

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING            )  
FOR THE TEXAS            )  
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, FEBRUARY 5, 2008

BE IT REMEMBERED THAT at approximately  
9:00 a.m., Tuesday, the 5th day of February, 2008, the  
above-entitled matters came on for hearing at the  
Texas Workforce Commission, TWC Building, 101 East  
15th Street, Room 244, Austin, Texas, before DIANE  
RATH, RON LEHMAN and RONALD G. CONGLETON,  
COMMISSIONERS, and LARRY TEMPLE, EXECUTIVE DIRECTOR,  
of the Texas Workforce Commission; and the following  
proceedings were reported by Janis Simon, a Certified  
Shorthand Reporter of:

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

2 TUESDAY, FEBRUARY 5, 2008

3 (9:00 a.m.)

## 4 AGENDA ITEM NO. 1

5 CHAIR RATH: Okay. We'll go ahead and  
6 come to order, and I think we have a continuing  
7 jurisdiction first.

## 8 AGENDA ITEM NO. 2

9 Discussion, Consideration and Possible  
10 Action Regarding Whether to Assume Continuing  
11 Jurisdiction on Unemployment Compensation Cases, Wage  
12 Claim Cases, and/or Tax Liability Cases and  
13 Reconsideration of Unemployment Compensation Cases,  
14 Wage Claim Cases, and/or Tax Liability Cases, if Any  
15 The Commission considered and agreed to  
16 the resubmission of Case No. 989888 on a future docket  
17 and to sending a letter of continuing jurisdiction.

## 18 AGENDA ITEM NO. 3

19 Discussion, Consideration and Possible  
20 Action Regarding Tax Liability Cases Listed on the  
21 Texas Workforce Commission Docket 6

22 The Commission considered and took  
23 action on all Tax Liability cases listed on Docket 6.

## 24 AGENDA ITEM NO. 4

25 Discussion, Consideration and Possible

1 Action Regarding Higher Level Appeals in Wage Claim  
2 Cases Listed on the Texas Workforce Commission  
3 Docket 6

4 The Commission considered and took action on  
5 all Wage Claim Cases listed on Docket 6.

6 AGENDA ITEM NO. 5

7 Discussion, Consideration and Possible  
8 Action Regarding Higher Level Appeals in Unemployment  
9 Compensation Cases Listed on the Texas Workforce  
10 Commission Docket 6

11 The Commission considered and took  
12 action on all unemployment compensation cases listed  
13 on Docket 6.

14 (The Commission paused and continued  
15 with the remainder of the agenda.)

16 CHAIR RATH: Okay. We'll go ahead and  
17 continue with the remaining agenda.

18 AGENDA ITEM NO. 6

19 CHAIR RATH: Is there anyone signed up  
20 for public comment?

21 MR. MOORE: No one is registered.

22 CHAIR RATH: Thank you.

23 AGENDA ITEM NO. 7

24 CHAIR RATH: Next, if we look at FY '08  
25 Child Care Matching Funds we have certifications of

1 \$151,443 from Heart of Texas, North East and Lower Rio  
2 Grande. Are there any questions, or is there a  
3 motion?

4                   COMM. LEHMAN: I have no questions.  
5 I'll enter a motion to approve all the certifications  
6 mentioned.

7                   COMM. CONGLETON: And I'll second that  
8 motion.

9                   CHAIR RATH: And congratulations to the  
10 boards, because this brings us up to having everything  
11 pledged that we need. So, the boards did a great job  
12 of not only raising the money but doing it faster than  
13 last year. So, congratulations to all 28 boards  
14 today.

15                                   AGENDA ITEM NO. 8

16                   CHAIR RATH: And, then, that brings us  
17 to Nicole Verver and amendments to our CCDF State Plan  
18 for '08/'09.

19                   MS. VERVER: Good morning, Chair Rath,  
20 Commissioners; Nicole Verver, Workforce Development.

21                                   Today for your consideration is the  
22 2008/2009 Child Care and Development Fund State Plan  
23 Amendment No. 1. The amendments to the plan are a  
24 result of legislative action by the 80th Texas  
25 Legislature and the implementation of the Texas School

1 Ready Certification by the State Center for Early  
2 Childhood Education.

3                   Specifically, we've updated the plan to  
4 discuss enhanced reimbursement rates to providers who  
5 are receiving Texas School Ready Certification. We've  
6 also added the contract between TWC and the Texas  
7 Education Agency that focuses on early childhood  
8 partnerships, as required by Section 19.111 of the  
9 General Appropriations Act. And, finally, we've  
10 updated references to the Texas School Readiness  
11 Certification to indicate that the certification is no  
12 longer under development but is actually being  
13 implemented by the State Center.

14                   At this time, I'll be glad to answer any  
15 questions.

16                   COMM. LEHMAN: I have none.

17                   COMM. CONGLETON: I have no questions.

18                   CHAIR RATH: I appreciate all the work  
19 y'all did on this and really identifying the steps  
20 that the state is taking and changing to address the  
21 early education needs of the kids in Texas.

22                   So, is there a motion?

23                   COMM. CONGLETON: Move to approve the  
24 amendments and technical changes to the CCDF State  
25 Plan as recommended by staff.

1                   COMM. LEHMAN:   Second.

2                   CHAIR RATH:   And I agree.

3                   MS. VERVER:   Thank you.

4                   CHAIR RATH:   Thanks.

5                                 AGENDA ITEM NO. 9

6                   CHAIR RATH:   That brings us to the UI  
7 Trust Fund balance, Mr. Townsend.

8                   MR. TOWNSEND:   Good morning,  
9 Commissioners.  My name is Randy Townsend, the Chief  
10 Financial Officer, presenting this morning the  
11 Unemployment Compensation Trust Fund projection for  
12 October 1st, 2008.

13                                 As of January 30th, 2008 we're  
14 estimating the Trust Fund -- UI Trust Fund balance  
15 will be 1 billion 674.6 million on October 1st, 2008.  
16 This would be 754.9 million above the floor on that  
17 date.

18                                 A couple observations to share this  
19 morning.  For the last six completed weeks, that would  
20 be ending January 19th, total net benefits paid  
21 averaged 24.8 million per week up 11.2 percent from  
22 the one-year-ago six-week average of 22.3 million.  
23 Initial claims averaged 12,669 for the six weeks  
24 ending January 19th, 1.6 percent above the  
25 one-year-ago six-week average for initial claims of

1 12,465.

2                   And that concludes my presentation, if  
3 you have questions or comments.

4                   CHAIR RATH: Any questions?

5                   COMM. LEHMAN: I have none.

6                   COMM. CONGLETON: I have no questions.

7                   CHAIR RATH: I'd just like to comment  
8 that the floor is increased and that the balance is  
9 decreased from the last report that we saw.

10                  COMM. CONGLETON: Uh-huh.

11                  MR. TOWNSEND: Yes.

12                  CHAIR RATH: Could you comment on that a  
13 little bit?

14                  MR. TOWNSEND: We had a couple of  
15 changes. We -- we had modified the projected benefits  
16 paid. We actually increased it by about 5 percent  
17 from the last month, mainly on the -- based on the  
18 actual -- or actual payouts that we've been seeing  
19 lately.

20                  And as I had mentioned, previously,  
21 we're seeing that the average benefits paid are up  
22 almost 11 percent from the year -- one-year-ago total.  
23 So, that's playing into the -- to the estimate at this  
24 point.

25                  CHAIR RATH: Thank you. Okay. I -- I

1 think we're all holding our breath to see what will be  
2 happening with it.

3 MR. TOWNSEND: Thank you.

4 CHAIR RATH: Thanks.

5 AGENDA ITEM NO. 10

6 CHAIR RATH: Next, we come to possible  
7 action regarding adjustments to the replenishment tax  
8 rate, Mr. Riley and Ms. Lenzy.

9 MS. LENZY: Good morning, Chair Rath,  
10 Gentlemen Commissioners. I'm LaSha Lenzy,  
11 Unemployment Insurance Division. Also here with me  
12 today is the UI Deputy, Steve Riley.

13 Today we are seeking direction regarding  
14 potential adjustments to the unemployment compensation  
15 replenishment tax rate. This item relates to a  
16 potential 2008 unemployment insurance tax rate  
17 adjustment to employers as provided in Section 204.067  
18 of the Texas Unemployment Compensation Act.

19 Specifically the replenishment tax rate  
20 maybe reduced to zero for 2008. This would total an  
21 approximate \$90 million tax reduction.

22 Under Tab 10 in your notebook it  
23 contains a list of possible discussion points. Also,  
24 it lists the associated administrative --  
25 administrative cost.

1                   With that, we are available for  
2 questions, and we would appreciate guidance from  
3 you-all on this matter. If you would like for us to  
4 go through the points under No. 10, we can certainly  
5 do that.

6                   CHAIR RATH: I think it would be helpful  
7 for the public record to have all that --

8                   MS. LENZY: Okay.

9                   MR. RILEY: Sure.

10                  CHAIR RATH: -- at least discussed.

11                  MR. RILEY: There are a number of issues  
12 that will be impacted by the lowering of the  
13 replenishment tax rate to zero. And the maximum  
14 adjustment permitted by law, as Ms. Lenzy indicated  
15 earlier, is to adjust the replenishment rate,  
16 calculated currently at .12 percent to zero. A 0.12  
17 percent replenishment tax rate reduction will total  
18 approximately \$90 million or \$10.80 per employee in  
19 tax reductions.

20                  Approximately 370,000 experience rated  
21 employers would receive the adjustment. Of those  
22 286,000 (sic), or 67 percent, have the minimum tax  
23 rate of 0.12 percent and, therefore, would -- would  
24 have their 2008 UI tax due to reduce to zero. That  
25 does not include the Employment and Training

1 Assessment of 0.1 percent, which they still would --  
2 would be due, and they would pay.

3                   The agency cost to notify employers of  
4 the adjustment -- of the adjusted rate would be  
5 approximately \$184,000. And, finally, the surplus  
6 credit of a hundred -- estimated at \$147.9 million  
7 would be impacted by the tax reduction. We don't know  
8 precisely what that reduction will be, because it  
9 would require a separate calculation for each employer  
10 using their estimated 2008 taxable wages.

11                   We do know that the minimum rated  
12 employers for 2008 would have their surplus credit  
13 reduced, the amount of the reduction in the  
14 replenishment tax of .12 percent. I'd be happy to try  
15 to address any questions you may have.

16                   CHAIR RATH: Thank you.

17                   Commissioner?

18                   COMM. LEHMAN: Just as a point of  
19 clarification, Steve, I might have misheard you. I  
20 thought I said, "286,000" --

21                   MR. RILEY: 268. I'm sorry, yes.

22                   COMM. LEHMAN: Okay. So, the -- there's  
23 not a typo. Okay.

24                   MR. RILEY: Right.

25                   COMM. LEHMAN: And this is a

1 dollar-for-dollar exchange --

2 MR. RILEY: Yes.

3 COMM. LEHMAN: -- so, since I would  
4 not -- may not get the credit because of this  
5 replenishment tax rate, it would still be an offset,  
6 an even -- even -- even swap. The --

7 MR. RILEY: Correct.

8 COMM. LEHMAN: -- replenishment amount  
9 would reduce the rebate or the surplus credit I'd be  
10 entitled to one-for-one.

11 MR. RILEY: Correct.

12 COMM. LEHMAN: Okay. I have no other  
13 questions.

14 MR. TEMPLE: That would be eventually.

15 CHAIR RATH: Yeah.

16 MR. RILEY: Eventually, yes.

17 COMM. LEHMAN: I'm sorry?

18 CHAIR RATH: Because it is not --

19 MR. RILEY: Eventually.

20 CHAIR RATH: Yeah, it is not this year.

21 MR. RILEY: No.

22 CHAIR RATH: This year, it is not an  
23 even swap at all.

24 MR. RILEY: Right.

25 CHAIR RATH: Thank you.

1                   COMM. CONGLETON: No questions.

2                   CHAIR RATH: Okay. I have no questions.

3                   Is there a motion to come before us?

4                   COMM. LEHMAN: I move we have TWC adjust  
5 a replenishment tax rate to zero, thereby maintaining  
6 the Employment and Training Assessment at one-tenth  
7 percent.

8                   COMM. CONGLETON: Because of my  
9 fiduciary duty to the Trust Fund and the protection of  
10 nearly 12 million working people and my doubts about  
11 the national economy right now, I have to vote "no" on  
12 this.

13                   CHAIR RATH: I will second the motion.  
14 I will tell you it's with deep concern, because of the  
15 increase in unemployment rate, the increase payout  
16 rates, the national economic situation and the  
17 indications that we're seeing here in Texas. However,  
18 the Governor supports this, and I certainly support  
19 his position. So, with that, the tax rate will be  
20 adjusted, and we'll eliminate the .12 percent for the  
21 replenishment tax, notify the employers as soon as  
22 possible.

23                   I will say that I think we have to be  
24 extraordinarily careful in the wording on the notice  
25 that is sent out so that employers understand this is

1 not a tax cut but is a one-time-only occurrence and  
2 that next December when their tax notices are, again,  
3 sent out, if the Trust Fund is not in the situation  
4 where this could, again, occur, that it will not be a  
5 tax increase occurring, because my deep fear is that  
6 next December employers will perceive a tax increase  
7 when the elimination, perhaps, is not able to occur  
8 again, coupled with many employers having increased  
9 experience rated employers because of the economy  
10 right now and the increasing layoffs and claims that  
11 we continue to see.

12                   So, I think we have to have great care  
13 taken with the language in the letter, with any press  
14 releases that occur and then great care next December,  
15 that it's very clear that it is not a tax increase if  
16 we're not able to continue it again next year.

17                   MS. LENZY: Yes, ma'am. We -- we'll go  
18 back and work on that language. And if okay with --  
19 with you-all, we'd like to bring that around to your  
20 offices and get any input, if appropriate there.

21 Otherwise --

22                   CHAIR RATH: I think that would be a  
23 very good idea so that we're all comfortable with the  
24 language that's used.

25                   COMM. LEHMAN: We'll also work with

1 External Relations on getting that language together,  
2 as well. With that, we will begin work immediately on  
3 the notification, then.

4 CHAIR RATH: And -- and don't take this  
5 wrong, but working with External Relations to make  
6 sure that the communication is an understandable --

7 MS. LENZY: Yes.

8 CHAIR RATH: -- English for most of us.

9 MS. LENZY: Understandable English.

10 (Laughter)

11 CHAIR RATH: Thank you. I have great  
12 respect for what y'all do, but it gets a bit technical  
13 sometimes.

14 (Laughter)

15 MR. TEMPLE: Commissioners, I -- I --  
16 the last couple of weeks have been pretty fast and  
17 furious and staff working on this issue. And I really  
18 want to thank LaSha's staff, Steve's, particularly,  
19 and a lot of the ad hoc reporting and things, Jesse  
20 Lewis's staff and the economists that he has working  
21 with him working on it, Legal.

22 Everyone has really worked real hard on  
23 this and pulling together numbers and different  
24 scenarios, and just -- just -- it's amazing the talent  
25 that we have in this agency. And I -- and I just want

1 to recognize their hard work in this --

2 CHAIR RATH: And I'm very glad you said  
3 that --

4 MR. TEMPLE: -- and Finance, too,  
5 actually.

6 CHAIR RATH: -- because I -- I echo it.  
7 I was going to say the professionalism, the work  
8 that's consumed our folks for two weeks doing so many  
9 calculations manually, since the systems aren't  
10 equipped to do that.

11 The work that Steve's folks, Finance's  
12 people under Randy, all the economists in the agency  
13 have done with projections, External Relations, I  
14 really appreciate the way this agency has really  
15 focused on making information available that did  
16 provide analysis for us. So, thank you very much.

17 COMM. LEHMAN: I would echo that, and I  
18 would also add that the employers of Texas will  
19 appreciate it as well.

20 MS. LENZY: Thank you-all.

21 AGENDA ITEM NO. 11

22 CHAIR RATH: Next, we have possible  
23 action regarding a -- a comment letter on the National  
24 Apprenticeship Act, Mr. Robertson.

25 MR. ROBERTSON: Good morning -- good

1 morning, Chair Rath, Commissioners Lehman and  
2 Congleton. My name is Dale Robertson. I'm with the  
3 Workforce Business Services Department.

4 I'm here today to present and bring  
5 forward for your consideration a comment letter to the  
6 Department of Labor's Apprenticeship Programs, Labor  
7 Standards for Registration, Amendment of Regulations  
8 Proposed Rule. These rules implement the National  
9 Apprenticeship Act of 1937. The rules were last  
10 updated in 19 -- 1977.

11 Our comment letter highlights a few of  
12 the proposed changes that TWC, we would like to see  
13 retained in the final proposed -- the final rule. And  
14 those are expansion of apprenticeship opportunities to  
15 a wider range of industries, industry-specified  
16 training, the establishment of apprenticeable  
17 occupations is one of the -- one that is specified by  
18 industry, a -- and a more accountable national  
19 apprenticeship system, flexible training options,  
20 specifically the inclusion of distance learning,  
21 Internet -- Internet-based training and self-study,  
22 consistent with most current instruction tools and the  
23 competency-based approach to skills certification.

24 We're also commenting on the recognition  
25 that the gender-neutral term, such as "journeyman"

1 should be -- such as "journeyworker" should replace  
2 things like journey -- "journeyman." With that, I  
3 will end my comments about -- and take any questions  
4 you may have.

5 CHAIR RATH: Thank you. I've got one  
6 suggestion. And I have to apologize to my -- my  
7 colleagues, because I did not -- it didn't occur to me  
8 until over the weekend.

9 But on the first page, Line 32, where we  
10 talk about serving 17,522 --

11 MR. ROBERTSON: Yes?

12 CHAIR RATH: -- I would ask,  
13 Commissioners, your permission for staff to amend that  
14 language. And I don't have the figure with me, but  
15 this is a figure that's provided under state law with  
16 general revenue funds.

17 So, I'd like to clarify that that is a  
18 state initiative. But also I don't think it totally  
19 represents the support that we give to apprenticeses,  
20 because we have had Skills Development and  
21 Apprenticeship Programs under WIA, particularly  
22 Statewide.

23 So, I would like another sentence added  
24 that sort of clarifies the additional commitment that  
25 has been made to the expansion of the Apprenticeship

1 Program. For instance, I think two of the grants that  
2 went out last week included electrical  
3 apprenticeships --

4 MR. ROBERTSON: Yes.

5 CHAIR RATH: -- and while it's not --  
6 they've not been trained yet, clearly, it has been  
7 prioritized, and we've had a lot of initiatives. So,  
8 I think if we just, you know, work with adding another  
9 sentence and -- and capturing those additional  
10 trainees it might be a little bit more representative  
11 of the work that's done here.

12 So, with your permission, I'd like --

13 (Simultaneous discussion)

14 COMM. LEHMAN: No, I would agree. I --  
15 I seem to recall a series of apprenticeship  
16 initiatives over the last six or seven years, perhaps,  
17 that ought to be included. So, I'm fine with that.

18 MR. ROBERTSON: Okay.

19 COMM. CONGLETON: And I don't have a  
20 problem with that either.

21 CHAIR RATH: Okay. With that amendment,  
22 is there a motion regarding the comment letter?

23 COMM. CONGLETON: I appreciate the  
24 continuing support of you and my colleagues and the  
25 state have shown the Apprenticeship Programs. I think

1 there are many positive ideas contained in these  
2 proposal rule changes. For example, I -- I'm for  
3 expanding apprenticeship opportunities and see a place  
4 for competency-based approaches.

5 I would, however, prefer not to sign  
6 this letter at this time. I want to allow myself the  
7 opportunity to comment separately or possibly in  
8 conjunction with some of the Apprenticeship Programs  
9 that are associated with organized labor.

10 MR. ROBERTSON: Okay.

11 CHAIR RATH: Very good.

12 COMM. LEHMAN: I'm --

13 CHAIR RATH: So, are you comfortable  
14 with the letter --

15 COMM. LEHMAN: -- I'm okay -- I'm okay  
16 with the letter going forward --

17 CHAIR RATH: Great.

18 COMM. LEHMAN: -- so I don't know if  
19 that meshes with your motion or not.

20 CHAIR RATH: I'm -- I'm okay with the  
21 letter. So, I think if Commissioner Lehman and I will  
22 sign this letter and then Commissioner Congleton will  
23 draft and submit his own comments.

24 COMM. CONGLETON: Thank you.

25 MR. ROBERTSON: Okay. Thank you very

1 much.

2 CHAIR RATH: Thank you.

3 And thanks, everyone, for the work on it  
4 and working with our offices.

5 MR. ROBERTSON: You're welcome.

6 CHAIR RATH: Thank you.

7 AGENDA ITEM NOS. 12 & 13

8 CHAIR RATH: Okay. That brings us to  
9 WIA deobligation and possible reallocation. And,  
10 perhaps, if we can take both 12 and 13 together, it  
11 makes an easier discussion. Juan Garcia, please.

12 MR. GARCIA: Yes. Good morning, Chair  
13 Rath, Commissioners; Juan Garcia with Contract  
14 Management.

15 Commission Rule --

16 CHAIR RATH: Can I just say I love the  
17 way y'all laid this out with the colored. It really  
18 made it easier for me to read over the weekend. So,  
19 thank y'all.

20 MR. GARCIA: All right. Thank you.

21 Commission Rule 800.74 allows the  
22 Commission to consider a deobligation of WIA funds at  
23 Months 5 through 8 of a given program year. Pursuant  
24 to this, we're bringing forward for your consideration  
25 staff recommendations for November, the fifth month of

1 Program -- Program Year '07.

2                   The Rule 800.74 requires boards who may  
3 potentially face deobligation to submit an explanation  
4 of variance, or an EOV, outlining their plans to get  
5 expenditures within an acceptable range. In the Adult  
6 Program eight boards submitted EOVs. In the  
7 Dislocated Worker Program 11 boards submitted EOVs,  
8 and in the Youth Program one board submitted an EOV.

9                   Based on a review of -- and discussions  
10 with some boards regarding their -- their strategies  
11 and plans to get back on track, staff is not  
12 recommending deobs at this time in the Adult,  
13 Dislocated or Youth Programs. We will continue to  
14 closely monitor board expenditures and their plans.

15                   And, in fact, we will be providing some  
16 TA to a couple of boards on their plans, because we --  
17 we weren't -- we didn't have a high comfort level at  
18 this point. So, we'll continue to work with them very  
19 closely to ensure that they -- they improve and stay  
20 on track.

21                   At this point, I'll -- I'll answer any  
22 questions you might have on -- on our recommendations.

23                   CHAIR RATH: Thank you. I have no  
24 questions.

25                   I just want to comment, again, that I

1 think the agency's focus on the expenditures and the  
2 deobligations and reobligations throughout the last  
3 few years and the boards' tremendous response to the  
4 challenge and the higher expectation has certainly  
5 served this state well when we came to the rescission  
6 and the cuts that we are awaiting final direction.  
7 But, clearly, the boards' expenditure levels certainly  
8 mitigated consequences in this state.

9                   So, I'm very grateful for their  
10 management of the funds and how they have responded to  
11 the Commission's decision to really raise the bar for  
12 them. So, thanks.

13                   COMM. LEHMAN: I have no questions.

14                   COMM. CONGLETON: I have no questions.

15                   CHAIR RATH: Is there a motion?

16                   COMM. CONGLETON: Move to approve staff  
17 recommendations not to deobligate funds at that time  
18 for WIA Adult, Dislocated Worker and Youth Programs.

19                   COMM. LEHMAN: Second.

20                   CHAIR RATH: And I agree.

21                   MR. GARCIA: And, Chair Rath and  
22 Commissioners, regarding the --

23                   CHAIR RATH: Uh-huh.

24                   MR. GARCIA: -- reallocation --

25                   CHAIR RATH: Uh-huh.

1                   MR. GARCIA:  -- obviously, we -- we  
2 don't have any recommendations there.

3                   CHAIR RATH:  Thank you.

4                   MR. GARCIA:  Thank you.

5                   AGENDA ITEM NO. 14

6                   CHAIR RATH:  Okay.  That brings us to  
7 potential nominees before us, and we have nominees  
8 from Capital Area and South Plains.  Are there any  
9 questions, or is there a motion?

10                  COMM. CONGLETON:  Move to approve the  
11 nominees from Capital Area and South Plains as  
12 presented by staff.

13                  COMM. LEHMAN:  Second.

14                  CHAIR RATH:  And I agree.

15                  I would only comment that South Plains,  
16 I really hope they will pay attention to their need  
17 for Hispanic and to have a better diversity of their  
18 workforce board, and I would encourage the current  
19 members that are being reappointed to use the system  
20 more.  I -- I'm thrilled that the Chair is continuing  
21 her commitment.  Dr. Whitten is just a phenomenal  
22 leader for that board, and it's exciting that she will  
23 continue to share that enthusiasm and knowledge and  
24 expertise with us.

25                  And I hope that one employer that's

1 being reappointed that has never used the system and  
2 has a large number of employees will use this term to  
3 take advantage of the resources available.

4                   And, with that, the nominees are  
5 approved.

6                   COMM. LEHMAN: May I comment, Madam  
7 Chair?

8                   CHAIR RATH: Yes, sir.

9                   COMM. LEHMAN: The use of the system has  
10 been a concern to many of us, myself included. I  
11 intend to visit with the Board Chairs to try to  
12 understand what type of action, emphasis or other  
13 types of encouragements would be appropriate to get  
14 more employers to consider what is the value of the  
15 Work In Texas system and how they can use it more  
16 appropriately and more successfully. And I'll report  
17 back the outcome of those discussions to you and  
18 Commissioner Congleton as soon as that input is  
19 received.

20                   CHAIR RATH: I think that would be very  
21 helpful. For instance, with this one, when you have  
22 someone from a large school district, it's a little  
23 hard to understand how there's not some position with  
24 over 700 employees that could be posted.

25                   COMM. LEHMAN: I whole -- I

1 wholeheartedly agree with you. My -- what my  
2 observation is in -- along those lines is two.

3                   One is some number of boards have a  
4 significant number of their nonprofits posting huge  
5 numbers of openings but virtually hiring no one, which  
6 makes me wonder to what degree there was really  
7 good-faith posting, because I've got to believe that  
8 when -- in general, a lot of people do get hired  
9 through Work In Texas that tells me that they're  
10 either posting the jobs and then not seriously  
11 considering applicants or not paying attention to the  
12 outcome of the system and the quality of applicants  
13 that are in it or whatever the situation may be.

14                   So, to me, we have two problems. One is  
15 those that don't post and then others that don't hire  
16 in any kind of substantial number in regard to the  
17 numbers that would -- you would expect them to hire  
18 from when they did post. So, I'll try to give both of  
19 you some insight into that when I -- when I hear back.

20                   CHAIR RATH: Very good. Thank you.

21                   AGENDA ITEM NO. 15

22                   CHAIR RATH: Mr. Lewis, federal or state  
23 issues?

24                   MR. LEWIS: Good morning; Jesse Lewis,  
25 External Relation.

1                   The House of Representatives has passed  
2 their Economic Stimulus Package. The Senate is set to  
3 consider theirs shortly.

4                   In addition to the \$150 billion plan  
5 that the House put forward with tax breaks and tax  
6 rebates of 600 and 1200 dollars, the Senate changes  
7 some of the income eligibility limits. The Senate  
8 would also make 13 weeks of additional unemployment  
9 insurance benefits available to those who exhausted  
10 their regular benefits.

11                   In addition, states whose unemployment  
12 rate is 6 percent or higher would also be eligible for  
13 another 13 weeks of UI benefits. Once the Senate  
14 votes on their -- their package, which we expect may  
15 be today, the -- the House and Senate Leadership will  
16 appoint conferees. They expect -- their goal is to  
17 have the bill out of conference and to the President  
18 by the 15th of February.

19                   Also, the President has released his '09  
20 budget proposal. We've done a quick review,  
21 definitely not exhaustive, but so far what -- what  
22 we've taken a look at it looks like the proposal  
23 includes merging the Adult and Dislocated Worker,  
24 Youth and Employment Services state grants.

25                   Funding for the Dislocated Worker

1 Program would be about a 20 percent decrease from the  
2 previous year to 943 million. Adult would be 17  
3 percent decrease. Youth would be 9 percent decrease.

4                   It also eliminates the Employment  
5 Services state grant sighting duplicative services as  
6 those provided by WIA. The Unemployment Insurance  
7 State Administration has a 5 percent increase to 2.58  
8 billion, excuse me, and it also includes the UI -- UI  
9 Integrity proposals, as well as career advancement  
10 accounts and high-growth job training initiative.

11                   With that, I'll be glad to answer any  
12 questions.

13                   CHAIR RATH: Any questions?

14                   COMM. LEHMAN: No. Thank you.

15                   COMM. CONGLETON: No questions.

16                   MR. TEMPLE: Commissioners --

17                   MR. LEWIS: We're seeking clarification  
18 on a couple other points. And when we have that,  
19 we'll be sending that to your offices, as well.

20                   CHAIR RATH: Okay. Thank you very much.

21                   MR. TEMPLE: Commissioners, there -- I  
22 had -- had a question. I had a couple of questions  
23 from a couple of -- of Board EDs.

24                   They were thinking that the WIA Youth  
25 Program was being proposed to be cut under some of the

1 Stimulus Package. And what it was, there was a  
2 proposal for an additional WI -- I mean, an additional  
3 Youth Employment Program that didn't make it.

4                   So, for those that are listening, let  
5 them know that that -- the Youth Program was not in  
6 jeopardy. It was just -- there was a proposal to --  
7 to enhance the Summer Youth Program that -- and it has  
8 not made it. So, I just wanted to clear that up.

9                   CHAIR RATH: Sort of -- and just to  
10 amplify it. I think New York was very supportive of  
11 having increased Youth investment, and we're really  
12 pushing that quite a bit.

13                   Anything else?

14                   (No response)

15                   AGENDA ITEM NO. 16

16                   CHAIR RATH: Okay. Mr. Temple,  
17 anything?

18                   MR. TEMPLE: Nothing, Commissioners.  
19 Thank you.

20                   CHAIR RATH: Very good.

21                   Commissioner, do you have anything?

22                   COMM. LEHMAN: Just a -- a preview, I  
23 suppose.

24                   I -- I view -- view that as a member of  
25 the Governor's Competitiveness Council I have a -- an

1 obligation to keep you and Commissioner Congleton  
2 posted on the outcomes of those deliberations and as  
3 well as the staff. And so if you'll grant me, I'll  
4 provide a brief update at the next Commission Meeting  
5 about what's all happening. And even though there's  
6 not been any formal recommendations actually emerge  
7 yet, there are some observations and -- and ideas that  
8 have emerged that would be worth sharing, I think.

9                   So, I'll brief you on the -- at the next  
10 meeting --

11                   CHAIR RATH: Good.

12                   COMM. LEHMAN: -- and periodically  
13 thereafter.

14                   CHAIR RATH: Very good. Thanks.  
15 Commissioner, do you have anything?

16                   COMM. CONGLETON: I have nothing. Thank  
17 you.

18                   CHAIR RATH: Thank you. I've got just  
19 two things.

20                   The first is I wanted to share with my  
21 colleagues and thank the agency, because over the  
22 weekend I saw an employer who has a fairly low wage  
23 workforce vending business who was very, very  
24 complimentary of this agency. And I shared that with  
25 Mr. Temple.

1                   He said he only wishes that all agencies  
2 could emulate TWC, that it is the best agency  
3 regarding customer service, responsiveness, assistance  
4 that he has seen. And he really feels that every  
5 dollar he pays us is well invested.

6                   He also uses Work In Texas and is very,  
7 very pleased with it. Was happy to know we're trying  
8 to improve the match, so he won't, perhaps, get 40  
9 resumes but is very pleased and feels that it's the  
10 only agency that really gives him value back for his  
11 money.

12                   He also felt that when we comes before  
13 UI decisions that it's a level playing field, that  
14 surely there's some that he should win and some that  
15 he knows he should lose. And he feels he is treated  
16 very, very fairly and equitably and stated that was  
17 not the situation a decade ago.

18                   So, he was very impressed with the --  
19 the real consideration of the facts of each case  
20 before him. And so I -- I wanted to share that,  
21 because it's -- sometimes we don't get the -- the  
22 compliments and the good statements from folks.

23                   And, then, one other thing. Yesterday I  
24 attended part of the Ethics Seminar that was put on by  
25 UT and found it very interesting, particularly being

1 able to quantify the effectiveness of ethics training.  
2 And this agency has implemented ethics training for  
3 all employees.

4                   But there are many ways that you can  
5 really quantify the effectiveness of that, that you  
6 can really do a good job of assessing the culture of  
7 ethics and differentiating between the legal  
8 requirements and -- and really having the -- the moral  
9 and values permeated and integrated throughout the  
10 agency, that ethics is not just this stand-alone silo  
11 over here, but that it really should be the foundation  
12 for all of our interactions, both internally and  
13 externally, and that there's ways to really assess the  
14 ethics climate and how effective the training is.

15                   And one of the things that was most  
16 important was that the tone is set from the top. But  
17 once that tone is set, what effects the true  
18 implementation the most is the -- the supervisor's  
19 ability and how that is mirrored and, you know, if we  
20 walk the talk and really the supervisor's commitment.  
21 So, you can have the overall tone and you can have the  
22 framework established, but making sure that every --  
23 folks that are employed at TWC sees their supervisor  
24 emulating that and -- and the response of supervisors  
25 when there is, perhaps, less than expected behavior

1 occurring.

2                   And -- and one suggestion I'd like us to  
3 look at was because they said there was a -- the  
4 biggest fallout came when employees failed to see  
5 consequences to poor action. And they said that many  
6 entities, like once a year will, you know, screen  
7 for -- so there's no personal information revealed but  
8 really share that when there is inappropriate  
9 behavior, that there are consequences to that and that  
10 once a year they'll say, you know, personal action was  
11 taken however many times on these circumstances so  
12 people can see that the agency doesn't tolerate  
13 inappropriate behavior or there are consequences.

14                   And that was an interesting approach.  
15 And they said, of course, you have to be very careful  
16 to -- you know, to make sure there's no identifying  
17 information but that just raising the level of  
18 awareness that, you know, bad actions aren't tolerated  
19 is -- is very, very compelling with agencies.

20                   So, to that, I asked Fran Carr if -- if  
21 they have time in Internal Audit if she could really  
22 have a special project that would look at assessing  
23 the effectiveness of our ethics training and the  
24 effectiveness of the ethics culture and see if we  
25 can't quantify that, because I said usually when there

1 is a high ethical standard throughout an agency or an  
2 entity, you will see a correlation -- not a direct  
3 result -- but a correlation with decreased  
4 absenteeism, decreased workers' comp claims, a -- a  
5 lot of objective measurements, which was fairly  
6 interesting, I thought.

7                   And -- and so it was across a broad base  
8 of -- of entities, both private sector, nonprofits,  
9 for-profits. And -- and I think it's very important  
10 in light of the National Ethics Resource Center that  
11 released a report last week on -- and it got -- it got  
12 some coverage in Texas papers, and it got a lot of  
13 coverage nationally on the perception.

14                   And they -- they do for-profits. They  
15 do government. They do nonprofits, and so in the  
16 government section, the survey of government employees  
17 that do reveal the high level of unethical behavior  
18 that is observed annually.

19                   And so, I think in light of -- of that  
20 recent report anything we can do to convey the  
21 expectations of this agency -- because I think we've  
22 been very, very clear on that, and I think everything  
23 we say mirrors those expectations of the highest  
24 standards. But it -- it was -- it was -- it was very  
25 interesting.

1                   So, clearly, I think we would benefit  
2 from further research in that area, if Internal Audit  
3 does have time available.

4                   Anything else?

5                   COMM. LEHMAN: I have nothing.

6                   CHAIR RATH: Okay.

7                   COMM. CONGLETON: Nothing.

8                   AGENDA ITEM NO. 17

9                   CHAIR RATH: With that, we're now going  
10 into Executive Session pursuant to Government Code  
11 551.071(1) concerning contemplated litigation or the  
12 pending litigation of Igal versus Brightstar, and it  
13 is 9:56.

14                   (Executive Session: 9:56 a.m. to  
15 10:18 a.m.)

16                   CHAIR RATH: It's 10:18, and we'll  
17 resume our meeting. After having come from Executive  
18 Session and being briefed by Legal Counsel, is there a  
19 motion to come before us today?

20                   COMM. CONGLETON: I have a motion  
21 pursuant to Government Code Section 551-102 I move  
22 that the Commission -- Commission authorize the Office  
23 of Attorney General to file an amicus brief on behalf  
24 of TWC in support of the appellate motion for  
25 rehearing -- advocate's motion for rehearing, excuse

1 me.

2 CHAIR RATH: Is there a second?

3 COMM. LEHMAN: I cannot offer a second,  
4 although I recognize the merits. And the -- I want to  
5 thank the Attorney General's Office for their guidance  
6 and insight into this very complicated issue. But at  
7 the time, I cannot offer a second.

8 CHAIR RATH: And -- and -- and I would  
9 say I cannot support the -- the substance of what our  
10 brief would be. I am very troubled by the impact that  
11 the decision has on individuals, and -- and I think  
12 it's very important for the Legislature to clarify  
13 what their intent is in the next session.

14 AGENDA ITEM NO. 19

15 CHAIR RATH: But if there's nothing else  
16 before us, it is 10:19, and we'll now stand adjourned.

17 (Meeting adjourned: 10:19 a.m.)

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