

MEETING OF THE TEXAS WORKFORCE COMMISSION

April 28, 2020

1 TUESDAY, APRIL 28, 2020 2 CHAIRMAN DANIEL: --signed up for public 3 comment. 4 MALE: No, sir. We have no registrations 5 for public comment this month. 6 CHAIRMAN DANIEL: All right, let's move to 7 Agenda Item Eight. This is emergency UI rule, discussion, 8 consideration and possible action regarding adoption of 9 emergency rules pursuant to Texas Government Code Section 10 2001.034 relating to certain unemployment provisions and Public 11 Law 116-127, the Families First Coronavirus Response Act. 12 JASON STALINKSY: Good morning, Chairman 13 Daniel, Commissioner Alvarez, Commissioner Demerson and Mr. 14 Serna. For the record, I'm Jason Stalinsky, Unemployment 15 Insurance Policy. The Emergency Unemployment Insurance 16 Stabilization and Access Act provides states with emergency 17 funding grants for the administration of their unemployment 18 compensation programs. The purpose of these grants is to assist 19 states with the unprecedented claim volumes associated with

Each allotment contains its own requirements. If a state meets the requirements of and obtains both allotment one and two, the federal government will pay 100 percent of any extended benefits until the end of the year. The

Covid-19. These grants are allocated into two separate

allotments, allotment one and two.

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requirement of allotment one is a state law requiring employers to provide individual notification of the availability of unemployment compensation to employees at the time of separation from unemployment. The commission has the authority, under Texas Unemployment Compensation Act or TUCA Section 208001B, to require this individual notice. To clarify how this notice must be provided, today staff is recommending amending Section 815.1 to define places accessible as stated in TUCA Chapter 208 to include general notice in the workplace and individual notice upon separation.

Additionally, Section 209025 of TUCA provides the commission with the ability to maximize the receipt of any fully funded federal extended benefits. TUCA currently provides for an insured unemployment rate or IUR trigger for extended benefits with benefit eligibility lasting a maximum of 13 weeks. Federal law, however, provides for an alternate trigger, the Total Unemployment Rate or TUR trigger. The TUR trigger also provides that in periods of high unemployment an additional seven weeks of extended benefits eligibility is available. To maximize the federal funding of extended benefits the agency will need to implement the optional TUR trigger with the high unemployment rate period as provided for in Chapter 815, Subchapter F of these proposed emergency rules.

During the surge of unemployment, it is vital that Texans have prompt access the full extent of extended

1 benefits available. Therefore, staff requests the commissioners 2 find imminent peril to the public welfare, which requires the 3 adoption of emergency rules without 30 days' notice in the Texas 4 Register. On the same basis, staff also requests that the 5 commissioners find imminent peril to the public welfare requires 6 the adoption of rules with an expedited effective date that is 7 effective immediately upon filing with the Secretary of State so that these rules can be implemented immediately under the 8 9 emergency rule-making provisions of Texas Government Code 10 Sections 2001.034 and 2001.036. Staff will bring forth permanent rules to 11 12 replace these emergency rules at a later date. Today staff is 13 seeking your direction on submitting these proposed rules to the 14 Texas Register. If so directed, staff seeks approval to make 15 any minor, non-substantive corrections to the document for 16 purposes of publication. I am here this morning 17 [unintelligible] to answer any questions. 18 CHAIRMAN DANIEL: Comments or questions? 19 20 that there will be two motions on this specific agenda item?

CHAIRMAN DANIEL: Comments or questions?

JULIAN ALVAREZ III: Chairman, am I correct
that there will be two motions on this specific agenda item?

CHAIRMAN DANIEL: I believe that's correct.

JULIAN ALVAREZ III: Okay. No questions.

CHAIRMAN DANIEL: Commissioner Demerson?

AARON DEMERSON: None here.

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CHAIRMAN DANIEL: Are there any motions?

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JULIAN ALVAREZ III: Yes, sir. On the
first motion. On March 18, 2020, the federal government passed
the Emergency Unemployment Insurance Stabilization and Access
Act of 2020. Emergency rules are necessary to implement the act
and provide Texans with a prompt and extended financial
assistance, which will also serve as a stabilization factor in
our local economies, both of which are critically needed due to
the statewide disruptions caused by Covid-19 global pandemic. I
move that the commission formally find that the imminent action-
-that immediate action is required to comply with the
requirements of the Emergency Unemployment Insurance
Stabilization and Access Act of 2020, and avoid the imminent
peril to the public welfare that would be occasioned by delay.
                     AARON DEMERSON: I second the motion.
                     CHAIRMAN DANIEL: Entered and seconded.
We're unanimous.
                     JULIAN ALVAREZ III: Oh, I seconded.
                                                           I'm
sorry. Well, I made the motion.
                     CHAIRMAN DANIEL: You did. We're good.
You want to just read--
                     JULIAN ALVAREZ III: Oh, you want me to
read the--I'm sorry. I'm sorry, I had a break up there.
apologize for that.
                     CHAIRMAN DANIEL:
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1 JULIAN ALVAREZ III: My second motion, I 2 also move that we adopt the emergency basis. On the emergency 3 basis pursuant to the Texas Government Code Section 2001.034, 4 the proposed amendments to Chapter 815 rules relating to the 5 unemployment insurance benefits general provisions in Section 6 815.1 and extended benefits in Sections 815.170 through 815.174 7 and publish them in the Texas Register with permission for the 8 staff to make minor, non-substantive changes. 9 AARON DEMERSON: [Unintelligible] I'm going 10 to second the motion. But before I do that I want to make sure 11 that we have an opportunity to work with you guys on anything 12 that we need to get out to the Texas employers in regards to 13 what we're establishing here. We'd love to work with you to 14 share that information. [Unintelligible] --15 Yes, sir. We absolutely will make MALE: 16 sure that you have that opportunity. This just allows us to be 17 able to move in that direction. 18 AARON DEMERSON: Okay. Well, then I 19 second. 20 CHAIRMAN DANIEL: It's been moved and 21 seconded. We're unanimous. 22 JASON STALINKSY: Thank you, Commissioner. 23 CHAIRMAN DANIEL: Thank you. I'm showing 24 no reports for Agenda Item Nine. Agenda Item 10 is the disaster 25 This will be a discussion, consideration and possible

action regarding guidance on resource utilization and implementation, process and strategies to target disaster relief efforts and public health emergencies with the Department of Labor's Disaster Dislocated Worker Grant. Item 10, Covid-19 essential workers allowing providers to chart the difference discussion paper.

REAGAN MILLER: Good morning, Chair Daniel and commissioners. Reagan Miller for the record. This morning for your consideration is a state rule waiver request concerning whether child care providers can charge an essential worker the difference between the board's reimbursement rate and the provider's published rate, which is sometimes referred to as their private pay rate. Providers have brought to our attention that they were previously serving the children of parents who are now classified as a TWC Covid essential worker. These TWC Covid essential workers now qualify for three months of TWC Covid essential worker child care. In cases where the board's reimbursement rate is lower than the provider's published rate the provider will receive less revenue for serving the same child.

So, while Covid essential worker child care was a benefit to the parent, it could be a detriment to the provider in these specific cases where they were already serving the same child at a higher rate. This morning we're seeking your direction in pursuing a state rule waiver to allow

providers to charge the difference only for those families that were previously private pay and continue to be served by the same provider as a Covid essential worker through two state waiver requests.

First, a waiver of TWC child care rule
Section 809.92, which prohibits providers from charging the
difference to protective services families. This waiver request
would allow charging a difference in the scenario previously
described. And secondly, a waiver of TWC child care rule,
Section 809.13C11, which requires boards to adopt the policy in
an open meeting regarding charging the difference and instead to
establish a statewide policy for Covid essential workers who
were previously private pay as described a few minutes ago in
those specific instances. Happy to answer any questions.

JULIAN ALVAREZ III: Mr. Chairman, I have a question.

CHAIRMAN DANIEL: Yes.

JULIAN ALVAREZ III: Reagan, again, great work. Super excited that we're facilitating the needs of our essential workers. So, thank you for that. The only question I have is when would these waivers be effective?

REAGAN MILLER: We are thinking that we could make the waivers effective on April 1st when we started enrolling new parents in essential worker child care to allow providers to make up that difference. Again, for parents they

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   would still be paying a much lower amount than they were as a
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   private pay parent.
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                         JULIAN ALVAREZ III: Great.
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   Reagan.
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                         REAGAN MILLER: Yes.
                         CHAIRMAN DANIEL: Comments or questions?
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                         AARON DEMERSON: None here.
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                         CHAIRMAN DANIEL: None? Are there any
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   motions?
                         JULIAN ALVAREZ III: Yes, chairman.
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   that we waive Section 809.92C to allow providers to charge the
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   difference to the families that were previously private pay and
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   continue to be served by providers as Covid-19 frontline
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   essential workers and that we waive Section 209.13C11 to allow
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   for the statewide policy for providers to charge the difference
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   for Covid-19 frontline essential workers who were previously
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   private pay as described in the discussion paper.
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                         AARON DEMERSON: I second.
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                         CHAIRMAN DANIEL: It's been moved and
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   seconded. We're unanimous.
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                         REAGAN MILLER: Thank you, commissioners.
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                         CHAIRMAN DANIEL: All right. Do we have
   anything else under Agenda Item 10?
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                         ED SERNA: We should have an update from
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   Clay Cole.
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CHAIRMAN DANIEL: All right.

CLAY COLE: Good morning, Commissioner

Daniel, Commissioner Alvarez, Commissioner Demerson, Mr. Serna.

For the record, Clay Cole, UI Division. This week, again, seeing big payouts and UI benefits. We continue to add an increased system capacity. All four call centers, partners, are online. The majority continue to ramp up our numbers, again, just increasing our capacity. Today UI is having a kickoff with Genesis to begin work to deploy a cloud interactive voice response system allowing UI to process more payment requests on teleserve and increase capacity to eliminate busy signals and use artificial intelligence to help with servicing customers.

We continue to onboard external volunteers.

We have begun providing new assignments to senate and house volunteers outreaching customers in efforts to reassure our customers of their claim status and help reduce calls to our call centers and just provide better customer resolution and next steps. UI is working closely with finance and operational insights who are helping perform data analytics on customer groups to streamline assignment processes and approve messaging. We also are exploring plans for having our own or a partner call center work as an outbound call center to reach customers needing specific high-need services which will help achieve greater resolution, reducing unnecessary callbacks. UI is actively working on plans for Texas opening back up for

business by exploring options for streamlining communications and handling cases with employers and customers returning to work that aligns with the governor's plan released yesterday.

And again, we've seen big improvements in our assignment productivity, especially specific assignments that we see high numbers in. We refer to ZD02, ZD10s, but I just want to give a big shout out and thanks to our internal volunteers, because they're really helping us really increase our productivity. So, big thanks to all our TWC volunteers for helping UI during this, you know, big need for our customers. And this concludes my update.

CHAIRMAN DANIEL: Thank you, Clay.

Commissioners, comments or questions?

JULIAN ALVAREZ III: Chairman, I'd just like to take this opportunity to thank Clay, his staff and those that have volunteered for all they're doing during this time in taking time to answer questions, extending the hours of operation and many of those who work on the weekend. So, I just wanted to take this opportunity to thank Clay, his staff, Lashay as well, for their continued support.

CLAY COLE: Thanks, Commissioner.

AARON DEMERSON: And I'd like to also, Mr. Chairman, Commissioner Alvarez, echo those sentiments. We appreciate the work that's been done day in and day out. And a lot of stars, Clay, you guys have on the team. I won't call out

all the individuals that have helped and are going to them for assistance, and that means a lot. So, we really appreciate that. Question on the outbound call centers. So, when do we expect to have that up and running or that activity to taking place?

CLAY COLE: We haven't set a date, but we hope to as early as next week sometime hopefully have a plan in place. We're still working on the data analytics to, again, to zero in on some of those high customer needs of service. And so, as soon as we have that we'll let you know.

AARON DEMERSON: Okay. And to overemphasize that's the busy signals and the things along those lines. We're eliminating those and we're making a lot of progress. Again, appreciate all the work that you guys are doing and those kind of initiatives allow us to move even faster. So, applaud the efforts on data analytics and the like to make sure that we're addressing the needs of our folks that are out there.

CLAY COLE: Thanks, Commissioner.

ED SERNA: One thing to clarify, commissioners, Clay was talking about—I know you all understand, but just to make sure that it's clear. We're talking about dedicating one of our call centers for outbound, but we are making outbound calls now with staff and with outside volunteers that are reaching out to our customers to get

clarification or to get information. So, we're doing some of that with the volunteers. This would actually be taking one of our call centers and converting it to outbound versus inbound to be even more effective.

CHAIRMAN DANIEL: Is the strategy behind that, then, that we've been able to confirm that there's a number of people who are still calling the claims line because they have questions even after their claim being perfected and filed?

ED SERNA: Yes, sir. That's exactly right. And the assistance that we're getting now with the volunteers, they have limited—they have a good—they've developed a good understanding, but they have limited understanding of the details of the unemployment system. And if we take one of our experienced call centers and have them make outbound calls, then when we make those calls we can completely resolve any issues or questions that the individuals may have.

CHAIRMAN DANIEL: Excellent. Excellent.

AARON DEMERSON: Mr. Chairman.

CHAIRMAN DANIEL: I do really perceive that as a good use of our resources. You know, and I would say, Clay, to you and certainly Mr. Serna, we have done a remarkable job of staying abreast of changing issues as they've moved through the UI claims process. A large number of people trying to get through. I know we've taken a number of measures to

address that in our move to seven days a week, 12 hours a day, which still leaves the computer time to process overnight.

We've done a good job of reallocating TWC staff and volunteers. Of course, our house and senate staffers are providing, I think, a great service to us in terms of the outbound calls and the ability to reach customers who simply have a question even after their claim has been taken and in some cases even authorized for payment. I know the questions persist, and so, these efforts are taken then in an effort to not have people call the 800 number where you would also call to be able to get your claim. Now that sort of goes along with the fact that, you know, we've seen a great increase in our computing capability and that 90 percent, maybe greater than 90 percent of our claims are still coming in online; is that still correct?

CLAY COLE: Yes, sir. It is.

CHAIRMAN DANIEL: Okay, so we've deployed a number of tools then to help, you know, our UI team. And I anticipate that we'll continue to apply that kind of creativity. So, kudos to all who are looking at creative ways to help us communicate with all of our customers more effectively and hopefully we'll be able to figure out a system to address each of these new issues as they come up. All right, thank you. Anything else under Agenda Item 10? No? Let's move then to Agenda Item 11. This is for consideration of possible action

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   regarding approval of Local Workforce Development Board
   nominees.
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                         SHUNTA WILLIAMS: Good morning, everybody.
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   Good morning, Chairman Daniel, Commissioner Alvarez,
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   Commissioner Demerson and Mr. Serna.
                         CHAIRMAN DANIEL: Morning.
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                         JULIAN ALVAREZ III: Morning.
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                         SHUNTA WILLIAMS: For the record, Shunta
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   Williams with the Workforce Development Division. And before
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   you for consideration we have Workforce Board nominees for
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   Workforce Solutions Capital Area, Concho Valley, Heart of Texas
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   and Northeast Texas. And staff recommends that all nominees be
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   approved and I am here to answer any questions you may have.
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                         CHAIRMAN DANIEL: Commissioners, comments
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   or questions?
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                         JULIAN ALVAREZ III: No, sir.
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                         AARON DEMERSON: None here.
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                         CHAIRMAN DANIEL: Thank you. Do we have a
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   motion?
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                         AARON DEMERSON: Chairman, I move that we
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   approve the nominees for Capital Area, Concho Valley, Heart of
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   Texas and Northeast Texas.
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                         JULIAN ALVAREZ III: Second.
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                         CHAIRMAN DANIEL: Moved and seconded.
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   We're unanimous.
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1 SHUNTA WILLIAMS: Thank you. 2 CHAIRMAN DANIEL: All right. Tom, do you 3 have anything to report today? 4 TOM MCCARTY: Yes, sir. Good morning, Mr. 5 Chairman, Commissioner Alvarez, Commissioner Demerson. 6 record, Tom McCarty, External Relations. Last Friday the 7 president signed into law HR266, the Paycheck Protection Program and Health Care Enhancement Act. This is another part of the 8 9 stimulus package that they've passed that provides \$310 billion 10 for the depleted Paycheck Protection Program with \$60 billion of 11 the \$310 being set aside for under banked businesses. 12 also \$60 billion in loans and grants for economic disaster 13 assistance, \$75 billion provided for hospitals and \$25 billion 14 for Coronavirus testing. Congress is currently in recess this 15 week and both the U.S. house and senate will return on May 4^{th} . 16 This concludes my remarks. I'm happy to answer any questions 17 you may have. 18 CHAIRMAN DANIEL: Comments or questions? 19 JULIAN ALVAREZ III: No, Chairman. 20 CHAIRMAN DANIEL: Mr. Demerson? 21 AARON DEMERSON: None here. Thank you. 22 CHAIRMAN DANIEL: Thank you very much. 23 Tom, thank you.

TOM MCCARTY: Thank you, sir.

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CHAIRMAN DANIEL: Ed, anything on the Executive Director's Report?

make sure the commissioners are aware of. We continue to pay attention to the UI issue, the number of calls, the resources that we're putting there, et cetera, et cetera, but we are also beginning to focus our attention on the recovery of the economy. To that end, we have already begun taking steps to increase the bandwidth, if you will, of work in Texas. We currently can handle 25,000 concurrent users. We'll be taking steps to increase that by five times so we can handle over 100,000 concurrent users in the very near future. So, we're anticipating the demand shifting over there, and we're taking steps well in advance to address that. And we'll continue to inform your offices, brief you all and take steps that are necessary to serve those customers as well.

CHAIRMAN DANIEL: Right. Thank you, Ed. Commissioners, comments or questions?

JULIAN ALVAREZ III: Not to Ed, sir.

AARON DEMERSON: Mr. Chairman, yeah. Ed, I applaud those efforts on WIT, because that will be the next step. And so, a lot of those things will go into that website. And I know Heather and her team have done amazing work on getting that up, and so putting that out there so the job seekers and employers have an opportunity to post jobs on that

in an easy way and those job seekers have a very easy way to find those opportunities that are out there. And that lines up with the governor kind of announcing those jobs that are out there and those workforce boards and the positions that they have and what they're going to do. So, I appreciate you guys.

ED SERNA: Sir, thank you.

AARON DEMERSON: And we'll get a next level

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ED SERNA: We'll be ready.

CHAIRMAN DANIEL: Right. Ed, thank you.

You know, with regard to the governor's announcement yesterday and the phased reopening of the state, which is definitely

moving us back to opportunities for people to go back to work.

I think, Ed, related to what you're talking about with regard to

work in Texas, I do think it creates a couple of additional

opportunities for folks as they're reentering the workforce.

One's a technical issue and the other, I think, is an

opportunity for a number of people. The technical issue would

19 be if there's no objection from the commissioners I asked staff

to be prepared after the commission meeting to talk to us about

21 some of the UI rules that have been suspended, work search,

other rules that we have suspended.

I'd like to have a report next week on where we are with those rules and what our plans are as we move back toward a more typical UI program and what we think our

timeline is for that, particularly with people that are going to be moving in and possibly still out of the workforce. I just would like a greater understanding of that. So, if there's no objection, I'd ask staff to do that next week. No objection? And then the second point that I would make is this. You know, I think that with businesses being able to reopen on a more limited basis, you know, some with limited capacity based on their total capacity of people, obviously some sole proprietors and others that are able to go back to work on Friday, and I think some additional hospitality sector industry being able to go back to work on a limited basis.

We're not going to have everybody start back at once. Ed, I think it's possible to do this by Zoom. And if there's no objection from commissioners I'd ask staff to be able to report back to us at the next commission meeting in terms of what we've done thus far in terms of creating training opportunities, other opportunities related to training for Texans who are either on unemployment or are seeking to avoid going on unemployment by taking advantage to those opportunities. And then what our midterm plan is for helping people [unintelligible] skill or in general, you know, be able to find jobs suitable for their training as they reenter the workforce. And so, with no objection from the commissioners I'd ask staff to report back to us on that at the next scheduled commission meeting.

1 JULIAN ALVAREZ III: Chairman, I am totally 2 in agreement with that. The only thing I would ask is prior to 3 our Tuesday commission meeting if there's an opportunity for 4 staff, whether it's through Zoom or another media source, if we 5 could have those conversations with staff, but I totally agree with you and I think this is a great recommendation. 6 7 AARON DEMERSON: On board. 8 ED SERNA: Yes, sir. We'll be able to do 9 that. You'll notice Courtney and Cheryl didn't have anything to 10 report this week. I've already been talking to Courtney about 11 her getting more of that information to you all. So, we will 12 definitely be prepared to do both of those things next week. 13 CHAIRMAN DANIEL: Wonderful. 14 ED SERNA: We'll provide information to the 15 offices between now and then. 16 JULIAN ALVAREZ III: Thank you, Ed. 17 CHAIRMAN DANIEL: Okay. Very good. 18 know you guys have been working on these things and we've had 19 several people working on them. I think now's an appropriate 20 time for us to consolidate these things and be able to talk to 21 Texans about what opportunities are available for training and 22 then just what options are available as folks are wanting to 23 reenter the workforce. Great. Anything else?

ED SERNA: No, sir. I have nothing else.

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Thank you.

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                         CHAIRMAN DANIEL: Okay, great. The time is
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   now 10:19. The Texas Workforce Commission is now going into
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   executive session pursuant to Texas Government Code, Section
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   51.071 pending litigation [unintelligible] Texas Workforce
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   Commission and Michael Lickteig and to discuss the employment
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   evaluation reassignment duties. At this point, I dismiss
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    [unintelligible] executive staff and other personnel pursuant to
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   Texas Government Code, Section 551.074A1.
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                         AARON DEMERSON: All right. Looks like
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   Zoom is working.
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                         CHAIRMAN DANIEL: I'm live.
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                         AARON DEMERSON: I'm live. Ed's live.
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                         CHAIRMAN DANIEL: Julia?
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                         AARON DEMERSON: Mr. Alvarez is live.
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                         CHAIRMAN DANIEL: Are we good to go?
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    [Unintelligible], are you in place?
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                         ED SERNA: He's there.
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                         MALE:
                                Yes, sir. I'm right here.
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                         CHAIRMAN DANIEL: Okay, great.
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   executive section has now concluded. The time is 11:23 a.m.
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   there any other order of business to come before the commission?
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                         JULIAN ALVAREZ III: Chairman, I failed
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   during the docket period of our meeting to acknowledge, if I
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   may, I have a comment regarding today April 28th is the National
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   Workers Memorial Day and I just ask that we reflect on those
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1	individuals who have lost their lives doing their work. So, I
2	just wanted to make that comment. So, thank you for allowing me
3	to do so.
4	CHAIRMAN DANIEL: An appropriate comment.
5	Thank you, Commissioner Alvarez. Any other item to come before
6	the commission? Hearing none, is there a motion to adjourn?
7	JULIAN ALVAREZ III: Chairman, I move that
8	we adjourn.
9	AARON DEMERSON: I second that motion.
10	CHAIRMAN DANIEL: It's been moved and
11	seconded. We're unanimous and we're adjourned. Thank you all.
12	AARON DEMERSON: Thank you, guys. Have a
13	good week.
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