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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
TUESDAY, JULY 27, 2010

BE IT REMEMBERED THAT at 9:00 a.m., on
Tuesday, the 27th day of July 2010, the above-entitled
matter came on for hearing at the Texas Workforce
Commission, 101 East 15th Street, Room 244, Austin,
Texas, before TOM PAUKEN, ANDRES ALCANTAR, AND RONALD G.
CONGLETON, COMMISSIONERS, of the Texas Workforce
Commission; and the following proceedings were reported
by Kim Pence, a Certified Shorthand Reporter of:

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

2 TUESDAY, JULY 27, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Good morning. The
6 meeting will now come to order, and I'll turn it over to
7 Commissioner Alcantar for Agenda Items 2 through 5.

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

10 AGENDA ITEM NO. 2

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

17 The Commission agreed to sending a letter
18 of continuing jurisdiction on Case No. MR 1243534 and
19 for it to be resubmitted on a future docket.

20 AGENDA ITEM NO. 3

21 Discussion, Consideration and Possible
22 Action Regarding Tax Liability Cases Listed on the Texas
23 Workforce Commission Dockets 29 and 30.

24 The Commission considered and took action
25 on all tax liability cases listed on Docket 30.

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 Dockets
5 29 and 30.

6 The Commission considered and took action
7 on all wage claim cases listed on Dockets 29 and 30.

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 Dockets 29 and 30.

13 The Commission considered and took action
14 on all unemployment compensation cases listed on Dockets
15 29 and 30.

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

18 AGENDA ITEM NO. 6

19 CHAIRMAN PAUKEN: Let's reconvene.
20 Mr. Jones, any public comment?

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

23 AGENDA ITEM NO. 7

24 CHAIRMAN PAUKEN: No. 7, Discussion,
25 Consideration and Possible Action Regarding the

1 Estimated Unemployment Trust Fund Balance Pursuant to
2 Texas Labor Code Section 204.061 and the Estimated
3 Employment and Training Investment Holding Fund Balance
4 Available for Transfer Pursuant to Texas Labor Code
5 Section 204.123. Mr. Townsend.

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

9 Presenting the trust fund projection for
10 October 1, 2010, we prepared this trust fund projection
11 using information available through July 22nd. As of
12 that date, we're estimating the trust fund balance, of
13 course, will be zero with an outstanding Title 12
14 advance on October 1st of 1.6 billion. We're estimating
15 that would be about 2.4 billion below the floor on that
16 October 1st date.

17 Regarding the outstanding advance that
18 we'll be estimating for December 31st, at this point
19 would be about 2.1, 2.2 billion on that date.

20 Let me also share a few observations
21 concerning the trends. For the last six completed
22 weeks -- and this information is as of July 10th. Total
23 net benefits paid averaged 57 million per week. The
24 good news there was that it was down 36 percent from the
25 one year ago six-week average. Initial claims averaged

1 19,175 for the six weeks ending July 10th. That was
2 about 18 percent below the one year ago six-week
3 average. Continued claims averaged 207,440 for the six
4 weeks ending July 10th, and that was about 20 -- almost
5 29 percent below that same time period a year ago.

6 Mr. Chairman, that concludes my remarks.
7 Do you have questions or comments?

8 CHAIRMAN PAUKEN: Well, what would be
9 the -- kind of the drop-dead date? I mean, Congress
10 hasn't yet decided whether to extend the no-interest
11 loan provision. Clearly they are going to want to get
12 out of D.C. with an election year there I assume some
13 time in October. And my understanding is there are 35
14 or 36 states in the same category we're in, but we're
15 getting these no-interest loans to get some of our money
16 back. How -- you know, what's our kind of drop-dead
17 period of time in terms of going to the bond market as
18 opposed to rolling it over for another year if Congress
19 extends this particular provision, which obviously is
20 less expensive to the taxpayers of the state of Texas
21 and the employers?

22 MR. TOWNSEND: Yes, sir. The plan was to
23 come around to each of your offices within probably the
24 next week or so and go over the options we have and
25 discussing the timeline we're looking at. And we've had

1 some preliminary discussions with the public finance
2 authority within that timeline as far as the dates.
3 We're probably looking, you know, somewhere in the
4 October/November time frame as far as me, you know,
5 having some idea where we stand, but there might be --

6 CHAIRMAN PAUKEN: In terms of pulling the
7 trigger?

8 MR. TOWNSEND: In terms of trying --
9 looking, you know, for the future bond sale and that
10 sort of thing.

11 CHAIRMAN PAUKEN: Uh-huh.

12 MR. TOWNSEND: And we'd have to -- we
13 might be able to refine that -- you know, fine-tune that
14 date a little bit better.

15 CHAIRMAN PAUKEN: So in other words, we
16 may be able to wait long enough for Congress to -- if
17 Congress decides to take any action?

18 MR. TOWNSEND: We definitely want to wait
19 as long as we possibly can and -- to make that final
20 decision. But, yes, sir, we can -- we can discuss those
21 options as far as how long we would want to wait
22 exactly, and we might have a little bit of flexibility
23 there.

24 COMM. CONGLETON: If we wait -- do we have
25 a problem if we waited til like mid-November?

1 MR. TOWNSEND: We probably would want to
2 have some discussion with the public finance authority
3 because I'm thinking they would -- our bond advises
4 might want us to have a little bit more of a window --
5 have some window as far as when we'd have the actual
6 bond sale occur and that sort of thing. So we probably
7 ought to have a little bit more detailed discussion
8 around that.

9 (Simultaneous discussion)

10 CHAIRMAN PAUKEN: Okay. Are the -- okay.
11 Are the numbers tracking in terms of the weekly numbers?
12 There's no -- I mean, is it tracking in terms of what
13 you predicted as to where --

14 MR. TOWNSEND: Yes.

15 CHAIRMAN PAUKEN: -- we would be?

16 MR. TOWNSEND: Yes, sir. I'm guessing I'm
17 probably -- at this point, I would be saying we're
18 within plus or minus 1 percent of that trust fund
19 balance that we're -- for that outstanding Title 12
20 advanced amount I was talking about.

21 So it's coming -- the good news is it's
22 coming down slightly at this point. I guess -- of
23 course, unfortunately, the news is that we -- our
24 claims -- our payout is still going to be very high
25 compared to two and three years ago. But, yes, we're

1 tracking very close to the estimate at this point.

2 CHAIRMAN PAUKEN: And with regard to the
3 continued claims, any feel for whether it's people --
4 you know, you've got a 28.7 percent drop before a year
5 ago. Is that -- any feel for whether that's because
6 people are getting hired or it's because they are simply
7 exhausting the state benefits or --

8 MR. TOWNSEND: I had looked at that, I
9 think, two months ago now. I haven't really updated
10 that information to see if there's any change at this
11 point. We can certainly go back and do so.

12 CHAIRMAN PAUKEN: No. I'd like to -- I'd
13 like to see what you -- what you have on that.

14 MR. TOWNSEND: Okay. We can do that for
15 you next time.

16 CHAIRMAN PAUKEN: Okay. Thank you,
17 Mr. Townsend. Thanks for -- obviously your analysis has
18 been very good that it's been -- I mean, it's not a
19 pretty picture, but it's good that you've been able to
20 track it and that the numbers reflect what you
21 thought -- where you thought they would be.

22 MR. TOWNSEND: Thank you, sir.

23 AGENDA ITEM NO. 8

24 CHAIRMAN PAUKEN: All right. No. 8,
25 Discussion, Consideration and Possible Action Regarding

1 the Negotiation of Program Year 2010 Performance Measure
2 Targets with the U.S. Department of Labor. Adam
3 Leonard.

4 MR. LEONARD: Good morning, Commissioners.
5 In June, you-all approved a set of recommendations for
6 us to take to the Department of Labor regarding one-stop
7 measures for services to veterans and disabled veterans.
8 And over the last few days, I was able to meet with the
9 Department of Labor. They agreed with the proposals
10 that you approved at that time, and so I'm back to ask
11 you to give final approval for these, and these would
12 set the targets for FY '10 at the levels originally
13 proposed by staff and agreed to with the Department of
14 Labor.

15 CHAIRMAN PAUKEN: All right. Commissioner
16 Alcantar?

17 COMM. ALCANTAR: I have no questions.

18 CHAIRMAN PAUKEN: Commissioner Congleton?

19 COMM. CONGLETON: No questions. I move
20 that we approve the program and veterans targets as
21 discussed.

22 COMM. ALCANTAR: Second.

23 CHAIRMAN PAUKEN: Okay. It's unanimous.

24 AGENDA ITEM NO. 9

25 CHAIRMAN PAUKEN: No. 9, Discussion,

1 Consideration and Possible Action Regarding the
2 Acceptance of Pledges for Fiscal Year 2011 Child Care
3 Matching Funds. It doesn't look like Mr. Garcia. It's
4 Mr. Jones.

5 MR. JONES: Yes, sir. For the record,
6 Larry Jones with Workforce Development. Good morning,
7 Commissioners. We have no pledges for this week.
8 However, this is a placeholder for us, and we'll be
9 keeping it on the agenda for the next several months.

10 CHAIRMAN PAUKEN: Okay. Thank you,
11 Mr. Jones.

12 AGENDA ITEM NO. 10

13 CHAIRMAN PAUKEN: All right, No. 10,
14 Discussion, Consideration and Possible Action Regarding
15 Local Workforce Development Board Maximum Child Care
16 Reimbursement Rates. Nicole Verver.

17 MS. VERVER: Good morning, Chairman
18 Pauken, Commissioners. Nicole Verver, Workforce
19 Development.

20 Today we're bringing forward for
21 discussion a discussion paper on the Board's maximum
22 reimbursement rates for child care. As set fort in the
23 child care rules, Boards are responsible for setting the
24 child care reimbursement rates and are given flexibility
25 to increase these rates. The Board established rates,

1 however, must allow the Board to meet its performance
2 target and also remain within the Board's child care
3 allocation.

4 In the last several years, the average
5 cost of child care has risen, and staff anticipates the
6 costs will continue to rise based on the following
7 factors: Increases in the Temporary Assistance for
8 Needy Families case load have resulted in an increase in
9 the Choices Child Care, which is more expensive because
10 Choices parents are not required to pay a co-pay. Also
11 the increased funds dedicated to the quality improvement
12 activities are anticipated to result in a number of
13 providers who qualify for the enhanced reimbursement
14 rates.

15 With these increases in the FY '11 average
16 number of children served per day target being slightly
17 higher than Fiscal Year '10 target, staff is concerned
18 about the Board's abilities and the state's to meet the
19 FY '11 performance targets.

20 To ensure that the Boards meet targets for
21 the remainder of '10 and '11, staff is recommending that
22 before Boards approve an increase in their maximum
23 reimbursement rates, they must demonstrate to TWC that
24 they can still meet the required expenditure levels and
25 the performance targets.

1 At this time, I'll be glad to answer any
2 questions.

3 CHAIRMAN PAUKEN: Commissioner Alcantar?

4 COMM. ALCANTAR: I have no questions.

5 CHAIRMAN PAUKEN: Commissioner Congleton?

6 COMM. CONGLETON: I move that we approve.

7 CHAIRMAN PAUKEN: Well, could I -- I do
8 have a question. Excuse me. I'm sorry.

9 COMM. CONGLETON: Go ahead.

10 CHAIRMAN PAUKEN: Just a question on this
11 issue for informational purposes. Your proportionate
12 increases in Choices Child Care, which is more expensive
13 because Choices parents are not subject to a parent
14 co-pay requirement, is that federal legislation that
15 does not permit it? Is it state law that does not
16 permit it? Mr. Temple, do you know?

17 MR. TEMPLE: Yes, sir. Why the
18 individuals are in the Choices program, they are
19 unemployed, they are on public assistance, and they are
20 working toward -- generally it's about two months. And
21 then once they get employed, they move into what's
22 called Transitional Child Care, and then they do have a
23 co-pay, but it's a state option, but the individuals are
24 unemployed.

25 CHAIRMAN PAUKEN: When you say it's a

1 state option, to require a co-pay?

2 MR. TEMPLE: Nicole, you can -- on the
3 state option for Choices or any CCDF is a state option
4 of where your co-pay is. Co-pay would be what the
5 sliding scale is, and the Boards set that, but we
6 have -- we have never had a co-pay on the Choices
7 program while they are unemployed and working through
8 that system.

9 MS. VERVER: And the way you determine the
10 co-pay amount for child care, it's based on the family
11 income. And if they are on public or cash assistance,
12 there's no income, they are not employed, and so it
13 would come up to be a zero. There's no income.

14 CHAIRMAN PAUKEN: Okay. Okay. You had a
15 motion, Commissioner Congleton?

16 COMM. CONGLETON: I move that we approve
17 the procedures as discussed with staff.

18 COMM. ALCANTAR: And I would second.

19 CHAIRMAN PAUKEN: Okay. And if you could
20 swing by the office, I'd just like to kind of get a
21 little more information --

22 MS. VERVER: Yes, sir.

23 CHAIRMAN PAUKEN: -- on that issue. Okay.
24 Thank you. Because that's where -- that's where the
25 cost is going up since you have more people who fit into

1 this category.

2 MS. VERVER: Yes, sir.

3 AGENDA ITEM NO. 11

4 CHAIRMAN PAUKEN: All right. Okay.

5 No. 11, is there -- Discussion, Consideration and
6 Possible Action Regarding Deobligation and Reallocation
7 of American Recovery and Reinvestment Act of 2009
8 (Recovery Act) Workforce Investment Act Funds to Local
9 Workforce Development Areas. Reagan Miller.

10 MS. MILLER: Good morning, Chairman,
11 Commissioners. The ARRA WIA funds are not subject to
12 mandatory deobligation unless the Board hasn't met an
13 obligation level. We have, however, been approached by
14 two Boards who have requested a voluntary deobligation
15 of a portion of their dislocated worker funds, South
16 Plains in the amount of 300,000 and North Central for
17 335,000.

18 In reallocating these out under federal
19 law, we are required to reallocate them to the remaining
20 26 Boards based on their relevant proportion. However,
21 we have five Boards that voluntarily requested not to
22 receive any reallocated funds. They feel they have
23 sufficient amounts in their balances right now to meet
24 their needs. So this would be a deobligation from -- a
25 voluntary deobligation from two areas and a voluntary

1 reallocation to 21 workforce development areas.

2 CHAIRMAN PAUKEN: Okay. Commissioner
3 Alcantar?

4 COMM. ALCANTAR: I have no questions.

5 CHAIRMAN PAUKEN: Commissioner Congleton?

6 COMM. CONGLETON: I move that we approve
7 the deobligation and potential redistribution of ARRA
8 funds for WIA dislocated workers in the total amount of
9 635,000 as presented by staff.

10 COMM. ALCANTAR: I would agree.

11 CHAIRMAN PAUKEN: Okay. It's unanimous.

12 AGENDA ITEM NO. 12

13 CHAIRMAN PAUKEN: No. 12, Discussion,
14 Consideration and Possible Action Regarding Workforce
15 Investment Act and Temporary Assistance for Needy
16 Families Statewide Initiatives. Cindy Geisman.

17 MS. GEISMAN: Good morning, Chairman
18 Pauken, Commissioners. This morning we'd like to ask
19 you to consider dedicating funds to expand mentor-based
20 after-school youth robotics programs that target youth
21 in Grades 9 through 12 and engages young people in
22 furthering their education in the fields of science,
23 technology, engineering and math.

24 Mentors and volunteers working with a team
25 of students will design, build and program robots. The

1 mentors and volunteers develop a strategy based on
2 engineering principles, allowing the students to get
3 real-world engineering experience. Student teams will
4 participate in robotics competitions as a part of the
5 program. This gives the students an opportunity to
6 apply math and science concepts in a competitive
7 setting.

8 Staff are recommending that the Commission
9 set aside \$1 million for this effort. We would like to
10 look at our available TANF balances, and if sufficient,
11 fund this initiative with TANF. And if insufficient, we
12 would like to ask your permission to use WIA activity
13 funding.

14 CHAIRMAN PAUKEN: Commissioner Alcantar?

15 COMM. ALCANTAR: I'd just like to thank
16 staff for their hard work in this area, and I'm very
17 excited about it.

18 CHAIRMAN PAUKEN: Commission Congleton?

19 COMM. CONGLETON: I move that we dedicate
20 \$1 million in TANF or WIA funds to fund the after-school
21 robotics initiative.

22 COMM. ALCANTAR: I would second.

23 CHAIRMAN PAUKEN: Okay. It's unanimous.

24 AGENDA ITEM NO. 13

25 CHAIRMAN PAUKEN: No. 13, Discussion,

1 Consideration and Possible Action Regarding Deobligation
2 and Reallocation of Board Allocated Funds Pursuant to
3 40 TAC Sections 800.74 and 800.77. Reagan Miller.

4 MS. MILLER: For the record, Reagan
5 Miller. This is a deobligation of our regularly
6 allocated funds under the Commission rules. We're in
7 our eighth and final month of deobligation, and we have
8 one deobligation of TANF Choices from South Plains in
9 the amount of 206,338. We would recommend that this be
10 deobligated and placed into the Commission reserve at
11 the state level.

12 CHAIRMAN PAUKEN: Okay. Any discussion?

13 COMM. ALCANTAR: No.

14 CHAIRMAN PAUKEN: Commission Congleton, do
15 you have a motion?

16 COMM. CONGLETON: Move that we -- move
17 that TANF Choices funds in the amount of \$206,238 be
18 deobligated from the South Plains Workforce Board as
19 discussed.

20 COMM. ALCANTAR: I would second.

21 CHAIRMAN PAUKEN: Okay. It's unanimous.

22 AGENDA ITEM NO. 14

23 CHAIRMAN PAUKEN: No. 14, Discussion,
24 Consideration and Possible Action Regarding the Texas
25 Back to Work Initiative, Including the Deobligation and

1 Reallocation of Funds and Preparation for the
2 Distribution of Fiscal Year 2011 Funds. Luis Macias.

3 MR. MACIAS: Good morning, Chairman Pauken
4 and Commissioners. For the record, my name is Luis
5 Macias. I'm the coordinator for the Texas Back to Work
6 program.

7 Commissioners, we have before you this
8 morning a couple of items where staff seek your approval
9 as well as to provide you-all with some information on
10 Texas Back to Work. We're about one month away from the
11 end of Fiscal Year '10, and we have a number of Boards
12 who are or will shortly run out of general revenue
13 Rider 31 funds before the end of their contracts. We
14 have also identified a couple of Boards who are
15 significantly underspent in their Rider 31 funds.

16 We are requesting your permission to
17 deobligate two boards in the amounts of \$61,600 and
18 \$69,300 respectively for a total of \$130,900. We're
19 also asking your approval to distribute --

20 CHAIRMAN PAUKEN: Which Boards are those?

21 MR. MACIAS: It's Rural Capital and
22 Permian Basin.

23 CHAIRMAN PAUKEN: All right.

24 MR. MACIAS: We're also asking your
25 approval to distribute an additional \$2,301,000 to 11

1 Boards in order for them to continue enrolling UI
2 claimants in Texas Back to Work in this fiscal year. We
3 will couple funds from the deobligation, should you-all
4 approve, as well as an additional \$2,170,100 that would
5 be transferred from the Fiscal Year '10 Skills
6 Development Fund. Those funds that we would use in this
7 fiscal year would be repaid from the FY '11 Texas Back
8 to Work general revenue appropriation to make the Skills
9 program whole overall.

10 The Boards that we would propose to
11 allocate additional funds would be North Central Texas
12 in the amount of \$326,000; Dallas in the amount of
13 \$677,000; Northeast Texas in the amount of \$86,000; East
14 Texas, \$124,000; Upper Rio Grande, \$423,000; Heart of
15 Texas, \$50,000; Capitol Area \$33,000; Cameron County,
16 \$23,000; Texoma, \$110,000; Central Texas, \$26,000; and
17 Gulf Coast, \$423,000, for a total of \$2,301,000.

18 With this -- I'm sorry. I lost my place,
19 Commissioners. I apologize.

20 Should the Commission approve this
21 allocation of funds, we obviously would go into Fiscal
22 Year '11 with less funds against the \$7.5 million. That
23 would be our second year allocation of funds.

24 In addition, we wanted to advise the
25 Commissioners that on September 30th of this year, the

1 TANF RF funds that comprise the Emergency Contingency
2 Fund that we've been using, those federal dollars that
3 we've been using to fund Texas Back to Work services for
4 individuals with families, we hit the point in time
5 where should an individual complete their entire
6 four-month stint, we can only pay using the federal
7 money through September 30th. After that, we would have
8 to use state funds to make up the difference, assuming
9 that in all cases they complete to the end of the
10 four-month period.

11 We estimate right now -- and this is just
12 based on encumbrances, Commissioners, that that would be
13 an additional \$2,549,940. So you take the 2.1 million
14 that we would bring forward from Fiscal '11 and this
15 2.5, it reduces the amount of funds that we would have
16 available to distribute in Fiscal Year '11, roughly
17 about \$2.6 million.

18 We wanted you-all to be aware of this
19 because we estimate right now that the program will
20 start to wind down about February or March of next year.
21 We plan to bring forward the Fiscal Year '11
22 distribution to you-all in October. We want to see what
23 we likely will need in terms of dollars to cover the ECF
24 costs, and then obviously distribute the rest to the
25 Boards. The other goal we have is obviously to try to

1 bring the program to a close at about the same time in
2 February or March.

3 So one of the things we're asking,
4 Commissioners, is we want to make a fine-tuning
5 redistribution of funds based on demand probably in late
6 January, and we want to wait to have as much data as we
7 have and then take that action so that we can
8 essentially try to level out the Boards so that they --
9 essentially we've been using the phrase, land all 28
10 planes at the same time.

11 And so what we'd like to do is ask your
12 permission now to allow us to make that fine-tuning
13 distribution probably in late January. We would, of
14 course, brief you-all, show you the amounts that you
15 could see what we're trying to do, but not bring it
16 forward as an action since that process takes a little
17 bit of time, about three weeks, and we're just trying to
18 hold off till the very end to try to make that happen.

19 So, Commissioners, the action items that I
20 have for you-all are, of course, the deobligation, the
21 additional distribution of funds as I laid out, and then
22 your permission to do this fine-tuning distribution
23 probably in late January. I can answer any questions.

24 CHAIRMAN PAUKEN: Commissioner Alcantar?

25 COMM. ALCANTAR: Luis, in terms of the

1 deobligated amounts, the Boards are good with the
2 numbers. It's not going to slow down what they're doing
3 at all?

4 (Simultaneous discussion)

5 MR. MACIAS: In every case -- in every
6 case, Commissioner, whether it was going to be
7 additional funds or reduced funds, the Boards were
8 apprised, and they agreed.

9 COMM. ALCANTAR: And it reflects their
10 latest activity and --

11 MR. MACIAS: Yes, sir; yes, sir.

12 COMM. ALCANTAR: Okay. Thank you.

13 CHAIRMAN PAUKEN: Okay. Is there a
14 motion, Commissioner Congleton?

15 COMM. CONGLETON: I move that we
16 deobligate \$130,900 from Permian Basin and Rural Capital
17 to discuss and redistribute it to the other Boards. I
18 also move that we transfer \$2,172,100 from Skills
19 Development to provide additional funding for the
20 initiative through the rest of FY '10 and we give staff
21 the latitude to adjust the FY '11 distributions as
22 better data becomes available.

23 COMM. ALCANTAR: I would second.

24 CHAIRMAN PAUKEN: Okay. It's unanimous.

25 MR. MACIAS: Thank you, Commissioners.

1 CHAIRMAN PAUKEN: Thank you.

2 AGENDA ITEM NO. 15

3 CHAIRMAN PAUKEN: Okay. No. 15,
4 Discussion, Consideration and Possible Action Regarding
5 a Policy Concept Concerning Amendments to Rules Relating
6 to Career Schools and Colleges.

7 MS. BINGLE: Good morning, Chairman Pauken
8 and Commissioners. I'm Catherine Bingle with the
9 Workforce Development Division to present for your
10 consideration a policy concept concerning amendments to
11 the Texas Administrative Code Chapter 807, which governs
12 the regulation of Career Schools and Colleges.

13 If the recommendations in this policy
14 concept are approved, we plan to propose the rule
15 amendments outlined within along with rule amendments
16 outlined in a prior policy concept approved by the
17 Commission in 2009. These proposed rule changes are
18 scheduled to become before the Commission for approval
19 in August 2010.

20 We would like to recommend amendments on
21 two issues detailed in the policy concept paper in the
22 Commission meeting notebook. To summarize very briefly,
23 the first set of recommendations outlines clarifications
24 that adapt to changes to the Texas Higher Education
25 Coordinating Board rules, which allow the Board to

1 authorize some Career Schools and Colleges to offer
2 bachelors or higher level degrees.

3 As a result, some Career Schools and
4 Colleges can apply to TWC for the statutory exemption
5 from regulation for schools which offer bachelors or
6 higher level degrees and can demonstrate that a majority
7 of their credits are transferable to a public higher
8 education institution.

9 Staff is recommending that Career Schools
10 rules be amended to clarify the exemption criteria that
11 will ensure that schools granted this exemption are
12 currently licensed by TWC, are in good standing with a
13 recognized school accreditor, are authorized by the
14 Texas Higher Education Coordinating Board to grant
15 bachelors or higher level degrees, and can demonstrate
16 that at least a simple majority of credits in its degree
17 programs are transferable to an equivalent level degree
18 program at a public institution of higher education
19 located in the same service area as the offered program.

20 The second set of recommendations concerns
21 the requirement that licensed Career Schools and
22 Colleges post on school grounds and on their website
23 specific information that will inform students about the
24 regulation of their school and about the grievance
25 processes available to students when they have problems

1 with their school.

2 And that concludes my summary. I look
3 forward to your feedback.

4 CHAIRMAN PAUKEN: Commissioner Alcantar?

5 COMM. ALCANTAR: I have no questions.

6 CHAIRMAN PAUKEN: Commissioner Congleton?

7 COMM. CONGLETON: The posting requirement
8 in Issue 2 is a good idea. Issue 1 concerns me. I'm
9 not sure that less oversight of Career Schools is what
10 we need right now.

11 That said, the proposal complies with the
12 law as written by the Legislature. I think staff has
13 done a good job with what they had to work for, and I
14 thank you for that work. And I move that we approve the
15 policy concept for amendments to Chapter 807, Schools
16 and Colleges rules, as discussed.

17 COMM. ALCANTAR: I would second.

18 CHAIRMAN PAUKEN: Okay. It's unanimous.
19 Thank you, Catherine.

20 MS. BINGLE: Thank you very much.

21 AGENDA ITEM NO. 16

22 CHAIRMAN PAUKEN: No. 16, Discussion,
23 Consideration and Possible Action Regarding Adoption of
24 Emergency Rules Relating to the Coordination of
25 Emergency Unemployment Compensation with Regular

1 Compensation. Is there anything on that? Nothing on
2 that today.

3 AGENDA ITEM NO. 17

4 CHAIRMAN PAUKEN: Is there anything on
5 Item 17?

6 MS. MILLER: Yes.

7 CHAIRMAN PAUKEN: Okay. Discussion,
8 Consideration and Possible Action Regarding Additional
9 Funding for the Unemployment Insurance Reemployment
10 Assessment Project to Supplement Funds Received from the
11 U.S. Department of Labor. Reagan Miller.

12 MS. MILLER: For the record, Reagan
13 Miller. Earlier this year, we applied at the Department
14 of Labor for Unemployment Insurance, Reemployment and
15 Eligibility Assistance grants, called UI REA. Our
16 request totaled 1.6 million and reflects requests from
17 five Boards to continue providing these services and for
18 six new Boards to begin.

19 DOL awarded Texas 1.3 million, which is
20 \$283,850 short of our full request. So today we're
21 asking that the Commission approve 283,850 from the UI
22 Special Administrative Fund to fully fund the UI REA
23 initiative.

24 CHAIRMAN PAUKEN: Commissioner Alcantar?

25 COMM. ALCANTAR: I have no questions.

1 CHAIRMAN PAUKEN: Commissioner Congleton?

2 COMM. CONGLETON: I move that we commit
3 \$283,850 of the UI Administrative Fund to fully fund UI
4 REA as recommended by the staff.

5 COMM. ALCANTAR: I would agree.

6 CHAIRMAN PAUKEN: It's unanimous.

7 AGENDA ITEM NO. 18

8 CHAIRMAN PAUKEN: Discussion,
9 Consideration and Possible Action Regarding Proposed
10 Workforce Investment Waiver Related to On-The-Job
11 Training. Reagan Miller.

12 MS. MILLER: Thank you, Commissioner. If
13 we could also take up Agenda Item 19 at the same time?

14 CHAIRMAN PAUKEN: That would be fine.

15 AGENDA ITEM NO. 19

16 CHAIRMAN PAUKEN: Agenda Item 19 is
17 Discussion, Consideration and Possible Action Regarding
18 Proposed Workforce Investment Act Waiver Related to
19 Workforce Investment Act Fund Redistribution.

20 MS. MILLER: For your consideration today,
21 we do have two proposed WIA waivers. The on-the-job
22 training waiver would ask DOL to waive the statutory
23 requirement of a 50 percent reimbursement rate for
24 employers and instead substitute a sliding scale rate,
25 which is based on the size of the employer. As drafted,

1 up to 90 percent of the wages would be paid for small
2 employers that have 50 or fewer employees; 75 percent
3 for employers with 51 to 250 employees; and employers
4 that had 251 plus would continue to be subject to the
5 50 percent reimbursement rate.

6 On the second waiver, the Commission is
7 requesting that DOL waive the statutory requirements
8 associated with redistributing funds among the local
9 workforce development areas. This waiver would allow
10 the Commission to redistribute funds in accordance with
11 the Commission rules that currently govern other
12 allocated funds to Boards and allow the Commission to
13 consider a Board's performance and their ability to
14 effectively design and deliver services for low-income
15 and hard-to-serve individuals.

16 And with your approval, we would post
17 these for public comment. Are there any questions or
18 comments?

19 CHAIRMAN PAUKEN: Commission Alcantar?

20 COMM. ALCANTAR: I do have a couple of
21 questions. On the OJT waiver request, I'm looking at
22 the sliding scale that's proposed here, and I'm
23 wondering if -- well, there's two things. I'm not sure
24 that I'm comfortable with having this arbitrary third
25 scale for 50 or fewer employees working for you compared

1 to if you have 55, say. If you decided to go ahead and
2 bring on some new people so you're now at 55 and if
3 you're participating, your OJT will be reimbursed at
4 75 percent as opposed to the 90 percent. And then
5 couple that with my understanding of the flexibility
6 that we give in terms of duration in terms of how long
7 these individuals can be in OJT, I'd feel more
8 comfortable if we had two scales, one that aligned in
9 terms of small businesses with what we're doing with
10 Skills in -- what is that, Reagan?

11 MS. MILLER: A hundred or less.

12 COMM. ALCANTAR: A hundred or less. And
13 then so if we're going to do scales, I'd be a little
14 more comfortable, frankly, Commissioners, if we only had
15 two and -- as opposed to three. And I would prefer to
16 limit it to 75 with the understanding that, you know, we
17 do provide great flexibility in terms of how long these
18 individuals can participate in OJT, and we really are
19 silent on the wages. So that's my one thing that I
20 would ask you guys to consider.

21 COMM. CONGLETON: How long are these
22 people allowed to stay in this OJT?

23 MS. MILLER: There's no -- there's no
24 limit. Generally speaking, it's between two to six
25 months.

1 COMM. CONGLETON: Two to six months. And
2 you want two, 50 and 75, regardless of the number?

3 COMM. ALCANTAR: Well, staff is proposing
4 for 50 or fewer employees, 90 percent, and for 51 to 250
5 that we allow reimbursement at 75 percent. I'd rather
6 have consistency with our -- with our Skills initiative
7 and go with the 100 employee threshold at 75 percent and
8 leave it at 50 percent for everyone above that.

9 COMM. CONGLETON: I can live with that. I
10 don't have a problem with that. I normally oppose
11 subsidized work, but this -- I don't want to balance the
12 budget on the backs of the low-income workers. So I
13 would be forced to vote for that.

14 CHAIRMAN PAUKEN: Would you object to a
15 sliding scale, or is that just too hard to administer?

16 COMM. ALCANTAR: Yeah, that's -- I thought
17 about that, but I think in terms of promoting it and so
18 forth it's really hard to advise employers in terms of
19 what it is we're out there promoting. And I think,
20 two -- and I think that's the simplicity in two rather
21 than three also helps.

22 CHAIRMAN PAUKEN: Well, here is my
23 concern. You know, a lot of the programs here wind
24 up -- the larger companies are aware of them and the
25 smaller companies aren't. And, you know, if we want to

1 encourage small businesses -- I mean, I'm looking at the
2 numbers. I just saw an NFIB report that small
3 businesses anticipate hiring in a foreseeable future
4 roughly 1 percent of an increase in job creation.
5 That's pretty scary.

6 I just don't have a problem with giving,
7 if you will, additional incentives to the -- for the
8 smaller companies because in effect what you're doing is
9 you're -- under your proposal at 75 percent for a
10 hundred and under and then 50 percent for above that.

11 COMM. ALCANTAR: Yeah, currently it's
12 50 percent for everyone. And under the amendment that
13 I'm proposing, we're still increasing the contribution
14 for everyone under a hundred. I don't mind raising it
15 to 200 or to 250, if that's what you're thinking. I'm
16 very comfortable with that. But the issue I have is I
17 consider an employer with 52 workers to be small.

18 CHAIRMAN PAUKEN: Yeah, right.

19 COMM. ALCANTAR: And there's not much
20 difference in my mind between somebody who has 55 and
21 45. And to reimburse 90 percent for one and 75 percent
22 for the other, I find that rather arbitrary, and it
23 still gets kind of subjective and arbitrary at the end
24 of the day. But is the -- are you proposing a higher
25 employee limit like 200 or 250?

1 CHAIRMAN PAUKEN: Yeah, I would either --
2 I either would like to see us keep what they are
3 proposing or alternatively make it -- make the dividing
4 line 250 employees.

5 COMM. ALCANTAR: I'm very comfortable with
6 that.

7 CHAIRMAN PAUKEN: Okay. So it will be 75
8 percent for 250 or lower and then 50 percent for those
9 with 251 or more?

10 COMM. ALCANTAR: Yeah, I think they are
11 very similar in class, and I think they should be
12 treated the same. And the only problem I had was the
13 difference between, you know, the 50 -- the 50 employee
14 limit going from 90 to 75 because I thought that was
15 kind of hard to explain and to promote.

16 CHAIRMAN PAUKEN: Okay. Well, I'm
17 comfortable with 75 percent at the 250 cutoff.

18 COMM. ALCANTAR: Great. I would agree
19 with that.

20 CHAIRMAN PAUKEN: Is that agreeable with
21 you, Commissioner Congleton?

22 COMM. CONGLETON: None of it is agreeable
23 with me, but I'm going to vote for it anyway.

24 CHAIRMAN PAUKEN: Oh, okay. All right.

25 (Laughter)

1 MS. MILLER: We'll post this for public
2 comment.

3 CHAIRMAN PAUKEN: Okay.

4 MS. MILLER: Thank you.

5 AGENDA ITEM NO. 20

6 CHAIRMAN PAUKEN: All right. Let me go to
7 Mr. Fuller. No. 20, Discussion, Consideration and
8 Possible Action Regarding Approval of Local Workforce
9 Development Board Nominees. Mr. Fuller.

10 MR. FULLER: Good morning, Chairman,
11 Commissioners, Mr. Temple. Before you today you have
12 nominees from six Board areas. However, before we move
13 on them, I would like to ask to delay consideration of
14 the nominee from Cameron County until the next full
15 Board meeting of the Commission. This is in line with
16 the procedures we have, and that's agreed upon by the
17 Commission.

18 CHAIRMAN PAUKEN: All right. That would
19 be fine. Is there -- the remainder looked fine to me.
20 Are there any comments one way or another? Is there a
21 motion?

22 COMM. CONGLETON: I move that we approve
23 the Board nominees from Capital Area, Permian Basin,
24 Southeast Texas, Cameron County, South Plains, Upper Rio
25 Grande workforce Development Boards with the one

1 exception.

2 CHAIRMAN PAUKEN: Okay. All right.

3 Second?

4 COMM. ALCANTAR: I would second.

5 CHAIRMAN PAUKEN: Then it's unanimous.

6 Thank you, Mr. Fuller.

7 MR. FULLER: Thank you, sir.

8 AGENDA ITEM NO. 21

9 Discussion, Consideration and Possible
10 Action Regarding Enacted, Proposed or Considered Federal
11 Regulations, Executive Orders, or Federal State Enacted
12 or Proposed Legislation.

13 CHAIRMAN PAUKEN: Mr. McCarty, I
14 understand no report from you.

15 AGENDA ITEM NO. 22

16 Report and Update by the Executive
17 Director and Staff Regarding Administrative Matters,
18 Including Internal Policies and Procedures, Customer and
19 Board Service Issues, Status of Project Assignments,
20 Organizational Matters of the Agency's Division.

21 CHAIRMAN PAUKEN: Mr. Temple, any report
22 from you?

23 MR. TEMPLE: Yes, sir. Commissioners,
24 Varshna Jackson is going to give us --

25 MS. MILLER: Reagan.

1 MR. TEMPLE: Oh, Reagan is going to give
2 us an update.

3 I would -- on the Texas Back to Work, I
4 really want to thank the Boards for keeping us up to
5 date on where they are and what they are doing in their
6 efforts and staff for keeping up because it's a weekly
7 drill to know where we are so that, as Luis has said,
8 trying to keep -- get all the planes landed at the same
9 time.

10 MS. MILLER: Commissioners, Reagan Miller
11 for the record. You have a document that outlines
12 National Emergency Grants, NEGs, that we currently have
13 from the Department of Labor. We just wanted to give
14 you a brief update because we have quite a few of these
15 right now. So I'll highlight those, and the details are
16 in the paper.

17 We have four active NEGs totaling just
18 over 18 million. We have our BRAC NEG, that's a
19 \$10 million grant. We've had that one since 2005. We
20 have a Central Texas Multi-Company NEG, we often call
21 that the Alcoa NEG, for about 2.2 million. We began
22 that in January of this year. We have the East Texas
23 Multi-Company Layoff NEG for about 2.5 million, which
24 started in June. And also an on-the-job training NEG
25 for about 3.5 million, and again, that started in June.

1 We have one that's pending with DOL. That's for the
2 Gulf Coast/NASA related layoffs, and that request is
3 about 5.3 million.

4 And we're also working on a supplemental
5 BRAC request. We are now focusing on direct service
6 delivery for those BRAC sites, and we're working with
7 the Boards and we could be requesting up to \$6 million.
8 As we finalize that, we'll let you know exactly how much
9 money we'll be requesting.

10 All of the details are there in the
11 document, and we'd be happy to answer any questions that
12 you have.

13 CHAIRMAN PAUKEN: Commissioner Congleton?

14 COMM. CONGLETON: No questions.

15 CHAIRMAN PAUKEN: Commissioner Alcantar?

16 COMM. ALCANTAR: I have no questions.

17 MS. MILLER: Thank you.

18 CHAIRMAN PAUKEN: Okay. Thank you.

19 Anything else?

20 MR. TEMPLE: That's all.

21 AGENDA ITEM NO. 23

22 CHAIRMAN PAUKEN: Okay. There's no

23 Executive Session this week --

24 MR. JONES: No.

25 CHAIRMAN PAUKEN: -- is there Mr. Jones?

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AGENDA ITEM NO. 25

CHAIRMAN PAUKEN: Is there a motion to
adjourn?

COMM. CONGLETON: So made.

COMM. ALCANTAR: Second.

CHAIRMAN PAUKEN: Okay. It's unanimous.

(Proceedings concluded at 10:35 a.m.)

