

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, JUNE 12, 2007

BE IT REMEMBERED THAT at approximately 9:00 a.m., Tuesday, the 12th day of June 2007, 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 Patricia Gonzalez, a Certified Shorthand Reporter, in the State of Texas.

	TABLE OF CONTENTS	
		PAGE
1		
2		
3	AGENDA ITEM NO. 1.....	3
4	AGENDA ITEM NO. 2.....	3
5	AGENDA ITEM NO. 3.....	3
6	AGENDA ITEM NO. 4.....	3
7	AGENDA ITEM NO. 5.....	4
8	AGENDA ITEM NO. 6.....	4
9	AGENDA ITEM NO. 7.....	5
10	Reagan Miller and Nicole Verver	
11	AGENDA ITEM NO. 8.....	31
12	Reagan Miller and Nicole Verver	
13	AGENDA ITEM NO. 9.....	38
14	Reagan Miller and Nicole Verver	
15	AGENDA ITEM NO. 10.....	41
16	Adam Leonard	
17	AGENDA ITEM NO. 11.....	41
18	Adam Leonard	
19	AGENDA ITEM NO. 12.....	No Action
20	AGENDA ITEM NO. 13.....	43
21	Jesse Lewis	
22	AGENDA ITEM NO. 14.....	No Action
23	AGENDA ITEM NO. 15.....	No Action
24	AGENDA ITEM NO. 16.....	No Action
25	AGENDA ITEM NO. 17.....	No Action
	AGENDA ITEM NO. 18.....	51
	REPORTER'S CERTIFICATE.....	52

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

2 TUESDAY, JUNE 12, 2007

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIR RATH: We'll go ahead and come to
6 order and start the first part of the agenda.

7 AGENDA ITEM NO. 2

8 Discussion, Consideration and Possible
9 Action Regarding Whether to Assume Continuing
10 Jurisdiction on Unemployment Compensation Cases, Wage
11 Claim Cases, and/or Tax Liability Cases and
12 Reconsideration of Unemployment Compensation Cases,
13 Wage Claim Cases, and/or Tax Liability Cases, if Any.

14 No discussion.

15 AGENDA ITEM NO. 3

16 Discussion, Consideration and Possible
17 Action Regarding Tax Liability Cases Listed on the
18 Texas Workforce Commission Docket 24.

19 The Commission considered and took
20 action on all tax liability cases listed on Docket 24.

21 AGENDA ITEM NO. 4

22 Discussion, Consideration and Possible
23 Action Regarding Higher Level Appeals in Wage Claim
24 Cases Listed on the Texas Workforce Commission Docket
25 24.

1 The Commission considered and took
2 action on all wage claim cases listed on Docket 24.

3 AGENDA ITEM NO. 5

4 Discussion, Consideration and Possible
5 Action Regarding Higher Level Appeals in Unemployment
6 Compensation Cases Listed on the Texas Workforce
7 Commission Docket 24.

8 The Commission considered and took
9 action on all unemployment compensation cases listed
10 on Docket 24.

11 The Commission paused and continued with
12 the remainder of the agenda.

13 CHAIR RATH: If we're ready, we'll go
14 ahead and come back and continue with our agenda.

15 AGENDA ITEM NO. 6

16 CHAIR RATH: I know we -- I have some
17 written public comments that were submitted to me and
18 I know we have one individual that has signed up for
19 public comment.

20 And I'll ask, Mr. Colyandro, do you want
21 to testify now or do you want to wait until the agenda
22 item and testify at that time? It's your choice.

23 MR. COLYANDRO: I'll wait for the item.

24 CHAIR RATH: Okay. Thank you.

25 Is there anyone else signed up for

1 public comment?

2 MR. BALLARD: No.

3 CHAIR RATH: Okay. Thank you.

4 AGENDA ITEM NO. 7

5 CHAIR RATH: And then that brings us to
6 the item regarding discussion, consideration and
7 possible action on automated attendance, validation
8 and electronic funds transfer for Child Care.

9 Ms. Miller and Ms. Verver.

10 MS. VERVER: Good morning, Chair Rath,
11 Commissioners. Nicole Verver, Workforce Development.
12 Joining me at the table this morning is Reagan Miller.

13 Today for your consideration is a
14 discussion paper which addresses improvements that can
15 be made in Child Care regarding automated attendance
16 tracking, electronic funds transfer and validation of
17 attendance through biometrics. As you'll recall, this
18 concept originally came forward in November of last
19 year and the Commission requested additional
20 information on alternative means of automated
21 attendance tracking and validation options for
22 home-based providers.

23 Currently, home-based providers account
24 for about 80 percent of all providers; however, they
25 only care for 23 percent of all subsidized children.

1 In addition, the turn of children in and out of
2 home-based care is relatively high, with 42 percent of
3 home-based providers caring for children for less than
4 three months. The large number of providers who care
5 for a relatively small number of children for a short
6 period of time make the point-of-service devices, the
7 finger imaging, cost prohibitive for home-based care.
8 In this discussion paper, we outline the use of voice
9 identification for home-based providers as a possible
10 alternative to the point-of-service device.

11 Voice identification measures and
12 analyzes an individual's voice and identifies the
13 physiological and behavioral qualities that make it
14 unique. In addition to verifying the individual's
15 voice, it also gives the location from where the call
16 was made.

17 In order to implement voice
18 identification for home-based providers, parents would
19 enroll in the system by setting up their voice
20 identification. This would be a one-time cost of 75
21 cents. Once the voice identification was set up, the
22 daily process would involve a check-in and checkout.
23 To check in, the parent arrives at the provider's home
24 to drop off the children. The parent uses the
25 provider's home phone, dials the 1-800 number and

1 states that the children have been dropped off. The
2 voice identification system verifies that the parent
3 is, indeed, making the call, and the arrival time for
4 the children as well as the location of the call. For
5 checkout, the same process would occur.

6 The daily check-in and checkout calls
7 would be 60 cents per day, which is 30 cents per call.
8 This equates to a yearly estimated cost of 2 million
9 for home-based providers as opposed to the 6 million a
10 year Staff estimated in November using
11 point-of-service devices for home-based providers.

12 When Staff presented this last November,
13 we estimated the cost based on point-of-service for
14 all child care providers. Based on the new design,
15 which includes point-of-service devices for all
16 licensed centers and voice identification for
17 home-based providers, the costs are estimated at
18 24 million over a four-year period. Of the
19 24 million, half of this is for costs associated with
20 the leasing of the point-of-service biometric devices
21 for licensed centers. The Commission could choose to
22 have the license centers bear the cost of leasing
23 these devices. TWC would then be responsible for
24 paying the cost of the automation, the swipe cards and
25 for the voice identification for the home-based

1 any questions.

2 CHAIR RATH: Thank you. I really
3 appreciate all the work that Staff has been doing on
4 this.

5 And, first, I'll go to Commissioner
6 Lehman to see if you have any questions or comments --
7 oh. I'm sorry. Let me read the comments first.

8 COMM. LEHMAN: Yeah. You need --

9 CHAIR RATH: Excuse me.

10 COMM. LEHMAN: Yeah. You need to --

11 CHAIR RATH: I forgot.

12 The first comment we have is in person,
13 and it's John Colyandro from the Texas Conservative
14 Coalition Research Institute.

15 Mr. Colyandro -- and if you want to go
16 to the podium and then identify yourself, that would
17 be great.

18 MR. COLYANDRO: Good morning. My name
19 is John Colyandro. I'm Executive Director with the
20 Texas Conservative Coalition Research Institute. I'm
21 here to speak on behalf of the proposal before you.

22 I think there are three particularly
23 salient points here. One is that the technology that
24 we're talking about implementing -- that the
25 Commission is considering implementing is not new.

1 at the private sector in terms of the development of
2 this technology and its applications. In America
3 today, more than 3 million customers of various
4 businesses now regularly pay for goods at the
5 supermarket, drugstores or convenience stores just by
6 scanning their fingers, punching in a personal
7 identification number, rather than using even credit
8 card or debit cards. In Japan, as an example, more
9 than 2 million people now use contactless palm
10 scanners when they want to withdraw cash from a cash
11 point. And in the next few months, Deutsche Bank, as
12 an example, will be rolling out a new telephone
13 banking system to its 4 million customers that
14 verify -- that can verify each user's identity using
15 voice analysis.

16 And this is just the beginning. Many
17 laptops and even few mobile phones now ship with
18 built-in finger scanners. Domestic applications such
19 as biometric front door locks or garage doors and
20 safes are also available. There are on-line services
21 that can be accessed only if the rhythm and other
22 characteristics of your typing match are stored and
23 your key stroke -- and your key stroke dynamics are
24 stored as well. There are even memory sticks or flash
25 drives secure with built-in thumbprint scanners.

1 Very specifically, the voice recognition
2 technology identifies people based on the differences
3 in the voice resulting from physiological differences
4 and learned speaking habits. When an individual is
5 enrolled in such a system, the system captures samples
6 of the person's speech as the individual says certain
7 scripted information into the microphone or telephone
8 multiple times. This information is known as "pass
9 phrase."

10 There are also biometric systems
11 available that can distinguish between people's voices
12 without requiring a predefined phrase. The pass
13 phrase is then converted to a digital format, and
14 distinctive characteristics, such as pitch, cadence
15 and tone, are extracted to create a template for each
16 speaker.

17 Voice recognition templates require the
18 most data space of all the biometric templates;
19 however, voice recognition technology can be used for
20 both identification and verification. Voice
21 recognition technology requires minimal training for
22 those involved, which I think is a key point here
23 given the population that it's attempting to serve.
24 It is also fairly inexpensive and is very
25 non-intrusive. The biggest disadvantage with the

1 technology is that it can be unreliable in some
2 circumstances, such as when there's a noisy
3 environment, a lot of background noise when the person
4 is making the phone call, but those issues can be
5 worked through.

6 One example of where voice recognition
7 systems have been used or starting to be used is the
8 US-VISIT program. As one company has started to
9 implement the proposal, an individual is enrolled in a
10 U.S. managed database when applying for a visa at the
11 U.S. Consulate. The person is later -- or would later
12 record his or her name and pass phrase then. Later,
13 local, state or federal employees could use telephone,
14 cell phone or Web to verify if the individual is who
15 he or she claims to be. I think given what has
16 happened in the private sector and some of the
17 programs that are being implemented in the public
18 sector, it is particularly important that the
19 Commission consider this, especially in the -- in
20 light of the amount of fraud that is believed to be in
21 the program and what has been experienced the case --
22 has been the case in the Medicaid Program.

23 Again, I want to emphasize that what
24 we're talking about here is really nothing
25 particularly new and it ought to provide some comfort

1 to the Commission to move forward.

2 The Office of Eligibility Services was
3 created by the 78th Legislature through House Bill
4 2292. The OES is responsible for managing eligibility
5 determination for all Health and Human Services
6 programs in Texas in the most efficient and effective
7 manner. The OES is also responsible for maintaining
8 integrity and delivery of medical, financial and
9 nutritional assistance to needy Texans.

10 The OES has conducted several pilot
11 projects called the Medicaid Integrity Pilot, and the
12 objective of the pilot was to evaluate the
13 effectiveness of biometric and Smart Card technologies
14 used to eliminate Medicaid fraud. The OE -- HHSC OES
15 contracted with four vendors for this program. And
16 after a nine-month pilot program, which involved the
17 voluntary participation of 1,200 Medicaid providers,
18 228,000 Medicaid clients and the installation of 954
19 front-end authentication devices, this level of
20 participation allowed the collection of data from
21 60,000 client visits and 122,000 transactions. The
22 major findings from the study were the following:

23 A front-end authentication and fraud
24 prevention system incorporating Smart Card and
25 biometric technology can be successfully integrated

1 into Medicaid benefit delivery process. Medicaid
2 providers are interested in new benefit delivery in
3 electronic eligibility determination solutions to
4 simplify the process.

5 Clients and providers will accept the
6 use of the technology. The piloted solutions
7 establish the feasibility of implementing a process
8 that can significantly deter specific areas of fraud
9 believed to be prevalent in the Medicaid Program.

10 And, finally, to clearly determine the
11 fraud -- excuse me -- to clearly determine the fraud
12 deterrent impact of front-end authentication, a
13 statewide system implementation requires mandatory
14 participation by providers and clients and development
15 of specific rules and policies.

16 Furthermore, and, lastly, since
17 October 1996, Texas has used the Lone Star imaging
18 system to verify the identity of Welfare and Food
19 Stamp clients via electronic fingerprint -- finger
20 imaging to ensure that no one receives benefits
21 fraudulently. In 2003, the program served 1.4 million
22 aid recipients, and that number is -- it grows. The
23 State's Health and Human Service Commission estimated
24 that the system saved Texas taxpayers 6 million to 11
25 million annually by preventing fraud.

1 I believe, based on the preliminary
2 estimates by the Commission, implementing a voice
3 recognition system here and/or a biometric system
4 would save significantly more dollars in this program;
5 so I'm here to encourage the Commission to move
6 forward with this proposal.

7 Thank you.

8 CHAIR RATH: Thank you very much. And I
9 think the overview both of how the technology is used
10 in the private sector and reviewing for us the other
11 state agencies that are using it, I found helpful.

12 Commissioner, do you have any questions?

13 COMM. LEHMAN: No -- well, I guess --
14 no. I'll wait until we're further into the session.
15 Thank you.

16 CHAIR RATH: Thank you.

17 Commissioner?

18 COMM. CONGLETON: I have no questions.

19 Thank you.

20 CHAIR RATH: Thank you very much.

21 MR. COLYANDRO: Thank you very much.

22 CHAIR RATH: Thank you for being with us
23 today.

24 I then will have three written comments
25 that I'll read. The first one is submitted by Jamie

1 Story with Texas Public Policy Foundation, and she
2 says:

3 "To the Commissioners: The Texas Public
4 Policy Foundation has long supported efforts to guard
5 against fraud and abuse in all public programs. The
6 State has an obligation to ensure that tax dollars are
7 used wisely and that any taxpayer-supported public
8 benefits are managed with the utmost concern for
9 preserving program integrity. I encourage the Texas
10 Workforce Commission to move forward in exploring the
11 prudent use of new technology in the Child Care system
12 to better link the Child Care clients and payments for
13 these benefits.

14 "Some may express reservations about the
15 use of biometrics to authenticate the identity of
16 private citizens. However, one must remember that
17 these private citizens are voluntarily receiving a
18 benefit paid for by other taxpayers. Taxpayers
19 deserve to know that their hard-earned dollars are
20 being used for their intended purpose, and this right
21 trumps privacy concerns related to beneficiaries of
22 those tax dollars. If parents do not wish to be
23 tracked biometrically, they can decline participating
24 in the CCDF program. However, the taxpayers who pay
25 into the system have no choice in the matter.

1 "One doesn't have to look far to find a
2 similar example of biometric technology in public
3 assistance programs. Texas has used biometric
4 fingerprinting to confirm Food Stamp recipients'
5 identities since 1996 with statewide use since 1999.
6 By obtaining and comparing the fingerprints of
7 individuals who apply or reapply for Food Stamps, the
8 Lone Star Image System is able to prevent duplicate
9 participation in the assistance program while also
10 deterring fraud. The Imaging System is estimated to
11 save taxpayers between \$6 million and \$11 million each
12 year. If point-of-sale fingerprint devices were
13 implemented in retail centers, these savings could
14 multiply.

15 "The use of biometric and voice
16 identification methods will vastly improve the
17 administrative efficiency of attendance tracking and
18 will drastically reduce fraud if the experience of
19 states such as Oklahoma and California are any
20 indication. This program will be a victory for
21 children, parents, day care providers and taxpayers
22 across Texas."

23 And then I have two more. The next one
24 is from Karen Johnson with United Way who says:

25 "Commissioners, I know that Jason met

1 with ACS folks about their work in Oklahoma in the
2 fall, and we both think there's some promise here.
3 Anything we can do to reduce fraud and spend the saved
4 dollars for increased access and improved provider
5 rates is something we will fully support. Since we
6 have not seen the final proposal for your meeting
7 tomorrow, we must say that our support is contingent
8 upon the creation of a system that is fully
9 transparent and accountable to taxpayers, does not
10 create undue and burdensome hassles for providers,
11 including the small mom-and-pops, and takes the
12 realities of low-income working families into account.

13 "We will need to see further refinement
14 of the proposed solution in order to give it a final
15 thumbs up or thumbs down. I know you-all are planning
16 to have a clause included in the RFP that whoever bids
17 on this must show that they can actually do the work.
18 This will be very good for the Commission so that you
19 and the public will know that this system is capable
20 of performing the work that the bidders say it will
21 do.

22 "Let us know how we can help in this
23 process.

24 "Karen Johnson, President and CEO of
25 United Way of Texas."

1 And then we have one more. And this one
2 is from Bonnie Gonzalez with Workforce Solutions
3 serving Hidalgo, Starr and Willacy Counties.

4 "Workforce Solutions, the Lower Rio
5 Grande Valley Workforce Development Board, submits
6 comments on the above-referenced item for the
7 Commissioners' consideration at its June 12, 2007
8 meeting. Original comments were made during the
9 Commission's Child Care Public Hearing on Friday,
10 June 8th, 2007, in Edinburg, Texas. The following
11 expands on the comments:

12 "Workforce solutions is built on
13 Workforce Services flow models for the job seeking and
14 business customer. Each model is continually
15 evaluated through quality management system processes
16 which are driven by quality and efficiency measures
17 with the full integration of Child Care as Workforce
18 supportive service efficiency measures will be
19 applied.

20 Workforce Solutions cover a three-county
21 Workforce Development area. Hidalgo County is the
22 sixth largest county in Texas. And Starr and Willacy
23 Counties are some of the most sparsely populated. The
24 delivery of quality services at equitable levels to
25 the eligible populations, which are close to

1 50 percent, has been and will continue to be
2 technology driven rather than person to person.
3 Through technology, services are delivered faster,
4 and, thereby, produce faster results.

5 "Child Care funds constitute almost
6 50 percent of Workforce Solutions allocation. Yet,
7 the delivery vehicle for this service remained the
8 most antiquated in terms of budget systems and payment
9 processes. Savings in administrative cost, which
10 Workforce Solutions obtained through integration, and
11 increases in funds for direct services may be hampered
12 if the current system does not undergo efficiency
13 tests.

14 "The proposed automation in attendance
15 and funds transfers will lend greatly towards
16 relieving administrative burdens in the child care
17 provider, expedite payment, reduce processing time by
18 contractors and increase fund management oversight.
19 Workforce Solutions is aware automation can create
20 room for abuse if not monitored; however, internal
21 processes, staff training, educating recipients and
22 statistical sampling of validation will produce
23 results that will identify weaknesses in the system.

24 "Sincerely, Yvonne Gonzalez, CEO,
25 Workforce Solutions."

1 And that is all the comments that I have
2 before me at this time. Is there anybody else that
3 has signed up in the interim?

4 (No verbal response)

5 CHAIR RATH: Okay. Very good. Then
6 we'll go ahead.

7 Sorry, Commissioner.

8 COMM. LEHMAN: That's all right.

9 CHAIR RATH: Go ahead.

10 COMM. LEHMAN: Okay. A couple of
11 things.

12 First, once again, thanks for the input,
13 sir.

14 I agree that voice recognition is not a
15 new technology, in that I remember back -- I worked on
16 a project in IBM in '93 or so where we were using
17 young children to read to the computer. The computer
18 was recognizing them, and we were using the computer
19 to coach their reading. And it was about 97 percent
20 effective across 91 different language dialects in New
21 York; so we had great success with that. I have a lot
22 of confidence in voice recognition technology.

23 I've always supported the idea of using
24 technology to enhance the administrative efficiencies
25 of the Child Care Program. What concerned me about

1 the original proposal was the enormous turnover of a
2 new technology in the hands of people that I consider
3 to be relatively inexperienced and the enormous
4 tracking of that equipment and keeping up with it in
5 view of the turnover of 3- to 4,000 providers per
6 year. So from an administrative efficiency
7 standpoint, I was always in support of this proposal.

8 Staff has come back now with a revision
9 that says let's not put that burden on ourselves and
10 the providers in the system with this enormous
11 turnover of technology and, quote, "newness," if you
12 will. Using voice recognition technologies or using
13 other proven technologies makes a lot of sense to me,
14 particularly across the center environment.

15 So I guess my question really is -- it
16 may be a couple. In view of last week's input from
17 the child care community on their perception that we
18 are not raising rates sufficiently to help them offset
19 their costs to make profit, I'd like, on the record,
20 "What is the cost that the child care community of
21 providers in this proposal is going to have to bear?"

22 MS. MILLER: Commissioner, in the cost
23 estimate that we did, leasing of -- purchase of a POS
24 device in a licensed center would be approximately \$40
25 a month.

1 COMM. LEHMAN: Per providing center. Am

2 I --

3 MS. VERVER: Yes. Yes.

4 COMM. LEHMAN: -- clear on that?

5 MS. MILLER: Yes.

6 COMM. LEHMAN: Okay. Do we have any
7 indication if the child care community itself is in
8 favor of that expenditure?

9 MS. VERVER: Based on the public
10 hearings that the Chair and I attended, we -- the
11 child care contractors that attended and the providers
12 were very much in support of the device, and we did
13 mention that if the Commission so chooses, the
14 provider would actually have to pay for the
15 point-of-service device.

16 COMM. LEHMAN: Okay. And then the other
17 question is: Based on the proposal, there's a half
18 million dollar cost of programming and I'd like
19 assurance of Staff that given that this -- we approve
20 this proposal, that it goes into the queue or it goes
21 into production and out -- and the work starts, but it
22 does not impact the priorities of other IT projects or
23 the impact -- has no negative impact on the other IT
24 projects that the agency is currently undertaking. Is
25 that a --

1 MR. TEMPLE: Any time anything would in
2 any way realign those priorities, we would bring that
3 to you in the working group. So we would let you know
4 if it ever got to that point.

5 COMM. LEHMAN: Okay. That's all of my
6 questions.

7 CHAIR RATH: Thank you.
8 Commissioner?

9 COMM. CONGLETON: Well, I have no
10 objections to the electronic fund transfer --

11 CHAIR RATH: Is your mic on?

12 COMM. CONGLETON: I have no objection to
13 the -- I have no objection to the proceeding with the
14 electronic funds transfer which would make the payment
15 system more efficient. However, I have a problem with
16 the attendance tracking violation project. I
17 appreciate the time and effort that Staff has put into
18 searching for a more cost effective system. I commend
19 your efforts and look for ways to reduce improper
20 payments, but I think this may be a solution looking
21 for a problem. In spite of our best efforts to
22 estimate the savings, we have no hard numbers on the
23 amount of improper payments. This makes it impossible
24 to determine whether we get a return on our investment
25 or whether we're just spending millions of dollars for

1 technology, and we have a fiduciary duty to the
2 taxpayers to make sure we're getting a return on our
3 investment as well. I have no problem with the
4 technology as it stands, but I do not think that we
5 have a good enough case to go forward with this right
6 now.

7 CHAIR RATH: Thank you.

8 I have a couple of things. One is, I
9 would just remind my colleagues that we had proposed
10 rulemaking from ACF where they are beginning
11 regulation providing for their point of error rates
12 and eliminating improper payments, including the
13 authorization of improper payments, which would really
14 hit our system very, very hard, and we submitted
15 comments in response to that. So I think ACF is
16 really beginning to focus on Child Care. And at the
17 last APHSA, it was the focus of significant
18 conversation about the widespread fraud and abuse.
19 And I think when we use conservative numbers -- I
20 mean, it was demonstrated in Oklahoma that there were
21 10 percent savings, demonstrated that there were 16 to
22 17 percent in California, and so if we use those same
23 numbers, it ranges from four years' savings of 140 --
24 nearly \$146 million to \$233 million.

25 So say it's doubled. Say they missed it

1 and we don't have 10 percent. We only have 5 percent,
2 which is consistent with estimated fraud -- I mean, if
3 we look at UI, it's 2-1/2 to 4 percent. So 5 percent
4 in Child Care would not be that inconsistent with
5 other documented fraud.

6 So say it's doubled. Instead of 145,
7 146 million, say it's 70 million. Is that okay? I
8 mean, I don't think any dollar is too much,
9 particularly considering the emphasis we've put on
10 other areas of this agency.

11 And I've got one question. When I
12 looked at Page 6, Attachment 2, I was not quite sure,
13 because we had the admin savings from the proposal and
14 the improper savings cost estimates being 145 to 233,
15 is there any extra cost in implementing biometrics?
16 Because when I read the background, it did not seem to
17 be.

18 MS. VERVER: Oh, in terms of the point
19 of service --

20 CHAIR RATH: Yes.

21 MS. VERVER: -- the device? No.

22 CHAIR RATH: And voice technology.

23 MS. VERVER: You still have to purchase
24 the point-of-service device.

25 CHAIR RATH: So there's no extra cost,

1 but we have huge potential elimination of improper
2 payments, be it fraud or waste?

3 MS. VERVER: Yes, ma'am.

4 CHAIR RATH: Thank you.

5 I also wanted to comment on two things,
6 because I know on Page 2 we talk about looking at
7 voice identification for children and both finger
8 imaging for children, and, again, if that is
9 problematic, we can easily use the parents or the care
10 giver, whoever drops off the child or pick them in.
11 So I think that's one of the issues that the proof of
12 concept would prove to us.

13 I was also very pleased on two things.
14 The first was, I think the idea of including proof of
15 concept in the RFO is extraordinarily good, since it
16 is a complex system and since it is a new concept in
17 this application. I think that was a very good idea;
18 so I commend whoever thought of it.

19 Also wanted to just reassure that I
20 think we have given direction that every project have
21 a manager, and so I think our complaints have always
22 been, in the past, not about having a manager but
23 about not having a manager. So I just wanted to
24 thank -- my perception is thank you-all for clarifying
25 this will have a manager, because for those that have

1 been subject to my tirades in the agency, they would
2 probably validate my whine about that.

3 The last thing is to reassure
4 Commissioner Lehman that we really did have many
5 comments when I -- as I did here last week when I
6 introduced it as a proposal that was coming before us,
7 and it was very interesting to me to see the response
8 of the attendees at our conference -- I mean, at the
9 Child Care hearings. We even had one area that
10 volunteered to be a pilot, and they reiterated that
11 again yesterday. So we have one small area that is so
12 anxious to start it, they volunteered to pilot.

13 In conversations with child care
14 providers I spoke to last August -- in fact, and then
15 reaffirmed that this week with three major chains who
16 are saying that it is so much more, would result in
17 such administrative savings for them that they are
18 very anxious to do it. And supporting that was, on
19 the record, testimony at the Tyler hearing by a
20 for-profit and at the Dallas hearing by both a
21 nonprofit and a for-profit in support of this concept.
22 And the for-profit, the gentleman has for-profit, said
23 he currently has two FTEs that do nothing but handle
24 our attendance billing processing. And the Child Care
25 contractors for Dallas and Tarrant were very much

1 interested and thought it had significant value. And
2 that is all on the record of those hearings also.

3 So with that, I took reassurance in all
4 of the child care providers saying this was not an
5 extra cost, but, in fact, would result in much lower
6 costs for them, which has been the history in
7 Oklahoma. The Oklahoma providers absolutely love it
8 because of that.

9 So that was what I wanted to share and
10 to clarify today. So thank you for that about the
11 cost.

12 So with that, are there any other
13 questions?

14 COMM. LEHMAN: I have none.

15 COMM. CONGLETON: No questions.

16 CHAIR RATH: Then the issue of moving
17 forward with this project to the next step of an RFO,
18 including the proof of concept is before us. Is there
19 a motion?

20 COMM. LEHMAN: I move to accept the
21 Staff recommendation for both components you just
22 mentioned; that is, the administrative improvements
23 and the pilot project to verify proof of concept. And
24 all I would ask is that we be kept apprised of those
25 at various check points.

1 CHAIR RATH: Okay.

2 COMM. CONGLETON: And I would say okay
3 to the electronic funds transfer and I have to say no
4 to the validation and tracking project.

5 CHAIR RATH: Okay. And I agree with the
6 project moving forward in its entirety, and I'm
7 grateful for a project manager.

8 MS. VERVER: Us, too.

9 CHAIR RATH: Thank you very much. And
10 thank you-all very much for the work.

11 Next we will go to the -- I guess
12 you-all get to stay there. Next we go to the --

13 MR. TEMPLE: And it will be Nicole
14 Verver.

15 (Laughter)

16 CHAIR RATH: She'd have to go back and
17 get the IT background.

18 (Laughter)

19 MS. VERVER: Yeah. Exactly. No.

20 AGENDA ITEM NO. 8

21 CHAIR RATH: Next we have the TANF
22 Interim Work Verification Plan.

23 Ms. Miller and Ms. Verver.

24 MS. VERVER: Again, for the record,
25 Nicole Verver, Workforce Development.

1 projection of hours for participation in paid
2 employment. ACF allows states to project out for six
3 months' participation in paid employment. However, if
4 there's any change in the hours used in the
5 projection, Boards would be required to update their
6 projections. Staff believes this is burdensome to the
7 employer -- or to the Boards to continuously update
8 the projections.

9 Currently -- or the main employers of
10 Choices participants is Staff Leasing and Wal-Mart
11 retail shops, and so hours are changing week to week.
12 And so going back and changing the projections every
13 week is just not worth the trouble of projecting out.

14 In addition, Staff is recommending not
15 allowing distance learning for Choices participation
16 unless it's in a supervised setting. Supervised
17 setting could include a Workforce Center, educational
18 institution or other applicable setting where a
19 responsible party is physically present to verify the
20 individual is actually doing the training. While
21 distance learning modules can track hours of
22 participation and satisfactory progress in the
23 activity, Staff is concerned that when performed
24 outside of a supervised setting, participation's
25 activity cannot be monitored to ensure that the

1 individual is actually the one completing the
2 training.

3 Finally, ACF has asked for a more
4 detailed process regarding our sampling and
5 verification procedures of job search logs; so we've
6 provided some more detail on that.

7 At this time, I would like to offer a
8 floor amendment to the plan. Late Thursday afternoon,
9 Staff received guidance from ACF that the feds will
10 now accept phone calls from employers as verification
11 of participation hours for paid work activities only
12 in cases where no other documentation such as paycheck
13 stubs and time cards are available. Prior guidance
14 issued by the feds did not allow for this; so Staff
15 would like to go back and amend the plan and allow for
16 this flexibility.

17 At this time, I'll be glad to answer any
18 questions.

19 CHAIR RATH: Commissioner, do you have
20 anything?

21 COMM. LEHMAN: Actually, I don't at this
22 point. I found your report to be well done, and I
23 really don't have any questions.

24 CHAIR RATH: Commissioner?

25 COMM. CONGLETON: I have no questions

1 and I'd approve the Work Verification with your floor
2 amendment submission to the Department of Health and
3 Human Services.

4 COMM. LEHMAN: Second.

5 CHAIR RATH: And I agree.

6 I do want to express two concerns. The
7 first is I'm very disappointed that with -- based on
8 their guidance, we find it not feasible to continue to
9 use paid employment. I think when that's what our
10 goal is and that's what we're moving towards -- I
11 totally understand the quandary we find ourselves in
12 and I totally understand the reason for the
13 recommendation and our action, but I do think it's
14 kind of reverse stuff. So I would ask us to continue
15 to seek out methods whereby we could use paid
16 employment. And maybe it has to be an agreement that
17 their schedule not change, the hours not change. In
18 some parts of the state where the unemployment is so
19 low, it certainly requires a greater cooperation from
20 the employer, but perhaps there's some that would be
21 willing to do that, because I think it is -- I just
22 don't think it serves the system, the individual or
23 anybody well to take those resources out of the
24 system. So that's disappointing.

25 I also would urge us to continue

1 exploring opportunities to use distance learning,
2 because I recognize and accept and acknowledge the
3 current limitations upon us, but at the same time, I
4 think distance learning is such a valuable resource,
5 particularly in some areas of the state. I realize
6 that right now we need to use supervised, but I would
7 hope, if there's some mechanism to verify who the
8 individual is using it or something, if we could do
9 that in the future.

10 MS. VERVER: Yes, ma'am.

11 CHAIR RATH: It's kind of like when you
12 take those defensive driving courses on-line. I mean,
13 they pop up with those questions. They go crazy. And
14 if you're not the person that's taking that thing,
15 there's no way you can answer all those questions
16 right, for those of you that have taken defensive
17 driving on-line.

18 (Laughter)

19 CHAIR RATH: But -- I mean, so it looks
20 like there might be something within there that we
21 could do, because there's no way you can fake that on
22 those things.

23 COMM. LEHMAN: Maybe we need a distance
24 learning solution with a biometric or speech
25 recognition component.

1 (Laughter)

2 CHAIR RATH: I think that would work
3 beautifully.

4 (Simultaneous discussion)

5 (Laughter)

6 COMM. LEHMAN: In your new IT project
7 manager role, you could figure that one out, huh?

8 MS. VERVER: No.

9 (Laughter)

10 COMM. LEHMAN: That wasn't a question,
11 but I couldn't pass it up.

12 CHAIR RATH: But I think it might be
13 evolving. As rapidly as technology is evolving, and
14 since they really are, some of the testimony
15 presented, using key strokes --

16 COMM. LEHMAN: Sure.

17 CHAIR RATH: -- and embedding finger
18 imaging in different things, there well could be, in
19 the not-too-distant future, opportunities to
20 incorporate that.

21 COMM. LEHMAN: In the '90s, there were
22 projects underway at UT called computer adaptive
23 testing that had the effect of doing just those
24 things. What I don't know is -- I haven't checked the
25 status of them recently, but, in effect, the entire

1 approach that you were using was adjusted to the
2 individual at hand, and if the characteristics of the
3 response times, the key strokes and so on were
4 changing, then the computer or the distance learning
5 mechanism was assuming that the individual had
6 changed. So we might find that we have solutions to
7 that even though -- I understand the spirit of the
8 restriction, but it does kind of limit the creativity
9 of the system. So I agree with the Chair, we need to
10 keep pushing on. Just because they said we shouldn't
11 doesn't mean we shouldn't.

12 CHAIR RATH: Yeah, because I think -- I
13 mean, we do have to verify, but I think that both of
14 those two avenues are areas that I have concern in,
15 because I think it's really limiting us, and this is
16 the time when we don't need any limitations. So
17 that's what I would urge you.

18 So with that, we already approved the
19 Work Verification Plan. So thank you.

20 AGENDA ITEM NO. 9

21 CHAIR RATH: And then for you-all's next
22 item, the Project RIO MOU.

23 MS. VERVER: Again, for the record,
24 Nicole Verver, Workforce Development. For your
25 consideration today is a Memorandum of Understanding

1 between the Texas Workforce Commission, the Texas
2 Department of Criminal Justice and the Texas Youth
3 Commission establishing the responsibilities of each
4 agency for Project Reintegration of Offenders.

5 Both the Texas Labor Code and the Texas
6 Government Code require the adoption of an MOU that
7 establishes a continuity of care program for inmates
8 with a history of unemployment. This MOU addresses
9 statutory requirements and the goals and objectives
10 centered on preparing and transitioning offenders and
11 adjudicated youth into the labor market. This year,
12 the Windham School District is included as a party to
13 the MOU, because as the educational entity serving
14 TDCJ inmates, they play a vital role in pre-release
15 Project RIO services.

16 The Texas Board of Criminal Justice
17 approved this MOU on May 25th and TYC is currently
18 reviewing.

19 Staff recommends the approval and
20 execution of the Project RIO MOU with TDCJ, TYC and
21 Windham School District.

22 At this time, I'll be glad to answer any
23 questions.

24 CHAIR RATH: Thank you. I'm certainly
25 supportive of the MOU, but I think this is an

1 opportunity for us to really encourage the agency to
2 work with the Boards so that when the new funding for
3 RIO is available in September it doesn't take us a
4 while to gear up, because I'm very sympathetic that it
5 usually takes us a little while to really get going,
6 but I don't think we have that luxury.

7 And as Mr. Temple discussed yesterday in
8 the meeting at TAWB, particularly with TYC and then
9 also -- although not the subject of quite so much
10 discussion but equally in concern is provision of
11 services to those that are leaving criminal justice.
12 So I think we really need to be certain that come
13 September 1 Boards are ready to expand their service
14 delivery to the new targets. And this sort of is
15 included in this MOU, our part of it.

16 COMM. LEHMAN: Yeah. I didn't do a
17 line-by-line comparison of this and the last year's,
18 but are there anything -- is there anything special in
19 here new as a result of the challenges being faced by
20 the TYC?

21 MS. VERVER: No. TYC pretty much wanted
22 to keep it the same as it was from the prior MOU. The
23 main change within the MOU is just adding Windham
24 School District as a party to the agreement.

25 COMM. LEHMAN: I think, because we are

1 being broadcast, it is doubly important to reiterate
2 our heightened need to be involved in helping address
3 the problems, as Chair Rath and Director Temple
4 mentioned yesterday. So just add my comment to it as
5 well, this is an opportunity for the Workforce System
6 to step up again to another challenge and excel like I
7 think they will.

8 COMM. CONGLETON: Yeah. I think there
9 will be a spotlight on the youth offenders being
10 released and what services the State provides for
11 them; so I think that would be well served if we're
12 ready to serve those folks right away.

13 CHAIR RATH: Very good.

14 Is there a motion to approve the MOU?

15 COMM. CONGLETON: Move to approve the
16 Project RIO Memorandum of Understanding with TDCJ, TYC
17 and Windham School District as presented.

18 COMM. LEHMAN: Second.

19 CHAIR RATH: And I agree.

20 MS. VERVER: Thank you.

21 CHAIR RATH: Thank you-all.

22 AGENDA ITEM NOS. 10 AND 11

23 CHAIR RATH: Next we have Adam Leonard,
24 and we he's going to make a comment about the
25 performance targets and then go directly into updating

1 us on where he is with the negotiations with DOL
2 regarding WIA and ES.

3 MR. LEONARD: Yes. For the record, Adam
4 Leonard, Performance Analysis and Reporting.

5 Briefly, I wanted to remind our
6 listeners that today -- or tomorrow, rather, is the
7 deadline to get comments to -- or their requests for
8 alternate targets in WIA to Larry Jones with a copy to
9 me so that we can work through their counter proposals
10 and discuss them with them hopefully in time by the
11 20th so that we can get back here on the 26th for
12 you-all, the Commissioners, to approve final Staff
13 recommendations on targets for those measures.

14 On the negotiations with the Department
15 of Labor on ES and WIA, we have an appointment this
16 afternoon -- or teleconference this afternoon where
17 we'll be discussing their counterproposals with us. I
18 will say that we were a little concerned about some of
19 their counterproposals because we didn't quite
20 understand why they were quite as high as some of them
21 were, but when we looked at the premises that they
22 used in their formulations, we actually found several
23 errors, that we're hoping that once we can clear up
24 some misunderstandings around our programs and some of
25 the factors that are influencing performance, that we

1 may be able to come to a relatively speedy and
2 agreeable resolution.

3 CHAIR RATH: Thank you.

4 Any questions?

5 COMM. LEHMAN: None. Thank you.

6 COMM. CONGLETON: No questions. Thank
7 you.

8 CHAIR RATH: Thank you very much.

9 AGENDA ITEM NOS. 12 AND 13

10 CHAIR RATH: Okay. We have no nominees
11 today.

12 Anything on federal and state issues?

13 Mr. Lewis.

14 MR. LEWIS: Good morning, Chair Rath,
15 Commissioners. Jesse Lewis, external relations.

16 I wanted to remind you the -- June 17th
17 is the deadline for signature on bills that have been
18 sent to the Governor. As of yet, we're still waiting
19 for signature on many of ours.

20 I wanted to provide you with a federal
21 update today. The Senate subcommittees began marking
22 up appropriations bills yesterday. It's not known
23 when they're going to do the Labor H bills, but the
24 democrat's leadership has said that they do want to
25 move that closer to the front end of the process than

1 it has been in the past.

2 The Senate appropriators are likely
3 going to hold job training programs level with FY '07
4 funding. The House plans to spend much of its time in
5 June passing 11 of the 12 spending bills for fiscal
6 '08, which begins October 1st.

7 June 7th, House Appropriation
8 Subcommittee marked up the Labor HHS bill. The
9 subcommittee provided an increase of 6.9 billion, or
10 4.8 percent over the '07 levels. Department of
11 Education and Health and Human Services received
12 increases of 7.4 and 6.5 percent respectively while
13 the Department of Labor received an increase of only
14 1.8 percent. WIA job training programs were level
15 funded at '07. ES and UI state operations were
16 provided with slight increases, and under the HHS
17 portion, the CCDF funds received about 3.6 percent
18 increase.

19 I wanted to also draw your attention to
20 HR 2206 which provides about 5 billion in small
21 business tax breaks. It also includes an extension
22 of -- and expansion of the work opportunity tax
23 credit. It would extend it until August 31st, 2011,
24 and also expands the definition of WOTC eligible
25 ex-felons and food stamp recipients.

1 On the WIA front, as you'll recall, in
2 April, the Administrative transmitted their version of
3 WIA reauthorization. As of now, no one has decided to
4 actually file that bill. They -- DOL doesn't believe
5 that they're going to find a champion in the House.
6 They're trying to find someone in the Senate,
7 currently.

8 You will recall that the administration
9 proposal consolidates the four funding streams, ES,
10 WIA, Adult and Dislocated Workers and Youth, and
11 created the career advancement accounts, which is one
12 of the large sticking points. It also includes new
13 definitions of administrative cost.

14 The Senate has made significant progress
15 on writing their bill. As we spoke before, Staff said
16 they're starting with the Senate version, S 1021, that
17 the Senate passed last year as their starting point.
18 We've been told that the Senate legislation includes
19 100 percent transferability of funds between Adult and
20 Dislocated Worker Programs, revises the existing
21 common performance measures, redefines administrative
22 costs and requires more rigorous evaluation of WIA
23 service impacts.

24 Senate staff hopes to circulate a draft
25 to Senate offices within the next several weeks and

1 introduce their version before the July recess. It's
2 expected that, when they do bring it to the Floor,
3 they're going to limit debate to about 90 minutes. So
4 they're going to try to move this thing pretty
5 quickly.

6 House staff of the Ad and Labor
7 Committee has said they're going to do their own
8 version of reauthorization. They had their first
9 planning meeting last week. They plan to get input
10 from stakeholders when they move a little further into
11 the process, but they plan on having a limited amount
12 of public hearings on the issue.

13 Issues that may be addressed would
14 include incumbent worker training, better integration
15 and revised definitions of administrative cost and
16 changes to performance measurements and monitoring.

17 And that's about all the details we have
18 so far. With that, I'll be glad to answer any
19 questions.

20 CHAIR RATH: Thank you. I appreciate
21 it. And I appreciate the effort that -- in responding
22 to my request about the Food Stamp. I continue to be
23 extremely concerned about the proposal in the Senate
24 version of reauthorization of the farm bill, because
25 Food Stamp is included in the farm bill, and I think

1 we have some excellent representation, at least on the
2 House on that committee, but I am -- I'm very worried
3 that it could affect our systems since they are
4 mandating that all Food Stamp services be provided by
5 merit staff individuals. And, clearly, that is not
6 the system that we have had in place for over ten
7 years.

8 So I think we need to aggressively work
9 with members of our delegation so they have a full
10 understanding of how that would impact the State and
11 see if there's not any opportunity to redirect that to
12 eligibility or at least to exclude existing
13 operations, as has been done on WIA and ES -- or ES,
14 rather, for years now. So I think that's one area of
15 significant concern.

16 I also think it's very important that as
17 WIA, if it begins to move, that we really focus on the
18 importance of the Secretary maintaining waiver
19 authority and the ability of states to maintain our
20 grandfather. Again, our grandfather does not preserve
21 an old system but really continues to allow us to be
22 in the forefront of the country, and we still are so
23 far ahead of other states, that we want to make sure
24 our efforts are not undone unwittingly. So I think
25 that we really need to maintain that focus and be very

1 vigilant in protecting those areas.

2 MR. LEWIS: Yes, ma'am.

3 COMM. LEHMAN: Thank you.

4 Any questions?

5 COMM. LEHMAN: You may not know this.

6 I'm wondering about the relevance and the currency --
7 when the U.S. Chamber weighs in on WIA, I wonder which
8 version they weigh in on and how all of those versions
9 are and what the relationship is between what is there
10 now and what they weighed in on the past. Do we keep
11 any kind of file on that kind of stuff? Do you know?

12 MR. LEWIS: You know, I don't recall
13 having that on hand. It's something we can look into
14 and see what we can find.

15 COMM. LEHMAN: Well, either --

16 MR. LEWIS: Be glad to do that.

17 COMM. LEHMAN: -- you or I would need to
18 ask for --

19 MR. LEWIS: Sure.

20 COMM. LEHMAN: -- when and how has the
21 Business Committee weighed in on WIA. And I know I
22 prepared a number of inputs to requesters, but I don't
23 know how long ago it was in terms of which version we
24 were critiquing. So why don't we just talk off-line
25 afterward and look at what opportunities we have there

1 to make sure we keep our points before the right
2 people.

3 MR. LEWIS: Be glad to do so.

4 CHAIR RATH: Great point.

5 Commissioner?

6 COMM. CONGLETON: No questions.

7 CHAIR RATH: Thank you.

8 AGENDA ITEM NOS. 14 AND 15

9 CHAIR RATH: Okay. Next, do we have
10 anything on Katrina and Rita?

11 MR. TEMPLE: No.

12 CHAIR RATH: That brings us to Staff
13 reports.

14 MR. TEMPLE: No staff reports.

15 CHAIR RATH: No comments or anything?

16 MR. TEMPLE: No.

17 CHAIR RATH: Very good.

18 MR. TEMPLE: No. Nothing I can think
19 of.

20 CHAIR RATH: Thank you.

21 Commissioner, do you have anything?

22 COMM. LEHMAN: I don't have -- I have
23 one staff request. I was wondering if you could ask
24 Mr. Fuller or someone to provide for me the date at
25 which the Boards were certified and the date at which

1 they assumed their most recent titles or names.

2 CHAIR RATH: Initially certified or most
3 recently?

4 COMM. LEHMAN: Well, actually, I don't
5 even really need certification. I'm most interested
6 in the titling process. When did they name
7 themselves?

8 CHAIR RATH: Commissioner?

9 COMM. CONGLETON: I'd like to have that
10 information as well.

11 MR. TEMPLE: We'll get to it.

12 CHAIR RATH: Okay. And I just wanted to
13 share that I received a letter from Commissioner
14 Hawkins at HHSC, and he is really complimenting and
15 recognizing WorkSource Austin about their efforts to
16 expand the awareness of CHIP and children's Medicaid
17 eligibility, and he really expressed his appreciation
18 that WorkSource Austin is distributing information and
19 really outreaching. And they thought it was -- could
20 serve as a model for other Boards; so they -- he is
21 asking our help in encouraging other Boards to adopt
22 the WorkSource Austin model and integrate CHIP and
23 children's Medicaid information to their process.

24 So I'm going to share this with both of
25 you, Commissioners, and, Mr. Temple, with you, so that

1 we can disseminate that to the Boards.

2 MR. TEMPLE: Yes, ma'am.

3 CHAIR RATH: Because, clearly, I think
4 the State has -- is most concerned about shrinking
5 CHIP roles and Medicaid roles, and if we have an
6 opportunity to provide that service, we're glad to,
7 once again, partner with HHSC.

8 MR. TEMPLE: Will do.

9 CHAIR RATH: Very good.

10 Anything else?

11 (No response)

12 AGENDA ITEM NO. 18

13 CHAIR RATH: Well, if there's nothing
14 else to come before us, it's 10:12, and we will stand
15 adjourned.

16 Thank you.

17 (Proceedings concluded at 10:12 a.m.)

18

19

20

21

22

23

24

25

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

2

3 STATE OF TEXAS)

4 COUNTY OF TRAVIS)

5

6 I, Patricia Gonzalez, a Certified
7 Shorthand Reporter in and for the State of Texas, do
8 hereby certify that the above-mentioned matter
9 occurred as hereinbefore set out.

10 I FURTHER CERTIFY THAT the proceedings
11 of such were reported by me or under my supervision,
12 later reduced to typewritten form under my supervision
13 and control and that the foregoing pages are a full,
14 true and correct transcription of the original notes.

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand and seal this 19th day of June 2007.

17

18

19 _____
PATRICIA GONZALEZ
20 Certified Shorthand Reporter
CSR No. 6367-Expires 12/31/07
21 Firm Certification No. 276
Kennedy Reporting Service, Inc.
22 Cambridge Tower
1801 Lavaca Street, Suite 115
23 Austin, Texas 78701
512.474.2233

24

25

