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

2 TUESDAY, NOVEMBER 10, 2009

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Okay. Good morning.

6 The meeting will now be called to order.

7 And before I turn the meeting over to
8 Commissioner Alcantar, I do want to thank my fellow
9 Commissioners and the staff for the beautiful flowers
10 they sent and also my apologies for the fact that we
11 had to cancel the meeting last Tuesday. My -- my dad
12 had died the Sunday before, and he was ready at the
13 age of 93. But I do appreciate all of the condolences
14 sent by my fellow Commissioners and staff.

15 And now, with that, let me turn the
16 meeting over to Commissioner Alcantar to preside over
17 that portion of the meeting involving Agenda Items 2
18 through 5.

19 AGENDA ITEM NO. 2

20 Discussion, Consideration and Possible
21 Action Regarding Whether to Assume Continuing
22 Jurisdiction on Unemployment Compensation Cases, Wage
23 Claim Cases, and/or Tax Liability Cases and
24 Reconsideration of Unemployment Compensation Cases,
25 Wage Claim Cases, and/or Tax Liability Cases, if Any

1 No discussion.

2 AGENDA ITEM NO. 3

3 Discussion, Consideration and Possible
4 Action Regarding Tax Liability Cases Listed on the
5 Texas Workforce Commission Dockets 44 and 45

6 The Commission considered and took
7 action on all Tax Liability Cases listed on Dockets 44
8 and 45.

9 AGENDA ITEM NO. 4

10 Discussion, Consideration and Possible
11 Action Regarding Higher Level Appeals in Wage Claim
12 Cases listed on the Texas Workforce Commission
13 Dockets 44 and 45

14 The Commission considered and took
15 action on all Wage Claim Cases listed on Dockets 44
16 and 45.

17 AGENDA ITEM NO. 5

18 Discussion, Consideration and Possible
19 Action Regarding Higher Level Appeals in Unemployment
20 Compensation Cases Listed on the Texas Workforce
21 Commission Dockets 44 and 45

22 The Commission considered and took
23 action on all Unemployment Compensation Cases listed
24 on Dockets 44 and 45.

25 (The Commission paused, then continued

1 with the remainder of the agenda.)

2 CHAIRMAN PAUKEN: Is everybody ready?

3 AGENDA ITEM NO. 6

4 CHAIRMAN PAUKEN: Mr. Jones -- what
5 happened to Mr. Jones? I thought I saw him just a
6 minute ago. Did he sneak back out?

7 MR. PAUL N. JONES: No one is
8 registered.

9 CHAIRMAN PAUKEN: No public comment?
10 Okay. Thank you.

11 AGENDA ITEM NO. 7

12 CHAIRMAN PAUKEN: Okay. Item 7,
13 discussion, consideration, and possible action
14 regarding the acceptance of pledges for Fiscal Year
15 2010 Child Care Matching funds, Mr. Garcia.

16 MR. GARCIA: Good morning,
17 Commissioners, Chairman Pauken; Juan Garcia with
18 Workforce Development.

19 This morning we have for your approval
20 local match pledges as follows: \$361,832 in cash
21 donations and transfers from the Concho Valley Board
22 and the Capital Area Board, and \$3,023,755 in
23 certifications of expense from North Central Texas,
24 East Texas, Permian Basin, Concho Valley, Capital
25 Area, South East Texas, Central Texas, and the Middle

1 Rio Grande Board. The total combined amount for your
2 approval this morning is \$3,385,587.

3 Any questions?

4 CHAIRMAN PAUKEN: Commissioner Alcantar.

5 COMM. ALCANTAR: No questions or
6 comments.

7 CHAIRMAN PAUKEN: Commissioner
8 Congleton.

9 COMM. CONGLETON: I have no questions,
10 and I move that we accept the Child Care Pledges for
11 Fiscal Year 2010 Child Care Matching funds in the
12 amount of \$3,385,587 as discussed by staff.

13 CHAIRMAN PAUKEN: Is there --

14 COMM. ALCANTAR: Second.

15 CHAIRMAN PAUKEN: It's unanimous. Thank
16 you, Mr. Garcia.

17 MR. GARCIA: Thank you.

18 AGENDA ITEM NO. 8

19 CHAIRMAN PAUKEN: Okay. Item 8,
20 discussion, consideration, and possible action
21 regarding the Texas Workforce Commission Fiscal Year
22 2010 Itemized Operating Budget, Mr. Crump.

23 MR. CRUMP: Good morning, Commissioners.

24 And for the record, Gene Crump, Deputy Executive
25 Director, and with me today is David Nesenholtz.

1 David and I are presenting for your consideration the
2 Fiscal Year 2010 Itemized Operating Budget, which we
3 will refer to as the IOB, and the materials are
4 located behind Tab 8 in your notebook.

5 The IOB is required by the General
6 Appropriations Act, Article IX, Section 7.01 and must
7 be filed with the Governor, the LBB, the Comptroller,
8 and the Legislative Reference Library by December 1st.
9 As we have done in past years, my presentation today
10 will focus on the significant changes to the Fiscal
11 Year Budget that have occurred since the Commission
12 approved the agency's 2010 Operating Budget on August
13 18th.

14 If you would refer to the exhibit
15 labeled IOB-1, which is located behind the Commission
16 Order, as we individually briefed your offices, there
17 are basically three changes being submitted for
18 Commission consideration, and the changes are depicted
19 in the column noted as "2010 Change."

20 In Strategy A.1.1, the Workforce
21 Investment Act, staff recommends reducing the strategy
22 amount by 1.484 million. The reduction is a
23 combination of 1.1 million in Appropriated Receipts
24 and \$346,000 in WIA Rapid Response dollars. The
25 Appropriated Receipts reduction is a result of how we

1 will handle working with our board partners on joint
2 improvements to agency-owned buildings. The 346,000
3 reduction is the result of reconciling available WIA
4 dollars.

5 Additionally, staff recommends moving \$2
6 million that funds a million dollar contract at TEA
7 and a million dollar contract to HHSC for the 2-1-1
8 contract from the At-Risk Child Care strategy to the
9 Child Care Administration strategy, essentially moving
10 contract dollars out of a Direct Care strategy so the
11 net effect there is zero.

12 And, finally, in the three Unemployment
13 Insurance strategies we're increasing the budgets to
14 reflect the Supplemental Budget Requests that were
15 approved by U.S. DOL and received by the Commission in
16 late September. These increases support both capital
17 and noncapital projects.

18 So, the overall net effect to the IOB is
19 a \$1.4 million increase you see at the bottom of the
20 page. The remaining pages depict how the 1.4 million
21 increase is reflected in the methods of finance, the
22 objects of expense, and the individual departmental
23 budgets. With that, staff would be seeking your
24 approval of the changes, and I have a Commission Order
25 for your signature immediately after the meeting if

1 the changes are approved.

2 That concludes my prepared remarks, and
3 we are available for any questions you may have.

4 CHAIRMAN PAUKEN: Commissioner
5 Congleton.

6 COMM. CONGLETON: I have no questions.

7 CHAIRMAN PAUKEN: Commissioner Alcantar.

8 COMM. ALCANTAR: I understand and
9 endorse the staff-recommended adjustments.

10 CHAIRMAN PAUKEN: Okay. Is there a
11 motion?

12 COMM. CONGLETON: Move that adopt the
13 Minute Order authorizing the two -- 2010 Operating
14 Budget in the amount of \$1,158,006,740 as presented by
15 staff. Mr. Temple is hereby authorized to make
16 spending adjustments in accordance with SB 1 as may be
17 necessary.

18 CHAIRMAN PAUKEN: Is there a second?

19 COMM. ALCANTAR: I would second.

20 CHAIRMAN PAUKEN: It's unanimous. All
21 right.

22 MR. CRUMP: Thank you, Commissioners.

23 AGENDA ITEM NO. 9

24 CHAIRMAN PAUKEN: All right. No. 9,
25 discussion, consideration, and possible action

1 regarding Section 204.067 of the Texas Unemployment
2 Compensation Act as it relates to the deficit tax,
3 again, Mr. Crump and Steve Riley.

4 MR. CRUMP: Thank you, Commissioners.
5 Commissioners, as you testified during
6 the session, the Commission's goal of ensuring the
7 solvency of the Unemployment Compensation fund
8 involves balancing several tools authorized in
9 legislation that include debt financing, involving
10 both Title 12 advances, which are currently interest
11 free through December 2010, and the ability to sell
12 bonds in the private sector. Plus, for the first
13 time, the authority provided in the Labor Code under
14 Section 204 dash 0 -- .067 to adjust the deficit
15 assessment when the Trust Fund has fallen below the
16 statutory floor.

17 As has been briefed individually, staff
18 developed alternatives to assist you in assessing the
19 opportunities that use a mix of the statutory tools
20 provided. The scenarios range from no intervention by
21 the Commission, which would create the highest tax
22 rate, to more well-reasoned approaches of taking full
23 advantage of the current interest-free U.S. DOL
24 advances and combining that with a reduced deficit
25 assessment.

1 Staff recommends the Commission
2 favorably consider an alternative that includes
3 adjusting the deficit ratio downward for Calendar Year
4 2010 by 50 percent, thereby lowering the large spike
5 in tax rates that would have occurred in 2010 without
6 Commission intervention and spreading out the
7 collection over several years, taking full advantage
8 of the free interest loans currently available from
9 U.S. DOL, and then in late spring of Calendar Year
10 2010 reassess the current economic situation and
11 possibly authorizing staff to work with the Texas
12 Public Finance Authority on issuing bonds in the
13 private market place.

14 Regarding the recommendation, as I
15 stated earlier, Section 204.067 of the Texas
16 Unemployment Compensation Act provides the Commission
17 authority to adjust the deficit tax. The sole purpose
18 of the deficit tax is to bring the balance in the
19 Trust Fund back up to the floor. The floor is defined
20 as 1 percent of taxable wages, so for this year
21 approximately 862 million. Average tax rates for 2010
22 are projected to be significantly higher than 2009 due
23 to the high Unemployment Insurance Benefit outlays
24 during the past 12 months.

25 The advantage of the staff

1 recommendation include avoiding large swings in the
2 average taxes paid by employers over the next four
3 years, providing a hedge against a slower economic
4 recovery than the Comptroller's economic forecast, and
5 potentially avoiding a FUTA tax credit loss by all
6 Texas employers. And, most importantly, keeping taxes
7 low, thereby providing capital to the employers who
8 will fuel the economic recovery.

9 In conclusion, staff would ask the
10 Commission to authorize staff to lower the deficit
11 ratio by 50 percent for Calendar Year 2010. That ends
12 my prepared remarks. Steve and I are available to
13 answer any questions you may have.

14 CHAIRMAN PAUKEN: Well, let me begin by
15 congratulating you, Mr. Crump. I know you've been
16 involved in the leadership on this issue at the staff
17 level from the beginning when we knew that the
18 national economic hurricane had hit our shores, as
19 well, and that we had significant problems with regard
20 to what we needed to do. And I think you have -- you
21 and your staff are to be congratulated for laying out
22 the different alternatives, letting the Commissioners
23 know of the potential impact, and I think particularly
24 your recommendation is very sound with respect to what
25 we had called Alternative 3.

1 Number one, if we -- if we did nothing,
2 all of a sudden our Texas employers are going to be
3 hit with a -- a huge increase next year. And that's
4 the last thing they need. This also -- what I like
5 about this is it -- it also takes into account that,
6 you know, what happens if we don't get out of this
7 national recession as quickly as some of the so-called
8 experts are -- you made reference to the Comptroller's
9 office. You know, their figure, initially, was it was
10 going to be 7 percent unemployment for the year and by
11 middle of the year everything was going to be
12 positive. And our own Labor Market economists, I
13 think, were much closer to the mark; unfortunately,
14 it's even higher.

15 But when they said 8 percent was what
16 they anticipated in terms of unemployment for Texas
17 this year, in light of the recent figures at the
18 national level of 10.2 percent going higher from the
19 previous situation, we tend to track the national
20 figures. So, clearly, this is not a situation that's
21 turning around in terms of people who are out looking
22 for work.

23 And I look every week at the initial
24 claims and the continued claims. And even in initial
25 claims, which were trending down -- downward, all of a

1 sudden they're back up a little bit. And continued
2 claims, which is those people who are out of work for
3 two weeks or more, continues to be a high level, which
4 again suggests that companies have cut costs in -- in
5 order to survive or to be -- remain profitable, but
6 they're not yet in the mood to hire again.

7 So, I think this whole approach of --
8 of, A, as much as possible, in effect, getting some of
9 our money back with interest-free borrowing from U.S.
10 DOL through the end of next year, a preparation for a
11 bond, which would hopefully be at a -- a tax exempt to
12 a great extent, if not the full extent, next year,
13 again, towards the end of next year to -- to spread
14 out, if you will, the pain over a period of time, and
15 the recommendation of the -- of Alternative 3, which
16 is the 50 percent deficit, I -- I think makes sense.

17 I would add Will Newton of the National
18 Federation of Independent Business could not be here,
19 but he asked that when this matter was being discussed
20 that his letter be read in part, at least. And -- and
21 I'll -- I'll submit the letter for the record, but he
22 is also asking that we vote for the alternative, which
23 in his view -- and I think the view of -- I -- the
24 view reflected by staff would provide the most
25 stability to small business owners and this would set

1 the most stable tax rate over a -- a period of years.

2 So, I'll -- here's what his letter says:

3 "On behalf of our small business members, we urge your
4 support of a tax rate that will do the least harm to
5 Texas job creators and support a tax rate that's easy
6 to plan for and does not spike in future years as
7 Texas businesses begin rebuilding for the future. We
8 also ask that you alert employers of the new rate as
9 soon as possible so that they may anticipate payments
10 as they budget for next year and beyond."

11 And I think, Mr. Crump, that's what you
12 and your staff have done to a very good extent, come
13 up with that type of approach for our businesses.

14 Commissioner Alcantar.

15 COMM. ALCANTAR: I want to also thank
16 Gene and -- and staff for all the work they've put
17 into putting the various options together. I think
18 it's been a very deliberate process, and -- and I
19 really appreciate the -- the amount of detail that
20 went into that work.

21 I've assessed the alternatives and
22 endorsed staffs' recommendation as the best use of the
23 financing tools available to us in bringing the Trust
24 Fund to solvency. It does take full advantage of the
25 interest-free loans currently available to us. It

1 includes working with TPFA in exercising the
2 (inaudible) and authority previously used by the
3 agency. It does adjust the deficit ratio downward for
4 Calendar Year 2010 by 50 percent, and it does mitigate
5 large swings in employer taxes and continues to
6 provide payment of all benefit claims.

7 CHAIRMAN PAUKEN: Commissioner
8 Congleton.

9 COMM. CONGLETON: Well, because my job
10 is to protect workers and I don't want to see any more
11 laid off, this brings me to a decision I have to make
12 that I would not normally be in agreement with. But
13 as it is, I have to move that we adjust the deficit
14 assessment tax rate for Calendar Year 2010, a 50
15 percent reduction as authorized by the Labor Code,
16 Section 204.067, as discussed.

17 COMM. ALCANTAR: I would second.

18 CHAIRMAN PAUKEN: It's unanimous. Thank
19 you -- thank you, Mr. Crump.

20 MR. CRUMP: Thank you.

21 CHAIRMAN PAUKEN: And I think it is
22 important that we get this information out to Texas
23 employers as quickly as possible.

24 MR. CRUMP: Yes, sir. And,
25 Commissioners, one last comment. Then, our next

1 official UI Trust Fund projection would be scheduled
2 for December the 8th.

3 CHAIRMAN PAUKEN: Okay. Thank you.

4 AGENDA ITEM NO. 10

5 CHAIRMAN PAUKEN: All right.

6 Discussion, consideration, and possible action
7 regarding Temporary Assistance for Needy Families and
8 Workforce Investment Act Statewide Initiatives, Reagan
9 Miller.

10 MS. MILLER: Good morning, Chairman,
11 Commissioners; Reagan Miller with Workforce
12 Development. This morning we have several
13 recommendations regarding WIA and TANF Statewide
14 funds.

15 The first concerns the WIA funds that
16 were previously approved to conduct an On-the-Job
17 Training Program for UI claimants in East Texas. With
18 the Commission's approval of the Rider 31 funds on
19 October 13th, we are recommending that East Texas use
20 those Rider 31 funds to provide UI claimant
21 reemployment services and that any remaining WIA funds
22 be returned to the Statewide Reserve. We'd like to
23 time this so that the existing WIA contract expires at
24 the same time we begin the Rider 31 contract so
25 there's no disruption in services.

1 Next, we're recommending that the
2 Commission provide WIA and TANF funds to continue to
3 support disability navigators on a statewide basis
4 through Board Contract Year '11. This will require a
5 commitment of 1,021,000 half funded with WIA, half
6 funded with TANF.

7 Third is a recommendation to dedicate
8 1.5 million in TANF funds to continue supporting three
9 Foster Youth Transition Centers in El Paso, Beaumont,
10 and Central Texas. These funds will be provided over
11 a two-year period and will allow the centers to
12 continue the youth -- continue serving the youth they
13 already have and serve almost 600 new foster youth as
14 they transition to independence.

15 Next, we're recommending that the
16 Commission approve half a million for a Workforce
17 Literacy Project. These funds will be available to
18 integrate basic literacy and workforce skills
19 training, and this would be in support of the new
20 Interagency Council's work. This was the council that
21 was created by the last legislative session.

22 Fifth is a recommendation that the
23 Commission target 1 million in TANF funds to support
24 educational institutions interested in implementing
25 the first robotics program for -- for youth. Programs

1 will provide mentor-based supervised after-school
2 programs focusing on robotics that will engage youth
3 and help them further their education in science,
4 technology, engineering, and math. The grants will
5 support student teams and mentors to design, build,
6 and program robots and to travel and participate in
7 local competitions.

8 And the last initiative we are proposing
9 is a -- a Subsidized Employment Initiative using 2
10 million in TANF funds. We will request applications
11 from boards who are interested in developing
12 Subsidized Employment Initiatives for either
13 school-age youth as a supervised after-school activity
14 or TANF recipients and other low-income individuals.

15 We're not sure how many boards would be
16 interested in -- in implementing this initiative.
17 Once you receive this application, if the amount of
18 funds requested is 2 million or lower, we'll be able
19 to fully fund all applications. And if the requests
20 exceed 2 million, then we'll need to look at
21 distributing those funds based on those interested
22 boards and the relative proportion of Choices funds
23 that they normally receive.

24 And, with that, we're available to
25 answer any questions.

1 CHAIRMAN PAUKEN: Commissioner
2 Congleton.

3 COMM. CONGLETON: I agree with all these
4 programs, and I -- but I -- I would like to see the
5 Work Literacy Program to include Adult Basic
6 Education. On the Summer Youth Program, I'd like to
7 see that focused more on dropouts. While Summer Youth
8 Programs are excellent, you know, we need to -- to put
9 some money towards a year-round program targeting the
10 youth that are no longer in school. So, I'd like to
11 kind of see if we couldn't bleed some of that
12 together.

13 Other than that, I'm fine.

14 CHAIRMAN PAUKEN: Commissioner Alcantar.

15 COMM. ALCANTAR: Well, I'm really happy
16 to support the continuation of the Disability
17 Navigator. I think it's a best practice that we
18 should really try to sustain moving forward, and it's
19 my hope that we will be able to do that beyond 2011 as
20 reflected by the action.

21 As it relates to the Foster Youth
22 Transition Centers, you know, these are important
23 services to foster care youth. The services provided
24 through these centers make all the difference in the
25 world for these youth that are ages 16 to 24, and the

1 challenges that these foster youth face going out
2 there are pretty significant. So, I really think
3 the -- that these three groups in particular have done
4 a nice job of providing career counseling, assistance
5 with applying to colleges, and other preparatory
6 services. So, I really am enthusiastically endorsing
7 that one.

8 In terms of the Workforce Literacy, I
9 think that -- that it is important that we try to
10 build in skills attainment into the literacy efforts
11 that are out there. I think that's a major
12 shortcoming in the approach nation -- nationwide to
13 adult literacy and the services that are delivered.

14 Relative to the After-School Youth
15 Robotics Initiative, the model that's out there
16 provided through -- through -- through First.org is --
17 is really -- is really a positive one, and we do have
18 70 schools that are participating in the robotics
19 challenge for the seniors and another 63 schools that
20 are -- that have signed up this fall to participate in
21 the Tech Challenge component. And I think the extent
22 to which they involve youth in a very focused strategy
23 or exercise to -- in -- in their exploration of math
24 and science is very positive. The fact that industry
25 is involved, the fact that they can see other peers so

1 strongly involved in skills acquisition and interest
2 generation in the areas of -- in stimulated fields is
3 very positive.

4 So, I'm really happy that the -- that
5 the -- that these dollars will go towards supporting
6 schools in registering to participate in this
7 initiative, because I think it -- it does make -- the
8 reach is pretty significant in terms of the size of
9 the teams that we're able to hit, 10 to 25 students
10 per -- per school that we're able to sponsor. So, I
11 think -- I'm real excited about the possibilities
12 there.

13 And in the area of Subsidized Employment
14 I think anything that we can do to target both
15 in-school and -- and out-of-school youth, those that
16 have dropped out, I think if there's an innovative --
17 innovative way that we could reach both, the bottom
18 line is to -- to get these people -- to get these
19 students involved or these youth involved in these
20 activities, I'm supportive of that also.

21 CHAIRMAN PAUKEN: Okay. Is there a
22 motion?

23 COMM. CONGLETON: I move that we return
24 approximately 3 point -- or 3 hundred and 50 thousand
25 million in WIA to the Statewide Reserve and fund new

1 projects using 7 hundred and 60 --

2 CHAIRMAN PAUKEN: Could you -- the first
3 part of that, Commissioner Congleton, how much --

4 COMM. CONGLETON: Is it 350 million?

5 MS. MILLER: 350,000.

6 COMM. CONGLETON: 350,000 --

7 CHAIRMAN PAUKEN: Okay.

8 COMM. CONGLETON: -- I have a typo -- in
9 the WIA Statewide Reserve and fund new projects using
10 \$760,500 of WIA funds and 5,260,500 TANF funds as
11 discussed.

12 COMM. ALCANTAR: I would second.

13 CHAIRMAN PAUKEN: Okay. It's unanimous.

14 Thank you, Ms. Miller.

15 MS. MILLER: Thank you.

16 AGENDA ITEM NO. 11

17 CHAIRMAN PAUKEN: Okay. Discussion,
18 consideration, and possible action regarding adoption
19 of Calendar Year 2010 penalty rate paid by career
20 schools or colleges for late refunds of student
21 tuition and fees, Catherine Bingle.

22 MS. BINGLE: Chairman Pauken and
23 Commissioners -- Chairman Pauken and Commissioners.
24 I'm Catherine Bingle with the Workforce Development
25 Division, and I present for your consideration the

1 late refund penalty rate to be charged to career
2 schools during Calendar Year 2010.

3 The Texas Education Code requires a
4 career school or college that fails to pay student
5 refunds in a timely manner to pay a penalty. The code
6 also requires that the Texas Workforce Commission
7 annually establish that penalty rate at a level
8 sufficient to act as a deterrent to the late payment
9 of refunds, any penalties paid or paid -- or used
10 first to repay the student's loan or to repay the
11 student, if they paid in cash, and the remaining
12 amounts go to the tuition trust account.

13 The current penalty rate of 250 percent
14 expires on December 31st of this year. This rate has
15 been in place since 1992 and has proven a successful
16 deterrent as demonstrated by the rare incidents of
17 refunds from year to year. Staff, therefore,
18 recommend that effective January 1st the rate continue
19 to be set at 250 percent to ensure that refunds are
20 paid in a timely manner. There is no cost impact of
21 this provision on schools that pay timely refunds as
22 required by law.

23 CHAIRMAN PAUKEN: Commissioner --

24 MS. BINGLE: And I'm happy to answer any
25 questions.

1 CHAIRMAN PAUKEN: Commissioner Alcantar.

2 COMM. ALCANTAR: I have no questions or
3 comments.

4 CHAIRMAN PAUKEN: Commissioner
5 Congleton.

6 COMM. CONGLETON: I have no questions,
7 and I move that the penalty rate for late refunds of
8 students remain at the annual rate of 250 percent as
9 discussed.

10 MS. BINGLE: Thank you very much.

11 COMM. ALCANTAR: I would second.

12 MS. BINGLE: Oops. Sorry.

13 CHAIRMAN PAUKEN: Thank you.

14 MS. BINGLE: Thanks.

15 AGENDA ITEM NO. 12

16 CHAIRMAN PAUKEN: All right. No. 12,
17 discussion, consideration, and possible action
18 regarding Board Contract Year 2009 winners of
19 incentive awards pursuant to 40 TAC 800.106,
20 Mr. Leonard.

21 MR. LEONARD: Good morning. For the
22 record, Adam Leonard, Performance, Analysis, and
23 Reporting. Before you today we are bringing
24 recommendations for the incentive award winners, and
25 these are based on the criteria that you-all selected

1 last fall.

2 Staff went through and looked at current
3 performance, status on these criteria, as well as
4 other factors that might could be considered
5 extenuating circumstances that might require
6 adjustments in some of the awards. We found two such
7 circumstances, which were briefed to your offices last
8 week. And based on that, we would recommend moving
9 forward and having you approve the winners of the
10 awards as briefed last week with the consideration for
11 the two exclusion -- or exceptional circumstances and
12 that we would announce these winners at the conference
13 in December.

14 CHAIRMAN PAUKEN: Okay. Any --

15 COMM. ALCANTAR: No questions or
16 comments.

17 CHAIRMAN PAUKEN: Commissioner
18 Congleton.

19 COMM. CONGLETON: No. Move that we
20 approve the staff recommendation for the winners of
21 the incentive awards for Board Contract Year 2009.

22 COMM. ALCANTAR: I would second.

23 CHAIRMAN PAUKEN: Okay. It's unanimous.

24 AGENDA ITEM NO. 13

25 CHAIRMAN PAUKEN: All right.

1 Mr. Fuller, No. 13, discussion, consideration, and
2 possible action regarding approval of Local Workforce
3 Development Board Nominees.

4 MR. FULLER: Good morning, Chairman
5 Pauken, Commissioner Congleton, Commissioner Alcantar.
6 I'm John Fuller with the Workforce Development
7 Division.

8 Commissioners, before you today we have
9 nominations from Golden Crescent, South Plains, Upper
10 Rio Grande, North East Texas, Cameron County, and East
11 Texas for your consideration and possible approval.

12 CHAIRMAN PAUKEN: Okay. I have no
13 objection to any of the nominees. Any -- how about --
14 Commissioner Alcantar.

15 COMM. ALCANTAR: No questions or
16 comments.

17 CHAIRMAN PAUKEN: Commissioner
18 Congleton.

19 COMM. CONGLETON: Other than the third
20 nominee from East Texas, I move that we approve the
21 nominees of Golden Crescent, South Plains, Upper Rio,
22 Cameron County, and East Texas as presented by staff.

23 CHAIRMAN PAUKEN: Well, is there --
24 is -- so your motion would withhold approval on one of
25 the nominees?

1 COMM. CONGLETON: It would, the third
2 nominees from --

3 (Simultaneous discussion)

4 CHAIRMAN PAUKEN: Is this the -- is this
5 the issue that's come up before?

6 COMM. CONGLETON: No, not that I know
7 of.

8 CHAIRMAN PAUKEN: Okay.

9 COMM. CONGLETON: This -- this is an
10 issue that I just would prefer our private sector
11 nominees to be from companies with good permanent jobs
12 and -- rather than low-paying temporary work.

13 CHAIRMAN PAUKEN: Well, is there --

14 COMM. ALCANTAR: I move that we accept
15 all of the nominees as submitted by staff.

16 CHAIRMAN PAUKEN: Okay. I would -- I
17 would support that. So, it's a 2-1 vote.

18 MR. FULLER: Thank you, sir.

19 CHAIRMAN PAUKEN: All are approved.

20 AGENDA ITEM NO. 14

21 CHAIRMAN PAUKEN: No. 14, discussion,
22 consideration, and possible action regarding enacted,
23 proposed or considered federal regulations, executive
24 orders or federal or state enacted or proposed
25 legislation. I know you have a report, Mr. Lewis, but

1 I -- I want to make sure you cover the latest
2 extension of unemployment benefits and, also, I just
3 have a question. I don't know whether it's
4 appropriate for Mr. -- for you or for Mr. McCarty with
5 regard to how much this -- how much money was funded
6 for this new State Comptroller's so-called Job
7 Training -- or Job Training Initiative.

8 So, however you want to begin your
9 report, and I do want to ask you about that.

10 MR. LEWIS: Sure.

11 Good morning, Commissioners,
12 Mr. Chairman; Jesse Lewis, External Relations. I'll
13 begin with an update on the latest Unemployment
14 Insurance extensions.

15 The President signed into law HR 3548,
16 which amends the Tier 2 Emergency Unemployment
17 Compensation by extending it to 14 weeks instead of
18 13. It also adds a third and fourth tier. The Tier 3
19 benefits would be an additional 13 weeks for all
20 states that qualify for EUC, and Tier 4 benefits would
21 be an additional six weeks for states with a
22 three-month average of unemployment rate of 8.5
23 percent or above.

24 The bill also extends the .2 percent
25 FUTA surtax through the first six months of 2011. All

1 of the Emergency Unemployment Compensation provisions
2 expire December 31st of this year. So, it is likely
3 that sometime between now and the end of the year
4 they'll actually do an extension of these benefits.
5 As it stands now, very few states would actually be
6 able to take advantage of Tier 3 and Tier 4.

7 CHAIRMAN PAUKEN: Let me ask you -- give
8 us the -- the immediate impact here in Texas in terms
9 of extension of unemployment benefits for those who've
10 completely exhausted their benefits.

11 MR. LEWIS: Well, right now we actually
12 just got an extension of the state extended benefits
13 of an additional seven weeks. So, likely, most of the
14 folks -- it's possible that some of those folks will
15 exhaust before the 31st date and go on to Tier 3, but
16 most -- most people will not that we have in the
17 system currently.

18 CHAIRMAN PAUKEN: Okay. And, then, with
19 regard to the 8.5 percent, that's triggered on a
20 three-month --

21 MR. LEWIS: That's correct.

22 CHAIRMAN PAUKEN: -- rolling average?

23 MR. LEWIS: That's correct.

24 CHAIRMAN PAUKEN: Okay. Commissioner
25 Congleton, do you have any questions on this subject

1 or --

2 COMM. CONGLETON: So, you're saying that
3 most of those folks who -- that most folks haven't
4 exhausted, they're either a -- the Tier 1, Tier 2 or
5 on the extended seven weeks --

6 MR. LEWIS: Right.

7 COMM. CONGLETON: -- so -- but when they
8 do exhaust, they can roll into the 14-week extension
9 of Tier 3?

10 MR. LEWIS: If it's -- if it's before
11 the 31st of December, that's correct.

12 MR. TEMPLE: And -- and that's the issue
13 that we had a conference call -- a nationwide
14 conference call yesterday with Department of Labor --

15 COMM. CONGLETON: If they exhaust before
16 the end of the year?

17 MR. TEMPLE: Right.

18 MR. LEWIS: Right.

19 MR. TEMPLE: And so states that's
20 economy has only -- that has -- that has not fallen as
21 quickly as some of the other states, their folks will
22 not --

23 COMM. CONGLETON: And we have sent the
24 letter asking them to --

25 MR. TEMPLE: Yes, sir.

1 (Simultaneous discussion)

2 COMM. CONGLETON: -- lift that 31st --

3 MR. TEMPLE: Yes, sir. And -- and there
4 seems to be some -- some effort on DOL to -- to work
5 on trying to clarify that, because it -- there are a
6 lot of inequities. It's going to be very confusing,
7 too. We're going to get a lot of phone calls, because
8 people are hearing national press about extensions and
9 if they don't. So, we're -- we did -- as --

10 COMM. CONGLETON: We -- right now if we
11 get a phone call for somebody who needs to go on the
12 extended, we can do that; it's just the 31st is the --

13 MR. TEMPLE: Correct.

14 COMM. CONGLETON: -- deadline?

15 MR. TEMPLE: Correct. So --

16 COMM. CONGLETON: Okay. And we have
17 a -- we have an initiative to extend that 31st on
18 through 2010. Right? Wasn't that in our letter? Was
19 our letter --

20 (Simultaneous discussion)

21 MR. TEMPLE: Well, our --

22 COMM. CONGLETON: -- to do away with
23 it --

24 (Simultaneous discussion)

25 MR. TEMPLE: -- that's what we did ask

1 for, yes. Yes.

2 COMM. CONGLETON: -- a cut-off time?

3 MR. TEMPLE: That's what we're asking.

4 And other states are asking, as well, for -- for some
5 clarification. We're supposed to get a UI PL today on
6 some clarification of some of these as well.

7 So, we haven't -- I don't think we've
8 received that yet, but --

9 MR. LEWIS: And if there's any change to
10 what I've told you here this morning, we'll make sure
11 and get that to all of your offices.

12 COMM. CONGLETON: Thank you.

13 MR. LEWIS: One of the -- probably one
14 of the most important things for -- for everyone to
15 know is that as -- as folks exhaust their benefits and
16 trigger onto a -- either extended benefits or
17 Emergency Unemployment Compensation, as they're
18 eligible, we -- we go ahead and make that transition.
19 So, it's not necessary that they reapply. They just
20 continue to -- to file their claim as they normally
21 would. And if they're eligible, we move them onto the
22 next tier.

23 MR. TEMPLE: And -- and we've got our --
24 our -- our contractor that does the outreach when we
25 do the outreach for the call in to get those to where

1 it's expedited. It's only like a two-week deal, just
2 as we've done in the past. So, that's all in place,
3 and that will begin real soon here. So --

4 MR. LEWIS: Right.

5 CHAIRMAN PAUKEN: Commissioner Alcantar.

6 COMM. ALCANTAR: Well, absent any
7 federal action before the 31st, we're going to have a
8 lot of confusion out there --

9 MR. LEWIS: Absolutely.

10 COMM. ALCANTAR: -- so we need to have
11 a -- I'd like to ask staff to develop a strategy for
12 making sure that we inform claimants before the end of
13 the year in terms -- or at least have the strategy
14 ready to put in place, if -- if no action is taken at
15 the federal level so that we can clarify what the
16 possibilities are.

17 MR. TEMPLE: We -- we began working on
18 that yesterday, and hopefully we're going to get some
19 guidance from DOL on some of those points by the end
20 of the day to where we can craft that. So, that's --
21 that's on our plate.

22 COMM. ALCANTAR: Great. Thank you.

23 CHAIRMAN PAUKEN: Okay. Before I get
24 into the question, I -- do you have some other issues
25 you want to go over?

1 MR. LEWIS: That -- that's all of our
2 prepared remarks.

3 CHAIRMAN PAUKEN: Okay. The -- the
4 question I've got is the Legislature funded -- and the
5 Comptroller has never been involved in job training,
6 but the legislative -- Legislature funded a first-time
7 program for job training out of the Comptroller's
8 Office. How much was that for?

9 MR. LEWIS: And I -- I believe you're
10 talking about the JET Program.

11 CHAIRMAN PAUKEN: Uh-huh.

12 MR. LEWIS: That -- that was \$25
13 million.

14 CHAIRMAN PAUKEN: \$25 million. Is that
15 correct, Mr. McCarty? Is that correct?

16 MR. McCARTY: I believe that's correct,
17 sir.

18 CHAIRMAN PAUKEN: And we had no vote --
19 I mean, we don't have a -- we don't have any control
20 or veto of their grants, do we, Mr. Lewis?

21 MR. LEWIS: We are -- we are part of the
22 group, but we don't -- we don't actually have an
23 expressed control over how those funds are spent.

24 CHAIRMAN PAUKEN: Well, do we control
25 the decisionmaking?

1 (Simultaneous discussion)

2 MR. LEWIS: No, we don't control --

3 CHAIRMAN PAUKEN: -- have any control?

4 MR. LEWIS: No, we have input but not
5 control. That's correct.

6 CHAIRMAN PAUKEN: Okay.

7 MR. TEMPLE: We're not involved -- we're
8 not involved in the reviews or the scoring --

9 CHAIRMAN PAUKEN: Are not involved in
10 the reviews or the scoring. We're not involving in
11 the monitoring?

12 MR. TEMPLE: No, sir.

13 CHAIRMAN PAUKEN: And we do that.
14 Nobody -- the Comptroller's Office, has it ever
15 monitored job training grants?

16 MR. TEMPLE: I'm not aware of that --

17 MR. LEWIS: I don't know, sir.

18 CHAIRMAN PAUKEN: I've been really
19 distressed, quite frankly, and I've expressed my
20 concern to the Comptroller directive, that at least 2
21 million, which is, you know, I hope not more -- or
22 about \$2 million of those grants have gone to Saul
23 Alinsky Affiliated Organizations Industrial Areas
24 Foundation with a strong political agenda at a time
25 when we've got community colleges, nonpolitical job

1 training operations out there. It's just baffling
2 that our tax dollars are going to organizations that
3 are heavily involved in politics, very similar to
4 ACORN. And here we are defunding ACORN at the
5 national level, which is a -- a product of the -- the
6 late Saul Alinsky and funding here in Texas and
7 affiliates of his Industrial Areas Foundations
8 Organizations around the state.

9 So, I -- I -- the Comptroller told me
10 over the phone that in the future I will be given
11 personal notice prior to any grant being awarded, and
12 I would hope who -- our representative on that board
13 will reinforce that, even though, obviously, we still
14 have no say. But the first -- first I learned about
15 this was reading it in the paper, and I didn't realize
16 it wasn't just the only interfaith affiliate that got
17 money but IF organizations across the state. So, I
18 had some real concerns about this.

19 So, I would ask that we stay on top of
20 this, and hopefully the Legislature will revisit this
21 issue as to whether the Comptroller's Office ought to
22 be in business of -- of what traditionally has been
23 Texas Workforce Commission business in the past.

24 Thank you, Mr. Lewis.

25 MR. LEWIS: Thank you, sir.

1 AGENDA ITEM NO. 15

2 CHAIRMAN PAUKEN: Okay. Mr. Temple, do
3 you have anything?

4 MR. TEMPLE: No, sir, nothing.

5 AGENDA ITEM NO. 18

6 CHAIRMAN PAUKEN: Okay. Is there a
7 motion to adjourn?

8 COMM. CONGLETON: So made.

9 COMM. ALCANTAR: Second.

10 CHAIRMAN PAUKEN: It's unanimous.

11 (Meeting adjourned: 10:15 a.m.)

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1 C E R T I F I C A T E

2 STATE OF TEXAS)
3 COUNTY OF TRAVIS)

4

5 I, JANIS SIMON, a Certified Shorthand
6 Reporter in and for the State of Texas, do hereby
7 certify that the above-mentioned matter occurred as
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9 I FURTHER CERTIFY THAT the proceedings
10 of such were reported by me or under my supervision,
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12 and control and that the foregoing pages are a full,
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14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and seal this day of 2009.

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