

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

Business and Labor Committee
November 09, 2009

[LB8]

The Business and Labor Committee met at 9:30 a.m. on Monday, November 9, 2009, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB8. Senators present: Brenda Council, Vice Chairperson; Tom Carlson; Amanda McGill; Ken Schilz; Norman Wallman; and Tom White. Senators absent: Steve Lathrop, Chairperson. []

SENATOR COUNCIL: We'll go ahead and get started. This is the public hearing on LB8. I am Senator Brenda Council, District 11, and Vice Chair of the committee. Regrettably, the Chairman, Senator Lathrop, had another commitment. He indicated that he may get here before we're over, but he asked me to go ahead and convene the meeting and conduct the public hearing. And with that, since I am the proponent of this piece of legislation I will go and do this quickly. Senator McGill, would you sit in just, or take over the Chair and hold me in order or out of order. Good morning, members of the Business and Labor Committee. Again, I am Senator Brenda Council. I represent the 11th Legislative District and I am here to introduce LB8. You should have received the statement of intent of LB8, and it's really very straightforward. The intent of LB8 is to prohibit the transfer of the funds from the Job Training Cash Fund. And if you go back, historically, into the Job Training Cash Fund, it was originally established in Fiscal Year 1989-1990, and it was funded principally from the Department of Labor Employment Security Special Contingent Fund. And at that time, approximately \$1.6 million was transferred into that fund. Since 1995, exactly...frankly, since 1994, \$31 million has been transferred into the Job Training Cash Fund from the Cash Reserve. And prior to this legislative session, the Job Training Cash Fund received an annual transfer of \$5 million. And as the legislation originally provided, was that after Fiscal Year 2010, any unexpended unobligated balance in that fund was to be transferred back into the Cash Reserve Fund. But during this legislative session, we enacted legislation that extended that period out until 2014. And the practical effect of that was that it was the intent of this body that those cash fund balances remain available for the purposes intended, which was to assist employers in meeting the training costs associated with creating new jobs. And the Job Training Cash Fund creates an opportunity for employers to receive credit for the portion of their training costs under basically two programs. One is Nebraska Advantage; the other is commonly referred to as the Nebraska Rural Advantage. And it's Nebraska Rural Advantage which is of particular interest to me, and I hope to most of you, because that is the portion of the fund that is used to assist rural communities and urban communities where the poverty rate in contiguous census tract is greater than 30 percent, which means more than 30 percent of the individuals in those census tracts live below the poverty level. And under Nebraska Rural Advantage Level 1, which is the program that applies to urban communities, the employer must make a minimal investment of \$125,000; must create at least two jobs, and then they are eligible for the job training tax credits. On the rural side, the investment has to be \$250,000; create five jobs in order to obtain those funds. Now at the end of the last fiscal year, the Job

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Training Cash Fund showed a balance of approximately \$23 million. Since July 1, 2009, some of those funds have been committed. Three million have been committed, actually contracts signed, and as of October 14, 2009, there was a balance of \$20,500,000. I have received information from the Department of Economic Development, which administers that program, that shows that of that \$20,560,000, \$13,758,000 has been committed since October 14, which shows how this program works. And of that \$13,758,000 that has been committed, that would result in the creation of 4,112 jobs in the state of Nebraska. Now when we are looking at addressing these shortfalls in our budget, the shortfalls are due to the fact that we have reductions in income tax and sales tax revenue. I believe that by transferring funds from the Job Training Cash Fund, we would be cutting off our noses to spite our faces, because we would not be in a position to create new jobs in our communities--new jobs that would result in individuals being placed on the payrolls, being in a position to pay income taxes, have disposable income so that we could generate more sales taxes. And if you look at the practical effect of the proposal to transfer \$3 million out of this fund, is that we are actually losing \$13 million in job training opportunities, because we're no longer transferring any funds into this fund out of the Cash Reserve. And if we had just simply left the law the way it was at the beginning of this past legislative session, that would have been an additional \$10 million. They're not getting the \$10 million and we're talking about transferring out \$3 million of the available \$6 million balance. Again, I don't think that would be wise policy for this state to limit the opportunities for us to create new jobs throughout the state of Nebraska, both in rural communities and urban communities. And it's for that reason that I introduced LB8. There are a number of other senators who have signed on to the bill, others who have indicated their willingness to sign on to the bill. I was told just shortly before the hearing convened that the Attorney General is going to render an Opinion to the effect that LB8 is outside the call. Now, I take strong exception to that, because if you look at the LB3, LB3 simply adds a provision to the Job Training Cash Fund section that says funds may be transferred at the discretion of the Legislature. That language was added because the law, as it currently has been interpreted, does not allow for any transfers out of the Job Training Cash Fund. LB8, all it does is substitute that language for language that is consistent with the intent of the legislation from its inception, which is no funds are to be transferred out of the Job Training Cash Fund, with the exception of at the end of 2014, if there are any unexpended, unobligated balances, it will be transferred back into the Cash Reserve Fund. So with that, I will close the opening and open it up to any testimony. [LB8]

SENATOR MCGILL: All right. Thank you, Senator Council. Any questions for her?
Senator Schilz. [LB8]

SENATOR SCHILZ: Senator Council, can you...do have any indication or has the AG's Office been in contact with you as to why they claim this is outside the call? [LB8]

SENATOR COUNCIL: No. And it was just a brief comment. In fact, I was told this is a

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heads-up. [LB8]

SENATOR SCHILZ: So you're still waiting to find out. [LB8]

SENATOR COUNCIL: I'm still waiting for the actual Opinion, Senator Schilz, because again if you look at LB3, when it comes to the Job Training Cash Fund, LB3 only provides for the addition of one sentence that says, funds may be transferred at the discretion of the Legislature, which would enable this body then, under the budget proposal of the Governor, to transfer these \$3 million. My bill, I simply could have just introduced a bill that simply deleted that language, but instead, to make it clear that it was never the intent of the Legislature to transfer funds out of the Job Training Cash Fund into the Cash Reserve until 2014. So I don't know. Apparently, just the addition of that language...but in any event, again I take exception to the Opinion that says that's outside of the call, when we as a body have said you cannot transfer funds out of that Job Training Cash Fund. And what LB3 does is to enable us to do that, and what LB8 does is prevent us from doing that. [LB8]

SENATOR SCHILZ: All right. What, I guess...thank you very much. One other question. You stated here that there's 4,112 jobs that were created. You don't have any breakdown on those or anything, do you? [LB8]

SENATOR COUNCIL: Yes, I do. And these were provided to me, commitments as of October 14, 2009. I'll just kind of go through the cities, Senator Schilz,... [LB8]

SENATOR SCHILZ: Great. [LB8]

SENATOR COUNCIL: ...and the number of jobs that are to be created. Geneva, 5; Grand Island, 300; greater Omaha, Douglas County--this is one employer--30 jobs; Lincoln, 250; another Omaha employer, 26; Norfolk, 12; Blair, 100; another employer in Norfolk, 75; South Sioux City, 15; another employer in Lincoln, 135; Seward, 25. There is a project that's going to involve multiple cities and multiple counties--500. Gothenburg, 20; another Omaha project, 60. There is a project in western Nebraska involving multiple locations--250. Another project in Lincoln, 500; another project in South Sioux City which I don't have the number of jobs; Norfolk again, 25; another project in Omaha, 300; another multiple county project, 300; another Norfolk project, 250; another multiple city project, 50; La Vista, 300; another Omaha project, 45; North Platte, 25; Beatrice, 25; Valley, 120; Sidney, 100; Lincoln, 15; South Sioux City, 250; Plattsmouth, 12; York, 30. [LB8]

SENATOR SCHILZ: Very good. Thank you very much. [LB8]

SENATOR MCGILL: Thank you. Other questions? Senator Carlson. [LB8]

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SENATOR CARLSON: Thank you Senator McGill. Let me go back so that...originally you said that the initial amount of money came from the Department of Labor? [LB8]

SENATOR COUNCIL: Yes. [LB8]

SENATOR CARLSON: And that was how much? [LB8]

SENATOR COUNCIL: That was...in Fiscal Year 1989-90, it was \$1.6 million...excuse me, I mean \$1.6 million was transferred from the Employment Security Special Contingent Fund from Fiscal Year '89-90, to '94-95. So during that five-year period there was \$1.6 million transferred. [LB8]

SENATOR CARLSON: Do you know where that \$1.6 million originally came from? What kind of fund? [LB8]

SENATOR COUNCIL: It came from the Department of Labor Employment Security Special Contingent Fund. [LB8]

SENATOR CARLSON: Is that out of General Fund dollars, or not? [LB8]

SENATOR COUNCIL: I would imagine that it is, but I'm not sure. You know, I doubt that any of these came...directly came from some types of cash funds. And as I indicated, since Fiscal Year '94-95, all of it has come from the Cash Reserve Fund. [LB8]

SENATOR CARLSON: Okay. Now the list that you read of jobs to be created, those are all in private...they're jobs to be created in private industries, just private business. [LB8]

SENATOR COUNCIL: Yes, sir. [LB8]

SENATOR CARLSON: None of them are government jobs. [LB8]

SENATOR COUNCIL: No, sir. [LB8]

SENATOR CARLSON: Okay. Thank you. [LB8]

SENATOR MCGILL: Senator White. [LB8]

SENATOR WHITE: Senator Council, I struggle with the Attorney General's Opinion on this bill. I accepted it on mine. I don't know how it can be outside the call, because all it does is, in effect, vote no on one aspect of the Governor's bill. [LB8]

SENATOR COUNCIL: Exactly. [LB8]

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SENATOR WHITE: So if it's outside the call, the Attorney General is literally trying to tell us, as a body, we can't vote no on the Governor's bill, because it's outside of the call. You are an attorney, as well. Does that make any legal sense to you at all? [LB8]

SENATOR COUNCIL: Well, Senator White, as I indicated, I respectfully disagree with the Attorney General's Opinion, because another aspect of what I was told was that an amendment on the floor essentially providing for the same result would be ruled germane. So if it's germane, I don't know how it can be viewed as being outside the call. [LB8]

SENATOR MCGILL: All right. Any other questions? Thank you, Senator Council. [LB8]

SENATOR COUNCIL: I'll come back up there and open it up for any testimony. [LB8]

SENATOR MCGILL: Any proponents here that can approach while she's...? Any opponents? Neutral testimony? [LB8]

SENATOR COUNCIL: I will waive closing. [LB8]

SENATOR MCGILL: All right. [LB8]

SENATOR COUNCIL: With that, that...if there are no other questions, that concludes the hearing on LB8. [LB8]

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Disposition of Bills:

LB8 - Placed on General File.

Chairperson

Committee Clerk