process, to try and encourage these kids to know what is out there for you. You won't be in education forever. For my son, thank goodness, you won't be in school forever, but what's out there for you and where can you go with that energy that you have that we so desperately need in our state. So those are the challenges, those are the initiatives. And I am just pleased to be here. And I would be happy to answer any questions and lastly just ask for your support in my confirmation. Thank you. [CONFIRMATION]

SENATOR CORNETT: Cathy, I do have a couple questions for you. When you talked about, basically, being in a deficit of \$4.4 million, correct? [CONFIRMATION]

CATHERINE LANG: Yes. [CONFIRMATION]

SENATOR CORNETT: And layoffs and office closings around the state, how has that deficit affected the training programs? I'm not referring to the administration or the office closings. But are there as many positions open in job training as there were before? Have we had to reduce the amount of services available? And what is your projection as we come back into compliance with our federal grant money and reopening offices, expanding job training programs, where do you see...where are we now in job training and where do you see us moving forward to. [CONFIRMATION]

CATHERINE LANG: Okay. With regard to job training, that's an area that we will be bringing forward some ideas on how to use those worker training dollars and the other training dollars available through our other federal fund sources to maximize them to the greatest degree possible. I will tell you that in terms of paying back the \$4.4 million deficit we are going to be utilizing heavily federal funds available to us to make that back payment as well as looking at our contingency fund and any available cash funds, because of the \$4.4 million there is \$1.8 million that we cannot use federal funds to pay back, that is a state liability. Has to do with the contract that we were in with HHS and our underestimation of the cost that our piece of that grant fund would cost. And so we, basically, undercontracted and underbilled the Department of HHS. We need to come up with those resources. And we are going to be presenting a deficit appropriation to pay back that \$1.8 million. And then the remainder of the \$4.4 million will be paid with available federal funds. The connecting piece between that liability and a current year operation is that honestly the agency should have been downsizing over the last three or so years. Our funding sources have either been completely flat or have actually

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decreased. You all are well aware that even though they are completely flat, that is an actual decrease because we have had inflationary increases in our expenditures. So we should have been downsizing all along over the last three years or so. So, unfortunately, we are downsizing all in one year. And what that means is that we have less personnel on the front line to deliver the services. But it doesn't diminish the number of dollars that we have to be able to do worker training program grants or those sorts of things. So we still have those funds available to us. [CONFIRMATION]

SENATOR CORNETT: Just so I'm clear, even though you're downsizing administration and staffing, frontline people,... [CONFIRMATION]

CATHERINE LANG: Yes. [CONFIRMATION]

SENATOR CORNETT: ...the number of people in job training programs in the state of Nebraska has not decreased. [CONFIRMATION]

CATHERINE LANG: That is correct. [CONFIRMATION]

SENATOR CORNETT: And it will not decrease. [CONFIRMATION]

CATHERINE LANG: That is correct. [CONFIRMATION]

SENATOR CORNETT: Senator Rogert. [CONFIRMATION]

SENATOR ROBERT: Ms. Lang, I think we can all agree that in state agencies money isn't everything. There are other encumbrances that can come. Can you address for us a little bit, I think there are some concerns around the table about the slowness and the encumbrances and the voc. rehab program. We quite often have some constituents come to us with troubles, trying to get more assistance, faster assistance. Do we have any ideas out there how to revamp that program so it's easier to use and available to more folks. [CONFIRMATION]

CATHERINE LANG: Honestly, today I would not be able to address that directly. One of the things that I have noticed coming into the Department of Labor and I hope I am encouraging this, is to go out to all of our staff folks and say, how can we do our job better? You're absolutely correct, Senator Rogert, it is not all about money or funds. It's also about the energy and sort of letting those staff members who know the area of the state that they are in, help sculpt and define how can we deliver these services to the greatest and best degree possible. And what I want to do is encourage that and have our staff be as creative as we can. Now we all know there are certain parameters we're going to have to all live within. But what can we do to help network with other agencies of state government, other local agencies because a lot of that is going to happen at that local level, whether it's employers or the community colleges or any other kind of

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training organization that might be out there. Now related specifically to vocational rehabilitation, I would be happy to look at that specifically and then come back to you with that. Today I would not have an answer for you on that. [CONFIRMATION]

SENATOR ROBERT: Okay. Thanks. [CONFIRMATION]

SENATOR CORNETT: Senator White. [CONFIRMATION]

SENATOR WHITE: Ms. Lang, can you tell me how many...what the head count was and what it is now. How many positions, roughly, have been reduced? [CONFIRMATION]

CATHERINE LANG: We have had actual layoffs and then we have also had just attrition and not filling positions. I think our current staff count is about 409 after the last layoff. And, I believe, in the process, and I have a sheet that I'd be happy to provide for you, that show those differences--the actual layoffs versus the attrition. But I am thinking that the total layoffs have been somewhere between...around the 50 number in actual layoff numbers. John, do you... [CONFIRMATION]

JOHN ALBIN: That's about right, 84 positions between attrition and the layoffs. [CONFIRMATION]

CATHERINE LANG: Yeah. But we have a document. I'd be happy to share that. [CONFIRMATION]

SENATOR WHITE: Most of your expenditures then that you can control are in personnel. [CONFIRMATION]

CATHERINE LANG: That's correct. [CONFIRMATION]

SENATOR WHITE: So if you're going to make up this money it's got to come through the layoffs. [CONFIRMATION]

CATHERINE LANG: That is correct. [CONFIRMATION]

SENATOR WHITE: The other issue I'd like to raise, and we discussed briefly this summer, is the Department of Corrections would very much like to reinstitute advanced training for inmates. And they've had real problems with that. And the numbers that they gave us, and being mindful that it costs us \$28,000 a year on average for a prisoner, is that if they go through substance abuse counseling, the program successfully, and they get a job, it slashes recidivism rates just dramatically. Have you reached out to the Department of Corrections yet to talk to them about any kind of cooperative effort to institute a proper kind of industrial education back into the penitentiary system to help us on that and also help us get more skilled workers. [CONFIRMATION]

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CATHERINE LANG: I have a meeting with Bob in the next couple of weeks where I plan to raise that issue with him. We have not been able to get our calendars together. But we are meeting, I think, early in December. And, yes, I will be raising that issue with him. It's been on the back of my mind since you brought it to my attention.
[CONFIRMATION]

SENATOR WHITE: Thank you. [CONFIRMATION]

CATHERINE LANG: You bet. [CONFIRMATION]

SENATOR CORNETT: Okay. Cathy, for the record, do you mean Bob Houston?
[CONFIRMATION]

CATHERINE LANG: Bob Houston. What did I say? [CONFIRMATION]

SENATOR CORNETT: Okay. Bob. [CONFIRMATION]

CATHERINE LANG: Oh, okay. Yes, Bob Houston. Sorry. Thank you. [CONFIRMATION]

SENATOR WALLMAN: Thank you. Thank you, Ms. Lang. In regard to these layoffs, we have more mandatory overtime than in regards to this? Other people picking up the slack or... [CONFIRMATION]

CATHERINE LANG: No because, unfortunately, we also don't have the funds available to do the mandatory overtime. So we're trying to do this within, you know, the 40-hour a week staffing that would otherwise be our responsibility. [CONFIRMATION]

SENATOR WALLMAN: Thank you. [CONFIRMATION]

SENATOR CORNETT: Any further questions? Seeing none, Cathy, thank you so much for joining us. [CONFIRMATION]

CATHERINE LANG: Thank you. [CONFIRMATION]

SENATOR CORNETT: And I will see you back in the office momentarily. I'm just going to jump in and jump out, okay? [CONFIRMATION]

CATHERINE LANG: Sounds great. Thank you. [CONFIRMATION]

SENATOR CORNETT: Thank you. I move we move into Executive Session.
[CONFIRMATION]

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SENATOR ROBERT: Second. [CONFIRMATION]

SENATOR CORNETT: Second? [CONFIRMATION]

Chairperson

Committee Clerk