

1 TRANSCRIPT OF PROCEEDINGS
2 BEFORE THE
3 TEXAS WORKFORCE COMMISSION
4 AUSTIN, TEXAS

4 PUBLIC MEETING)
5 FOR THE TEXAS)
6 WORKFORCE COMMISSION)

6
7 COMMISSION MEETING
8 TUESDAY, MAY 25, 2010

9
10 BE IT REMEMBERED THAT at approximately
11 9:00 a.m., Tuesday, the 25th day of May 2010, the
12 above-entitled matters came on for hearing at the
13 Texas Workforce Commission, TWC Building, 101 East
14 15th Street, Room 244, Austin, Texas, before TOM
15 PAUKEN, RONALD G. CONGLETON, and ANDRES ALCANTAR,
16 COMMISSIONERS, and LARRY TEMPLE, EXECUTIVE DIRECTOR,
17 of the Texas Workforce Commission; and the following
18 proceedings were reported by Janis Simon, a Certified
19 Shorthand Reporter of:

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1 P R O C E E D I N G S

2 TUESDAY, MAY 25, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: All right. I'll call
6 the meeting to order and turn it over to Commissioner
7 Alcantar for Agenda Items 2 through 5.

8 COMM. ALCANTAR: Thank you, Chairman
9 Pauken.

10 Good morning.

11 AGENDA ITEM NO. 2

12 Discussion, Consideration, and Possible
13 Action Regarding Whether to Assume Continuing
14 Jurisdiction on Unemployment Compensation Cases, Wage
15 Claim Cases, and/or Tax Liability Cases and
16 Reconsideration of Unemployment Compensation Cases,
17 Wage Claim Cases, and/or Tax Liability Cases, if Any

18 No discussion.

19 AGENDA ITEM NO. 3

20 Discussion, Consideration, and Possible
21 Action Regarding Tax Liability Cases Listed on the
22 Texas Workforce Commission Docket 21

23 The Commission considered and took
24 action on all Tax Liability Cases listed on Docket 21.

25

1 AGENDA ITEM NO. 4

2 Discussion, Consideration, and Possible
3 Action Regarding Higher Level Appeals in Wage Claim
4 Cases listed on the Texas Workforce Commission
5 Docket 21

6 The Commission considered and took
7 action on all Wage Claim Cases listed on Docket 21.

8 AGENDA ITEM NO. 5

9 Discussion, Consideration, and Possible
10 Action Regarding Higher Level Appeals in Unemployment
11 Compensation Cases Listed on the Texas Workforce
12 Commission Docket 21

13 The Commission considered and took action on
14 all Unemployment Compensation Cases listed on Docket
15 21.

16 (The Commission paused, then continued
17 with the remainder of the agenda.)

18 AGENDA ITEM NO. 6

19 CHAIRMAN PAUKEN: All right. Mr. Jones,
20 any public comments?

21 MR. PAUL N. JONES: No public comment,
22 Mr. Chairman.

23 CHAIRMAN PAUKEN: Okay.

24 AGENDA ITEM NO. 7

25 CHAIRMAN PAUKEN: No. 7, discussion,

1 consideration, and possible action regarding the
2 acceptance of pledges for Fiscal Year 2010 Child Care
3 Matching Funds, Mr. Garcia.

4 MR. GARCIA: Good morning,
5 Commissioners; Juan Garcia with Workforce Development.

6 This morning we have for your approval FY
7 '10 local match agreements totalling \$19,000 in
8 certifications of expense from the North Central Texas
9 Board and the North East Texas Board. Staff
10 recommends approval of the agreements as submitted.

11 CHAIRMAN PAUKEN: Okay. Commissioner
12 Congleton.

13 COMM. CONGLETON: Move that we accept
14 Child Care pledges and amendments for Fiscal Year 2010
15 Child Care Matching Funds in the amount of \$19,000 as
16 discussed by staff.

17 COMM. ALCANTAR: I would --

18 CHAIRMAN PAUKEN: Commissioner
19 Congleton -- I mean Alcantar.

20 COMM. ALCANTAR: I -- I would second.

21 CHAIRMAN PAUKEN: Okay. It's unanimous.
22 Thank you, Mr. Garcia.

23 MR. GARCIA: Thank you.

24 AGENDA ITEM NO. 8

25 CHAIRMAN PAUKEN: All right. No. 8,

1 discussion, consideration, and possible action
2 regarding the estimated Unemployment Trust Fund
3 balance pursuant to Texas Labor Code Section 204.061
4 and the estimated Employment and Training Investment
5 Holding Fund balance available for transfer pursuant
6 to Texas Labor Code Section 204.123, Mr. Townsend.

7 MR. TOWNSEND: Good morning,
8 Mr. Chairman, Commissioners. For the record, Randy
9 Townsend, Chief Financial Officer.

10 The Trust Fund projection we're making for
11 October 1st, 2010 is based on information through May
12 19th. We're estimating the Trust Fund balance on
13 October 1st will be zero with an outstanding Title XII
14 advance of 1 billion 685 million --

15 CHAIRMAN PAUKEN: Is that a little lower
16 than what you thought before?

17 MR. TOWNSEND: It's --

18 CHAIRMAN PAUKEN: You were -- weren't
19 you at about 1.8?

20 MR. TOWNSEND: It's -- it's a little
21 bit -- maybe a little bit lower. It's -- it's pretty
22 close. We're -- we're currently estimating by
23 December we'd be about 2.2 billion, which is still in
24 the -- in the ballpark of what we've been estimating.

25 CHAIRMAN PAUKEN: Okay.

1 MR. TOWNSEND: So, it's -- it's -- it's
2 pretty close. Based on that estimate, that would put
3 us 2.5 billion below the floor on October 1st.

4 I also wanted to share a few observations as
5 far as trends go. For the last six completed weeks --
6 and this is basically for the first week of May that
7 I'm comparing 2010 versus 2009 -- the net benefits
8 paid were 58 million compared to 77.7 million, so a 25
9 percent reduction. Initial claims for the first week
10 of May were 18,500 roughly, about 23 percent below the
11 one-week-ago average. And continued claims were
12 207,600 for the six-week average, which was about 21
13 percent below.

14 Commissioners, one of the things I wanted to
15 point --

16 CHAIRMAN PAUKEN: A year ago. Right?

17 MR. TOWNSEND: A year ago --

18 CHAIRMAN PAUKEN: You're talking about a
19 year ago.

20 MR. TOWNSEND: Yes, sir.

21 One of the things I wanted to point out, I
22 had included some graphs on that information that I
23 thought was -- it was helpful for me on all those
24 three factors, the net benefits paid, the continued
25 claims, and the initial claims. What we've done there

1 is shown you the weekly trend along with the six-week
2 moving average. And Finance uses a six-week moving
3 average, because we found that to be the best estimate
4 to base trends for Trust Fund projections. But I
5 thought it might be helpful, because when you compare
6 that 25 percent reduction, for example, you can kind
7 of see where we were from a year ago and then I've
8 included that year before that, just as a -- as a
9 trend line.

10 CHAIRMAN PAUKEN: And how much of
11 that -- you know, we've talked about this, but you've
12 got a much higher percentage of people fully
13 exhausting their benefits compared to traditional
14 nonrecessionary period. And then we've talked about
15 what happens when they go off our, you know, state
16 charged Unemployment Insurance and go on to the
17 federal level. Have you been able to kind of
18 determine how much of that decline is -- is due to
19 people simply exhausting their benefits in -- here in
20 the state of Texas?

21 MR. TOWNSEND: No, sir. We really
22 haven't -- as far as the Trust Fund projection, really
23 haven't looked at that aspect of it. I will say,
24 though, when we compare to similar trends in the past,
25 the -- the modeling we're using here is fairly

1 comparable at this point to what we've seen in the
2 past as far as our -- as far as our state Unemployment
3 Trust Fund goes. So, nothing really out of the -- out
4 of -- unusual as far as that piece of it goes. I'd
5 have to defer probably to someone on the Program
6 side --

7 CHAIRMAN PAUKEN: Because I just
8 don't -- I don't see that we're -- you know, yes,
9 continued claims are down, but they're still very
10 high. And initial claims seem to be stagnating the
11 last few weeks and -- and not -- you know, not
12 trending down, if you would.

13 MR. TOWNSEND: And as you can see on the
14 initial claims graph -- that's why it was kind of
15 interesting about this when I looked at it, is in
16 terms of comparing that to the trend line for our
17 Trust Fund I couldn't exactly see -- and we don't use
18 initial claims like this to do our Trust Fund
19 projection. We actually use the -- more in line with
20 the continued claims. That seems to be a better
21 predictor as far as the impact --

22 CHAIRMAN PAUKEN: Right.

23 MR. TOWNSEND: -- to the Trust Fund and
24 certainly the initial claims as far -- as far as the
25 economy where it might be headed and things like that

1 would be quite relevant, I would think. But in terms
2 of our Trust Fund projection, we just haven't found
3 that to be highly correlated in terms of our payout as
4 far as that goes but certainly useful information
5 to -- to -- you know, be able to look at trends and
6 that sort of thing. But I found it fairly insightful
7 as far as just the -- the -- mapping the trends
8 relative to net benefits paid and -- and especially
9 the continued claims piece of that.

10 So, I thought you might find that to be
11 helpful --

12 CHAIRMAN PAUKEN: Yeah, that's very,
13 very good information.

14 MR. TOWNSEND: -- as well so -- and it
15 does definitely point out the weekly -- being careful
16 with the weekly trends because depending on holidays,
17 the -- the ending -- the weeks when a month ends maybe
18 in a -- particularly a holiday month, you can just see
19 some trends that you wouldn't want to rely on week to
20 week so --

21 CHAIRMAN PAUKEN: But what -- what
22 concerns me is, though, on the initial claims we're
23 beginning to see a flat line again at a certain
24 level --

25 MR. TOWNSEND: That's --

1 CHAIRMAN PAUKEN: -- and that's -- as
2 opposed to trending down to what would be your typical
3 level as you come out of a recession.

4 MR. TOWNSEND: Right.

5 CHAIRMAN PAUKEN: So --

6 MR. TOWNSEND: Yes. Yes, that's -- that
7 concludes my remarks.

8 CHAIRMAN PAUKEN: Okay. Commissioner
9 Congleton.

10 COMM. CONGLETON: No questions.

11 CHAIRMAN PAUKEN: Commissioner Alcantar.

12 COMM. ALCANTAR: No questions.

13 MR. TOWNSEND: Thank you.

14 CHAIRMAN PAUKEN: Okay. Thank you,
15 Mr. Townsend.

16 AGENDA ITEM NO. 9

17 CHAIRMAN PAUKEN: All right.

18 Discussion, consideration, and possible action
19 regarding the negotiation of Program Year 2010
20 Performance Measure Targets with the U.S. Department
21 of Labor, Adam Leonard.

22 MR. LEONARD: Good morning. On --
23 sorry. Good morning, Commissioners.

24 On April 13, 2010 you-all approved a set of
25 staff recommendations to go forward and negotiate with

1 the Department of Labor for WIA and ES targets for
2 next year. Department of Labor agreed with our
3 proposals and sent back a letter approving them, and
4 I'm here before you today for basically kind of that
5 formal final action to accept these as our targets for
6 next year.

7 CHAIRMAN PAUKEN: Okay. Commissioner
8 Alcantar.

9 COMM. ALCANTAR: No questions.

10 CHAIRMAN PAUKEN: Commissioner
11 Congleton.

12 COMM. CONGLETON: Move that we approve
13 the WIA and ES renegotiated targets for 2010 as
14 discussed by staff.

15 COMM. ALCANTAR: I would agree.

16 CHAIRMAN PAUKEN: All right.

17 MR. LEONARD: Thank you.

18 AGENDA ITEM NO. 10

19 CHAIRMAN PAUKEN: Okay. Issue 10,
20 discussion, consideration, and possible action
21 regarding Board Contract Year 2011 Local Workforce
22 Development Board Performance Measures and Targets,
23 again, Mr. Leonard.

24 MR. LEONARD: Yes, good morning.

25 This process typically has about three

1 pieces in it. The first piece is to select the
2 measures that would be used for contracts formally
3 next year, and then the next is to talk about the
4 targets associated with them. And we do those in two
5 parts. We do the WIA-related measures this time of
6 year, early in the summer, because the contracts go
7 into effect in July. And then the rest we do later in
8 the summer, usually in August for things like Child
9 Care, Choices, et cetera.

10 But I wanted to kind of provide some
11 information on how we're planning on doing that and
12 get your input. With regard to measure changes for
13 next year we were really looking at primarily having
14 the same measures as we had for Board Contract Year
15 '10 with two exceptions: One is to not have the WIA
16 Youth and Summer Employment Measure anymore because
17 that was an ARRA-specific measure for last year that's
18 no longer needed, and the other is to move from a
19 Staff-Assisted Entered Employment to a more focused
20 measure that's a subset of that that focuses on
21 customers who are receiving kind of a more intensive
22 level of services that we're calling Staff-Guided
23 Entered Employment. And we actually brought this idea
24 to you last year with the -- with the intention of
25 coming forward this year to actually implement it, and

1 we rolled it out to the boards at that time.

2 And our initial proposal was to focus
3 exclusively on those who receive the employability
4 development plans, and at the time the boards were
5 concerned that that might not capture enough of some
6 of the important services that they're providing to
7 job seekers. And they suggested we look at some
8 additional things relating to actually the specific
9 things that might be getting the person a job. We
10 looked at a number of different ideas on that and are
11 coming back today to expand upon that list from not
12 just the employability plans but also looking at the
13 comprehensive objective assessments and job
14 developments, which are instances where staff work
15 specifically on behalf of a job seeker to contact an
16 employer who doesn't have a job in our system but who
17 might normally hire people with skill sets that --
18 that the job seekers that these staff are working on.

19 So, for instance, there might be a company
20 that hires welders. They don't have any postings with
21 us right now, but we've got a really good welder who
22 came in, a lot of good experience. And we go ahead
23 and make that call and say, "You know, we think we've
24 got a real ace for you here. Do you want to go ahead
25 and take a look at him?"

1 So, that's really kind of a significantly
2 different process than just making referrals from Work
3 In Texas on jobs that are already out there, and we
4 think that that, again, kind of really rises to that
5 level -- higher level of investment and time and work
6 on the part of our staff. And so I'd pause there for
7 a moment to see if you have any questions on -- on
8 that proposal before I move to the targets.

9 CHAIRMAN ALCANTAR: Nothing.

10 CHAIRMAN PAUKEN: Commissioner
11 Congleton.

12 COMM. CONGLETON: (Shaking head)

13 CHAIRMAN PAUKEN: Okay.

14 COMM. CONGLETON: No questions. I think
15 we should have been doing it all the time.

16 CHAIRMAN PAUKEN: Yeah, it makes sense.

17 MR. LEONARD: Okay.

18 Then looking at the targets, we've got
19 initially the WIA targets as I mentioned. And so what
20 we would propose is, as we've done in previous years,
21 that we would offer the boards the statewide target
22 for the three WIA Youth Measures that are formally
23 contracted with them. And they would be given the
24 opportunity to propose an alternate target if they
25 feel that one is appropriate. And Mr. Jones will send

1 out notice to the boards, if you agree with this later
2 today providing them this information, I'll provide
3 them some data to look at. And then they'll need to
4 get back to us in about a week to tell us what they
5 think, and we would go and negotiate that and come
6 back in June to you-all for final approval for the WIA
7 targets.

8 For the other measures, we're really looking
9 at targets that are fairly comparable to what we've
10 seen in the past methodology-wise; for instance, for
11 Choices, Child Care, Project RIO. We don't yet have
12 specific ideas about how we want to do Staff-Guided
13 Entered Employment Targets because we're in the
14 process of evaluating that data and needed to lock
15 down the methodology of the measure to be sure, but
16 we'd bring that back to you to look at.

17 And the one area that we're looking at some
18 possible differences is in the Reemployment Employer
19 Engagement Measures, and what we're looking at here is
20 we've been trending this data for the last couple of
21 years. And what we saw, basically, was that two years
22 ago we had peak performance on these measures. All
23 the -- virtually every board, every measure had their
24 zenith right before the recession hit.

25 And so the first year of the recession we

1 saw the slide, and the current year we're seeing what
2 we think is the bottom. And, in fact, they're
3 starting to see some slight improvements in
4 performance now on these measures. And so what we're
5 thinking is is that next year numbers are probably
6 going to be higher than they are this year, but
7 they're still not going to reach that -- that two-year
8 high that we had -- or really it was a five-year high
9 but it was two years ago.

10 So, what we're looking at is developing
11 targets that would be somewhere in between the -- the
12 overall high points of where they were two years ago
13 and where we -- they're going to end this year as a
14 way to kind of step their performance back up towards
15 the higher levels that we saw in better times but
16 recognizing that it will take us a little bit of time
17 before we can get back to that -- that ultimate level
18 and then, perhaps, improve upon it.

19 MR. TEMPLE: And, Commissioners, we're
20 factoring in that they've got an additional tool with
21 the Texas Back to Work for this Reemployment Measure,
22 so giving them some credit, if you will, because of
23 the downturn in the economy, but also factoring in the
24 fact that we've got an additional funding source out
25 there directed specifically for the population that

1 they make these measures on.

2 CHAIRMAN PAUKEN: Commissioner Alcantar.

3 COMM. ALCANTAR: I have no questions.

4 CHAIRMAN PAUKEN: Commissioner

5 Congleton.

6 COMM. CONGLETON: No questions.

7 CHAIRMAN PAUKEN: All right. Do you

8 need a motion or none?

9 MR. LEONARD: Yes, please. If you

10 would make the motion regarding the WIA targets, that

11 we should go negotiate with the boards and come back

12 to you with final recommendations.

13 COMM. CONGLETON: I move that we approve

14 the contract measures for BCY '11, approve the

15 strategy for WIA targets, authorize the staff to seek

16 board input regarding WIA Youth Targets and input on

17 the target methodology for the remaining measures with

18 the understanding that staff will make final

19 recommendations at a later date.

20 COMM. ALCANTAR: I second.

21 CHAIRMAN PAUKEN: It's unanimous. Thank

22 you, Mr. Leonard.

23 MR. LEONARD: Thank you.

24 AGENDA ITEM NO. 11

25 CHAIRMAN PAUKEN: Discussion and

1 consideration and possible action regarding
2 publication for public comment of proposed waivers
3 pursuant to the Workforce Investment Act, Debbie
4 Carlson.

5 MS. CARLSON: Good morning; Debbie
6 Carlson with the Workforce Division.

7 For your consideration today we have two WIA
8 waiver requests regarding youth who will be served in
9 our Summer Youth Program funded with TANF Emergency
10 Contingency Funds. TANF funds cannot be used for
11 support services. As a result, if a youth needs
12 support to participate, the youth will be co-enrolled
13 in WIA.

14 Ordinarily, youth enrolled in WIA must
15 receive an assessment, have an individual service
16 strategy, and receive follow-up for at least 12
17 months. In addition, these youth are in all the Youth
18 and Common Measures Performance. Last year with the
19 implementation of WIA ARRA Summer Youth Program, DOL
20 considered waiver requests from states dealing with
21 these two specific issues.

22 DOL granted a waiver that allowed boards to
23 make a decision on an individual basis where the youth
24 needed the assessment, the service strategy, and
25 follow-up. In addition, DOL also granted a waiver

1 that excludes the youth from the usual performance
2 measures if the youth only participated in summer
3 employment. On May 12th of this year DOL issued
4 guidance indicating they would consider these waiver
5 requests again. Texas did request and received both
6 of these waivers last year, and staff are recommending
7 we seek these waivers again.

8 In the past we've handled waiver requests in
9 two steps: Approval from the Commission to post for
10 public comment. Then, after the public comment
11 period, we've come back to the Commission seeking
12 approval to submit to DOL. We've been informed of
13 DOL's staff that they're hopeful to have the state's
14 waiver request processed in three to four weeks.

15 In the interest of time, today I'm asking
16 the Commission for approval to post for public
17 comment. And in the event that we do not receive any
18 comments opposing the waivers, I would ask that the
19 Commission allow staff to submit the waiver request to
20 DOL. And I'll be happy to answer any questions.

21 CHAIRMAN PAUKEN: Commissioner Alcantar.

22 COMM. ALCANTAR: I have no questions.

23 CHAIRMAN PAUKEN: Commissioner
24 Congleton.

25 COMM. CONGLETON: No questions, and I

1 move that we post the WIA waivers for public comment.
2 And if no opposing comments are received, authorize
3 staff to submit these waivers to DOL.

4 COMM. ALCANTAR: I would second.

5 CHAIRMAN PAUKEN: Okay. It's unanimous.

6 AGENDA ITEM NO. 12

7 CHAIRMAN PAUKEN: All right.

8 Discussion, consideration, and possible action
9 regarding publication for public comment of proposed
10 rules relating to Unemployment Insurance (40 TAC
11 Chapter 815, Subchapters A, B, and C), again,
12 Ms. Carlson.

13 MS. CARLSON: Again, for the record,
14 Debbie Carlson, Workforce Division.

15 For your consideration this morning, staff
16 have three proposed amendments to the Unemployment
17 Insurance rules in Chapter 815 and are seeking your
18 approval to publish for public comment. The first
19 amendment relates to Benefit -- Benefit wage credits.
20 In the past the Texas Labor Code provided that an
21 individual was entitled to Unemployment wage credits
22 based solely upon wages he -- he or she actually
23 received during the base period. The Commission had
24 no authority to consider wages owed but not actually
25 paid.

1 The Texas Legislature amended Labor Codes
2 207.002 and 207.004 to address the situation to
3 clarify under what circumstances wages may be
4 considered benefit wage credits. Staff are proposing
5 to amend Section 815.1 by adding a definition of
6 benefit wage credits consistent with the Labor Code.

7 The second amendment covers
8 Commission-approved training. Under the -- under the
9 Texas Labor Code Section 207.022 a UI claimant may not
10 be denied benefits due to availability, work search,
11 or refusing an offer of suitable employment if the
12 individual is in training with the approval of the
13 Commission. Staff is proposing to replace the current
14 approved training rule with one that communicates the
15 Commission's previous direction that there's no
16 recurring demand for the individual's skills, there
17 are no foreseen employment opportunities and jobs
18 requiring those skills, the individual has no other
19 skills to facilitate reemployment in a reasonable
20 period, the training is for an occupation with a
21 recurring demand and will enhance the individual's
22 ability to secure stable employment and earning
23 potential in the occupation, and any training through
24 WIA, the Texas Department of Assistive and
25 Rehabilitative Services, Texas Department of Aging and

1 Disability Services, Federal or State Veterans
2 Services, or any -- any other program specifically
3 designated by the Commission will automatically be
4 considered approved. By its very nature, training
5 under any of these programs is designed to help the
6 claimant overcome barriers to employment and
7 facilitate reemployment in an occupation in demand.

8 The third amendment creates a new Section
9 815.136 that provides guidance to employers on what
10 constitutes acceptable Earned Income Tax Credit
11 information that must be provided to employees as
12 required -- as required by Texas Labor Code Chapter
13 104. This new section stipulates that the information
14 regarding general eligibility requirements for the tax
15 credit means IRS Notice 797 or a written statement
16 that provides the same wording as IRS Notice 797.

17 Staff are also seeking your approval to make
18 any technical corrections necessary prior to
19 publication for public comment. And I'll be happy to
20 answer any questions you may have.

21 CHAIRMAN PAUKEN: Commissioner Alcantar.

22 COMM. ALCANTAR: I have no questions.

23 CHAIRMAN PAUKEN: Commissioner

24 Congleton.

25 COMM. CONGLETON: I have no questions,

1 and thank -- I want to thank the staff for all their
2 work on this. The -- the rule sets forth criteria for
3 getting Commission approval for training and makes it
4 clear that unemployment benefits can be used to
5 support training for jobs in demand. And I move that
6 we approve the proposed Chapter 815 UI rules and
7 publish them in the Texas Register for public comment.

8 COMM. ALCANTAR: I would second.

9 CHAIRMAN PAUKEN: It's unanimous.

10 MS. CARLSON: Thank you.

11 CHAIRMAN PAUKEN: Thank you,

12 Ms. Carlson.

13 AGENDA ITEM NO. 13

14 CHAIRMAN PAUKEN: All right. Next
15 issue, discussion, consideration, and possible action
16 regarding a modification of the use of American
17 Recovery and Reinvestment Act of 2009 Child Care Funds
18 in support of enhanced child care quality activities,
19 Reagan Miller and -- I see that's not Juan Garcia --
20 that's Nicole Verver.

21 (Laughter)

22 MS. VERVER: Good morning.

23 MS. MILLER: Good morning, Chairman;

24 Regan Miller with Workforce Development.

25 A couple of meetings ago we were asked to

1 look at opportunities that we had to make some
2 one-time investments to enhanced child care quality
3 activities. We've been reviewing this, and we are
4 bringing forward recommendations that would repurpose
5 some existing Recovery Act Funds towards increased
6 quality improvement.

7 Nicole is going to provide you with some
8 background on our current uses of Recovery Act Funds
9 for quality initiatives right now.

10 MS. VERVER: Good morning, Chairman
11 Pauken, Commissioners; Nicole Verver, Workforce
12 Development.

13 As Reagan mentioned, I just want to give you
14 a brief update on some of the exciting things the
15 boards are doing with their ARRA quality Child Care
16 dollars. A majority of the boards are focusing on
17 activities that serve infant and toddlers by offering
18 emotional and physical development training to
19 providers who are caring for this age group. Support
20 is also being given to child care providers who need
21 infant and toddler equipment for their facilities,
22 such as cribs, child-appropriate books, diaper
23 changing stations, playground equipment.

24 In addition, a vast majority of the boards
25 are investing in inclusive training, which is training

1 for -- training to serve children with disabilities.
2 This is -- not only includes the emotional and
3 developmental training but the -- the purchasing
4 adaptive equipment as well to care for these -- for
5 these children in the TWC subsidized Child Care
6 providers. Many boards are also maintaining or
7 improving their Texas Rising Star Provider
8 Certification by offering incentives to providers that
9 apply to become TRS certified. And the incentives
10 include cash incentives, resources for their
11 facilities, mentoring services, and leadership
12 management training.

13 And, finally, boards are also investing in
14 activities centered on professional development for
15 caregivers and administrators by offering scholarships
16 for college courses leading to a Child Development
17 Associate or Individual Early Childhood Education
18 Degrees. And I just wanted to mention that recently
19 Texas, and specifically the -- the boards, were
20 highlighted on ACF's Website as implementing best
21 practices for the use of the ARRA quality dollars.

22 MS. MILLER: Looking at some of those
23 activities, we think we do have a great opportunity
24 right now with the Recovery Act Funds because those
25 are one-time funds that are available to the state.

1 And as we've looked at this, we've noticed that over
2 the past several months there are several workforce
3 development areas that haven't been able to fully
4 utilize the direct care dollars, Recovery Act dollars,
5 that were made available for them, primarily due to
6 the economy. They're just not seeing as a great a
7 need right now for direct care.

8 And so based on that, we asked boards if
9 they felt like they could deobligate 10 percent of
10 their direct care dollars and repurpose that over for
11 quality. We also asked boards if they could repurpose
12 funds over and above 10 percent based on their local
13 demand and, if so, to talk to us about that. So,
14 working with the boards they have identified amounts
15 for deobligation based on an analysis of their current
16 needs.

17 And we are, therefore, bringing forward a
18 recommended deobligation of Recovery Act Direct Care
19 Funds totaling \$14,373,653. We then asked the boards
20 if they had a need for direct care. We recognize in
21 some areas of the state the need is down, but we have
22 a few pockets where they are still are experiencing a
23 need for direct care.

24 So, our first reallocation recommendation
25 would meet that need for direct subsidized child care

1 in the amount of \$2,501,456 for four boards: Concho
2 Valley, Capital Area, Deep East Texas, and Alamo. We
3 have reviewed their local numbers and waiting lists
4 and concur that a reallocation would help address
5 these immediate needs. And also with your approval we
6 would adjust the performance targets for direct care
7 using the same methodology as was used for the
8 original Recovery Act Direct Care Funds.

9 The next step in our process was to look at
10 whether TWC had any additional funds that could also
11 be repurposed for quality improvement. So, working
12 with Finance at the state level we identified about
13 \$6.7 million in Recovery Act Child Care Funds. When
14 you add that to the remaining funds from deobligation
15 from workforce areas, we have a total of \$18,590,914
16 available for enhanced quality activities. I'll point
17 out that this is about half again as much as the
18 Commission originally made available. So, it's a
19 pretty significant investment.

20 Originally, you dedicated 32 million in
21 support of quality. We will now be dedicating an
22 additional 18, almost, point 6 million.

23 For the reallocation of quality dollars, our
24 recommendation seeks to recognize those boards that
25 identified higher amounts for reallocation and

1 really -- excuse me, for deobligation and -- and seek
2 to try to return a significant portion of those funds
3 to those workforce development areas for quality. So,
4 if a board recommended to us that we deobligate more
5 than 10 percent of their direct care allocation, we're
6 recommending that they receive that 10 percent back,
7 plus 75 percent of any of those excess amounts. But
8 we're capping that at 100 percent of their original
9 quality allocation. We think that doubling the amount
10 of money in any particular area probably will address
11 any capacity issues that we might have. So, those
12 board areas that would have exceeded that are capped
13 at 100 percent.

14 And then for all the other remaining board
15 areas, we did an equal distribution based on the
16 original formula that was used to distribute quality
17 dollars. And what that means is for those boards that
18 didn't actually deob money from their area, they'll
19 get half again as much. They'll get about a 49
20 percent increase in quality.

21 So, overall, every board is getting at least
22 49 percent. And if a board deobligated more, then
23 they'll get a higher percentage up to 100.

24 Lastly, we do have recommendations on the
25 use of the quality dollars and Nicole will cover

1 those.

2 MS. VERVER: Again, for the record,
3 Nicole Verver.

4 We're recommending that the additional
5 quality Child Care dollars be spent on four -- or
6 focused on four areas: Expansion of inclusive care
7 for children with disabilities, professional
8 development related to early childhood development,
9 expansion of infant and toddler care, not just include
10 the training but also equipment, and the fourth being
11 expanding or improving the Texas Rising Star, the
12 Texas Early Education Model, TEEM, or other nationally
13 accredited quality models. In addition, we're
14 recommending that boards who have previously not used
15 these quality dollars on inclusive training be
16 required to do so, and those are our recommendations.

17 MS. MILLER: And I do want to point out that
18 all of these recommendations encompass those
19 activities that we've noted boards doing and those
20 things that are being recognized nationally. So, we
21 really think that these recommendations aren't going
22 to curtail the ability of the boards to really keep up
23 the momentum that they've already experienced
24 implementing quality activities in their local area.

25 And with that, we'd be happy to answer any

1 questions.

2 CHAIRMAN PAUKEN: Commissioner

3 Congleton.

4 COMM. CONGLETON: Are we going to
5 monitor these people to see we are getting quality for
6 these --

7 MS. MILLER: Absolutely.

8 COMM. CONGLETON: -- these kids?

9 MS. MILLER: Absolutely.

10 CHAIRMAN PAUKEN: Commissioner Alcantar.

11 COMM. ALCANTAR: Reagan and -- and
12 Nicole, thanks for the great deal of work that went
13 into this. I know it's -- a lot of levels of analysis
14 have been undertaken here, and I really appreciate the
15 work and the results of that work. I thank -- I want
16 to thank the boards for their participation and
17 putting together the facts and some of the issues that
18 we are facing out there. So, good work.

19 And I have no further questions or comments.

20 CHAIRMAN PAUKEN: Okay. I'll simply
21 echo Commissioner Alcantar's remarks. Good job as
22 always. Thank you.

23 COMM. CONGLETON: Do you need a motion,
24 I suspect?

25 MS. MILLER: I believe we do.

1 three workforce board areas: The Permian Basin,
2 Cameron County, and Tarrant County. And I'm prepared
3 to answer any questions you might have.

4 CHAIRMAN PAUKEN: I -- I didn't have any
5 questions. Do you, Commissioner Congleton?

6 COMM. CONGLETON: I have no questions,
7 and I move that we approve the nominees from Permian
8 Basin, Cameron County, and Tarrant County as described
9 by staff.

10 COMM. ALCANTAR: Second.

11 CHAIRMAN PAUKEN: It's unanimous. Thank
12 you, Mr. Jones.

13 MR. JONES: Thank you.

14 AGENDA ITEM NO. 15

15 CHAIRMAN PAUKEN: Discussion,
16 consideration, and possible action regarding enacted,
17 proposed or considered federal regulations, executive
18 orders or federal or state enacted or proposed
19 legislation, Tom McCarty.

20 MR. McCARTY: Good morning, Chairman
21 Pauken, Commissioner Congleton, and Commissioner
22 Alcantar; Tom McCarty, External Relations Division.

23 The House is expected to take up HR 4213,
24 which is the American Jobs Closing Tax Loopholes and
25 Preventing Outsourcing Act today. The measure

1 includes extensions through December 2010 for
2 Emergency Unemployment Compensation programs, the 100
3 percent federally funded extended benefits, and the
4 additional \$25 in weekly benefits for UI claimants.
5 The bill also includes a hundred billion in summer
6 jobs funding.

7 The Senate is expected to bring the measure
8 up later this week. And then Congress will adjourn --
9 or recess next week for the Memorial Day holiday.

10 That concludes my comments. I'm available
11 for any questions --

12 CHAIRMAN PAUKEN: So, that just extends
13 the existing limits in terms of how many -- the
14 maximum number of weeks?

15 MR. McCARTY: Yes, sir.

16 CHAIRMAN PAUKEN: It doesn't add
17 additional weeks?

18 MR. McCARTY: It does not add additional
19 weeks, just --

20 CHAIRMAN PAUKEN: And it's 99 for some
21 states, and for ourself it's -- for Texas --

22 MR. McCARTY: 93.

23 CHAIRMAN PAUKEN: -- it's a 93? Okay.

24 MR. McCARTY: Yes, sir.

25 CHAIRMAN PAUKEN: Let me ask you on

1 another front, any movement with regard to the
2 situation a number of states, including Texas, finds
3 itself in with regard to the shortfall Mr. Townsend
4 talked about earlier and -- and extension of the --
5 the no-interest provision?

6 MR. McCARTY: Currently, there are no
7 bills filed, and language has not been introduced to
8 do that.

9 CHAIRMAN PAUKEN: Is there any
10 discussion of that going on up there or not?

11 MR. McCARTY: Not at this time.

12 CHAIRMAN PAUKEN: Okay. All right.

13 Any questions, comments?

14 COMM. ALCANTAR: I have no questions.

15 COMM. CONGLETON: No questions. Thank
16 you --

17 MR. TEMPLE: Commissioners, one of the
18 things we are monitoring on this, the language does
19 allow the extension of the Emergency TANF Contingency
20 Fund, again, as Tom said, the ability to serve UI
21 claimants, but it is silent on changing the part to
22 serve single UI claimants. Because it's TANF dollars,
23 they're still referring back to needy family, needy
24 household.

25 So, we've been working -- Allison has been

1 working in D.C. and working -- trying to work with
2 some of the committee members and -- and being able
3 to -- to amend that specifically for this TANF block
4 of money to be able to serve the single individuals.
5 Now we're having to harvest back and forth on our
6 general revenue dollars for the Texas Back to Work
7 program. It would just simplify it. I'm not sure if
8 we'll get that, but we're --

9 CHAIRMAN PAUKEN: Who is -- who -- who
10 heads that subcommittee?

11 MR. McCARTY: I can get back with you.
12 I don't --

13 CHAIRMAN PAUKEN: Okay. It's the
14 Education and Labor Committee?

15 MR. TEMPLE: Is it Education and Labor?

16 MR. McCARTY: I believe so.

17 MR. TEMPLE: Yeah, we'll get that for
18 you.

19 CHAIRMAN PAUKEN: Okay. All right. Do
20 we have any Texas members on that, and would you also
21 check -- on that subcommittee?

22 MR. McCARTY: Yes, sir.

23 CHAIRMAN PAUKEN: I -- I know we do on
24 the overall committee, but I don't know if we do on
25 the subcommittee.

1 AGENDA ITEM NO. 16

2 CHAIRMAN PAUKEN: Okay. Report and
3 update by the Executive Director regarding
4 administrative matters, et cetera.

5 MR. TEMPLE: I just want to get Reagan
6 to give an update on where we are on our final
7 approval on our --

8 MS. MILLER: The -- the good news is we
9 actually -- there was some forward momentum last week.
10 We got unofficial word from the regional office.
11 The -- the third quarter application that has the bulk
12 of the money for our summer program has unofficially
13 been approved, and the letter is sitting on the
14 Assistant Secretary's desk for signature.

15 When I checked with her this morning, it's
16 there, and it's -- it's awaiting his signature. And
17 as soon as they sign it, we'll have it, and we'll be
18 able to get the contracts out the door. Assuming we
19 get the letter early this week, we should have them
20 out this week or next Tuesday. So, we've got some
21 good news on that.

22 CHAIRMAN PAUKEN: Okay.

23 AGENDA ITEM NO. 17

24 CHAIRMAN PAUKEN: All right. I think
25 we're going to have to go into Executive Session now.

1 We're going pursuant to Government Code 551.071(1)
2 concerning contemplated litigation or the pending
3 litigation of the following case: Texas Neighborhood
4 Services, Inc. versus TWC, NCTWFB, NCTCOB and John
5 Moore in his official capacity.

6 (Executive Session: 9:51 a.m. to
7 10:13 a.m.)

8 CHAIRMAN PAUKEN: We're out of Executive
9 Session.

10 AGENDA ITEM NO. 19

11 CHAIRMAN PAUKEN: Is there a motion to
12 adjourn?

13 COMM. CONGLETON: There's no action
14 taken in the meeting, and we -- so made to adjourn.

15 COMM. ALCANTAR: I'd second.

16 CHAIRMAN PAUKEN: It's unanimous.

17 (Proceedings adjourned: 10:13 a.m.)

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