

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING            )  
FOR THE TEXAS            )  
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, JULY 8, 2008

BE IT REMEMBERED THAT at approximately  
9:00 a.m., Tuesday, the 8th day of July, 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 TOM  
PAUKEN, 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, JULY 8, 2008

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Good morning. The  
6 meeting will now be called to order.

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 28

19 No discussion.

20 AGENDA ITEM NO. 4

21 Discussion, Consideration and Possible  
22 Action Regarding Higher Level Appeals in Wage Claim  
23 Cases listed on the Texas Workforce Commission  
24 Docket 28

25 The Commission considered and took action on

1 all Wage Claim Cases listed on Docket 28.

2 AGENDA ITEM NO. 5

3 Discussion, Consideration and Possible  
4 Action Regarding Higher Level Appeals in Unemployment  
5 Compensation Cases Listed on the Texas Workforce  
6 Commission Docket 28

7 The Commission considered and took  
8 action on all Unemployment Compensation Cases listed  
9 on Docket 28.

10 (The Commission paused and continued  
11 with the remainder of the agenda.)

12 AGENDA ITEM NO. 16

13 CHAIRMAN PAUKEN: At this time we'll  
14 take a break and go into Executive Session on the  
15 matter pursuant to Government Code 551.071 concerning  
16 contemplated litigation or the pending litigation of  
17 the following case: Continental Airlines versus TWC  
18 and Marshaneil Fields.

19 (Executive Session: 9:31 a.m. to  
20 9:35 a.m.)

21 CHAIRMAN PAUKEN: All right. Is  
22 everybody ready?

23 We'll reconvene. We have ended our  
24 Executive Session. Is there a motion?

25 COMM. LEHMAN: Yes, there is, Chairman

1 Pauken. I move in the case of Continental Airlines,  
2 Inc. versus TWC and Marshaneil Fields that the  
3 Commission direct the Attorney General to file a  
4 motion to remand the case to TWC in order to protect  
5 the employer's account and to pay the claimant  
6 benefits.

7 COMM. CONGLETON: I'll agree with that  
8 motion.

9 CHAIRMAN PAUKEN: Okay. And it's  
10 unanimous. So, we're all in favor of that.

11 AGENDA ITEM NO. 6

12 CHAIRMAN PAUKEN: Okay. We'll go on to,  
13 I think, the next agenda item. Mr. Moore, public  
14 comment?

15 MR. MOORE: No one is registered, sir.

16 CHAIRMAN PAUKEN: All right.

17 AGENDA ITEM NO. 7

18 CHAIRMAN PAUKEN: Discussion,  
19 consideration, and possible action regarding the  
20 estimated Unemployment Trust Fund balance pursuant to  
21 Texas Labor Code Section 204.061 and the estimated  
22 Employment and Training Investment Holding Fund  
23 balance available for transfer pursuant to Texas Labor  
24 Code Section 204.123. Mr. Townsend.

25 MR. TOWNSEND: Good morning,

1 Mr. Chairman, Commissioners, presenting this morning  
2 our current estimate -- excuse me -- for the Trust  
3 Fund, Unemployment Compensation Trust Fund as of  
4 October 1st, 2008. We've prepared this information  
5 using information available to us through July 2nd.  
6 Excuse me.

7                   As of July 2nd, we're estimating that  
8 the UI Trust Fund balance will be 1 billion 662.7  
9 million as of -- as of October 1st. Based on this  
10 estimated balance, we would project it would be 760  
11 million above the floor on that date.

12                   Just to share a couple of observations  
13 with you as far as trends go. The -- for the last six  
14 completed weeks, this was ending June 21st, the total  
15 net benefits paid averaged 27.2 million per week.  
16 That was up 32 percent, almost 33 percent from the  
17 one-year-ago six-week average for net benefits paid.

18                   In addition, initial claims averaged  
19 13,974 for the six weeks ending June 21st. That was  
20 11 percent above the six-week average for initial  
21 claims.

22                   And that concludes my presentation --

23                   CHAIRMAN PAUKEN: Say -- would you say  
24 that last one -- repeat that last statement,  
25 Mr. Townsend?

1 MR. TOWNSEND: Yes, sir. The initial  
2 claims, comparing the six-week average for June 21st,  
3 '08, that number was 13974, 13,974. That was 11  
4 percent above that same -- for the same time period a  
5 year ago, which was 12,592 for those initial claims.

6 CHAIRMAN PAUKEN: Okay.

7 MR. TOWNSEND: And that concludes my  
8 presentation.

9 CHAIRMAN PAUKEN: Mr. Congleton,  
10 Commissioner Congleton, any questions, comments?

11 COMM. CONGLETON: I'm worried about the  
12 trend, of course --

13 CHAIRMAN PAUKEN: Yeah, I am, too.

14 COMM. CONGLETON: -- and -- and the  
15 fund, as well.

16 CHAIRMAN PAUKEN: Commissioner Lehman.

17 COMM. LEHMAN: Yeah. Yes. Thank you,  
18 sir.

19 I have several comments. And as I  
20 reflect on the status of the UI Trust Fund and this  
21 Commission's history of taking strong actions to  
22 protect its solvency, I do have a few observations.

23 You heard that total net benefits paid  
24 weekly is up 7 million per week, which is a 32 percent  
25 increase. The UI claimants are receiving UI benefits

1 for 14 weeks on average, and 37 percent are exhausting  
2 benefits.

3                   Given the health of the Texas economy  
4 and the fact that employers are still very much in  
5 need of qualified workers, there's still substantial  
6 room for improvement in our Texas workforce  
7 development system and our UI procedures that will not  
8 only serve to protect the health of the Trust Fund but  
9 also enhance the position of the Texas workforce  
10 development system when compared to other states. So,  
11 I believe taking some steps will be a win/win/win for  
12 employers, workers, and the workforce system as a  
13 whole.

14                   And, therefore, I'm requesting  
15 Mr. Temple and his staff to undertake an assignment.  
16 This assignment will be to propose revisions to the  
17 Work Search Rules and Procedures that will, one,  
18 modify the definitions of the work search process to  
19 focus on and count employer contacts but place not so  
20 much credit on preparation activities, such as those  
21 associated with an LMI search or other -- any  
22 collection activities.

23                   The second objective would be to clarify  
24 that a work search contact with an employer, who has  
25 not provided any indication that they have job

1 openings or interest in hiring, is not a valid job  
2 contact.

3 And the third objective --

4 COMM. CONGLETON: How would you know  
5 that -- how would you know that before you apply?

6 COMM. LEHMAN: Well, there are lots and  
7 lots of ways that employers publicly communicate that  
8 they're interested in hiring people --

9 (Simultaneous discussion)

10 COMM. CONGLETON: Well, there's lots and  
11 lots of employers who don't. So, that would be  
12 ludicrous --

13 COMM. LEHMAN: Well --

14 COMM. CONGLETON: -- to even try that.

15 COMM. LEHMAN: -- well, I'm asking that  
16 staff work that out and work through that and bring  
17 that back as a recommendations to the Commission.

18 COMM. CONGLETON: Sure.

19 COMM. LEHMAN: The third objective would  
20 be to increase the work search contact requirement  
21 from three and its current level to at least five and  
22 preferably even more. There's a sense of urgency to  
23 this, not only to protect this Trust Fund, but  
24 employers continue to demand qualified workers  
25 statewide. And UI claimants are ideal candidates,

1 because most are skilled, experienced workers.

2                   Unlike other areas of the country, Texas  
3 continues to enjoy a healthy economy, and the  
4 workforce development system should be making every  
5 effort to support and encourage effective strategies  
6 to engage UI claimants with employers. I'm requesting  
7 this review be done quickly and recommendations  
8 returned to the Commissioners in a matter of a few  
9 weeks.

10                   I think there's also a second step of  
11 this, and the recommendation should be based on an  
12 evaluation of the effectiveness of the rural work  
13 search exception and how improved work search rule can  
14 better protect the UI Trust Fund -- help employers  
15 find workers more quickly and help workers find jobs  
16 more quickly. The kind of thoughts I'm having about  
17 the rural -- a review of the rural work search  
18 requirement is that, rather than base the work search  
19 requirement on county lines and county population  
20 levels, a more rigorous work search rule should be put  
21 in place, but the board should then have the  
22 flexibility to adjust the search requirement based on  
23 such factors as economic strategies and trends in  
24 their region, employer needs and staffing patterns,  
25 individual profiles of claimants and their histories,

1 and commuting shares, rather than county boundary  
2 lines.

3                   Those county boundary lines, in my mind,  
4 do not serve workers or employers well. And they  
5 certainly don't serve the Trust Fund well when we grab  
6 an across-the-board exception to 83 counties. So, I  
7 would see that as a slightly longer-term request,  
8 recommendations to be brought forth to the Commission.  
9 Thank you very much.

10                   CHAIRMAN PAUKEN: One of the things  
11 that -- that disturbs me, what I -- and I -- I share  
12 what Commissioner Congleton said earlier, the concern  
13 the trend lines are going the wrong way. We've been  
14 relatively immune from national trends, but all  
15 indications are that's not going to last forever.

16                   And -- and this could -- you know, we --  
17 we should get our report, I think, next Friday -- not  
18 this Friday but next Friday -- in terms of current  
19 figures for June. And what bothers me is that here  
20 there are a lot of people who, for no fault of their  
21 own, are losing their jobs and are going to need these  
22 unemployment benefits. And, yet, at the same time, if  
23 something bad happens or continues to happen, we run a  
24 risk of -- of using up those benefits.

25                   And what disturbs me is when I see

1 figures like, you know, the Permian Basin, which I've  
2 brought up before, where approximately 30 percent of  
3 the people are exhausting their benefits, even though  
4 we have 2.7 percent unemployment, for all practical  
5 purposes, full employment, and they're seeking people  
6 from outside the state to -- to take, you know, the  
7 basic entry-level jobs. And when I see in my home  
8 city of -- a whole area of the Dallas Metropolitan  
9 area 42.7 percent of the people exhausting the  
10 benefits, something is going on somewhere, because  
11 you've got 4.5 percent unemployment there.

12                   Are they not getting the job training?  
13 Do they not -- do a percentage of them not want to  
14 work? Are they treating it as an entitlement, not as  
15 a short-term assistance to -- to -- to get them  
16 through while they find a job?

17                   Something is going wrong in a good  
18 economy. And what happens when this thing turns sour,  
19 it's going to be worse. So, I think we do need to  
20 take a look at this exhaustion rate, and -- and is  
21 there -- is a -- a very significant percentage of  
22 people gaming the system?

23                   I don't know the answer to the question  
24 now, but I am concerned that, perhaps, you know, some  
25 of our local workforce boards are not being diligent



1 I just think we've got to dig down and figure out what  
2 is going wrong. I see down in the Gulf Coast area  
3 it's about 40 percent, as well, and is -- you know,  
4 are we in some -- and, yet, what are some of the local  
5 boards that are doing to address this and that have  
6 lower rates and are -- have -- you know, finding and  
7 developing innovative ways to help a group of  
8 claimants that, you know, get back to work as quickly  
9 as -- as -- as -- as possible.

10                   Could we put forward best -- as best  
11 practices for all boards some innovative approaches  
12 that certain local boards, who are being proactive,  
13 are taking right now to help this group of claimants  
14 who are most at risk of exhausting their benefits?  
15 Because we start adding additional numbers, as I'm  
16 afraid we're going to, not only is our overall fund at  
17 risk, but -- but we're -- we're not doing something  
18 right, whether at the state level or at the local  
19 level or in terms of the -- of the public policy we  
20 have as to how we address this. And -- and there  
21 ought to be a way to do a better job so that the  
22 exhaustion rate is not at -- at the levels that we're  
23 currently seeing.

24                   Those are my comments.

25                   Commissioner Congleton.

1                   COMM. CONGLETON: I see two reasons  
2 that -- that come to my mind. I've noticed that a lot  
3 of boards work diligently for the first 10 weeks to  
4 try to get those people employed. If they don't meet  
5 the 10-week goal, they just kind of forget about them,  
6 which leads them to exhaust. And some boards are not  
7 doing a good job with putting employers and employees  
8 together, I don't think.

9                   There's just 492 people laid off out in  
10 the Permian Basin the last couple of weeks, so it's  
11 only going to get worse.

12                   CHAIRMAN PAUKEN: Uh-huh.

13                   COMM. CONGLETON: The fund itself, if we  
14 are going to -- if we're going to maintain the fund,  
15 the law says we need to provide unemployment benefits.  
16 It doesn't say to we need to protect the fund.

17                   But if we want to protect the fund, we  
18 should raise the ceiling and not do returns to  
19 employers, unless we -- we have achieved our goal of  
20 that ceiling. And I -- I see that as a problem, as  
21 well.

22                   CHAIRMAN PAUKEN: Commissioner Lehman.

23                   COMM. LEHMAN: Well, I think the -- I  
24 think the core problem is that you can either -- if --  
25 were you to charge the employers more for taxes and --

1 by raising the ceiling and so on, that just diverts  
2 more money away from the ability to hire people.  
3 Employers I talk to frequently say, "Look, I'm turning  
4 down work as it is because I can't find qualified  
5 workers."

6                   So, I agree with you, Chairman, that --  
7 that there needs to be a more fundamental look at the  
8 whole system, in terms of "what are our expectations  
9 and why isn't our system at least a -- a national  
10 leader". And right now we are clearly not a national  
11 leader in the exhaustion of benefits. We are well  
12 down in the pack.

13                   And if we're going to claim national  
14 leadership status in workforce development, then I  
15 think this is a component that we need to address.  
16 So, one part of the review might conclude "how is it  
17 that Georgia and a half a dozen -- 10, 15 -- other  
18 states have less or more admirable performance, in  
19 terms of lower exhaustion rates than we do".

20                   So, I don't see raising the price that  
21 employers have to pay to support the Insurance program  
22 as the first step. I see finding better ways to make  
23 the existing system work to the benefit of employers  
24 and workers. And I think the facts show that workers  
25 make a substantially greater amount of money wage-wise

1 when they're drawing salaries than they do when  
2 they're drawing benefits.

3                   So, to me, focusing on how to make the  
4 system even better is the right strategy.

5                   CHAIRMAN PAUKEN: Okay. I have no  
6 additional comments.

7                   COMM. CONGLETON: I'd just say that  
8 we -- I think we're about middle of the pack, aren't  
9 we, on exhaustion rate now, as opposed to where we  
10 were at a couple of years ago?

11                   MR. TEMPLE: We've -- we've made  
12 considerable improvement from when we started about  
13 four years ago with the 10-Week Measure and whatnot.  
14 We've gotten in the 41 or so down to an average of, I  
15 think, around 35. And I'm just kind of recalling from  
16 memory. I think that's about right.

17                   Chuck --

18                   COMM. CONGLETON: So, there is  
19 improvement in the system.

20                   MR. TEMPLE: We've -- we've made  
21 improvement. Now, I haven't looked at this recently  
22 and updated those, but we -- we looked at that here  
23 not too long ago in -- in comparing when we put all  
24 the measures that matter in place. And we've had  
25 continued improvement.

1                   CHAIRMAN PAUKEN:  Where are we on our  
2 exhaustion rate?  Where do we rate with the other  
3 states?

4                   COMM. CONGLETON:  I think we're 14 --  
5                   (Simultaneous discussion)

6                   MR. TEMPLE:  About 35 percent, Chuck?

7                   MR. ROSS:  Yes, sir.

8                   MR. TEMPLE:  About 35 percent, which is  
9 middle of the pack, generally, I think.

10                  CHAIRMAN PAUKEN:  But --

11                  COMM. CONGLETON:  I think that's what I  
12 just said.

13                  CHAIRMAN PAUKEN:  I -- okay.  I -- I  
14 guess what I'm -- what -- but the ones that I -- what  
15 I guess I'm concerned about is the percentage in a  
16 good economy they're fully exhausting -- not a -- kind  
17 of an average, weighted average, but where are we in  
18 terms of the percentage of those who exhaust their  
19 entire --

20                  MR. TEMPLE:  That's -- that's where we  
21 are.

22                  CHAIRMAN PAUKEN:  We're in the middle of  
23 the pack, you say?

24                  MR. TEMPLE:  And -- and we need to look,  
25 and -- and we'll get back with you on that and try to

1 pull out those that are qualified for the whole 26  
2 weeks versus those that are qualifying for the 10,  
3 because that exhaustion rate encompasses both 10-week  
4 and 26. So --

5 CHAIRMAN PAUKEN: Uh-huh.

6 MR. TEMPLE: -- we'll -- we'll look at  
7 that and see -- and see where -- and get you some --

8 CHAIRMAN PAUKEN: Now, maybe there are  
9 some things that can be done. Maybe we can do a  
10 better job of job training some of these people that,  
11 you know -- you know, are fully exhausting their rates  
12 or help them on resumes or do something, you know,  
13 innovative using technology to help them get jobs or  
14 something -- there's something missing here, I'm sure,  
15 that a good percentage of those are people who really  
16 do want to work and maybe have given up hope. But I'm  
17 afraid that there's some folks, a decent percentage,  
18 that is gaming the system and treating it more as an  
19 entitlement than as a short-term assistance while they  
20 seek another job.

21 So, anyway, I -- that's all I've got to  
22 say, and -- and --

23 COMM. LEHMAN: I -- the latest DOL  
24 report shows that Texas has a 37 percent exhaustion  
25 rate and is 36th in the nation. South Dakota is first

1 with an 11 percent exhaustion, New Hampshire, Vermont,  
2 Washington, Kentucky, Hawaii, Iowa, West Virginia,  
3 Idaho, Wisconsin, Alabama, Wyoming, Ohio,  
4 Pennsylvania, and so on, constitute the top 15. So --

5                   COMM. CONGLETON: Many of those people  
6 don't -- they don't count it as -- like we do.  
7 They -- they have an automatic 26 weeks, I think.

8                   They don't -- they don't count their  
9 exhaustion rate the same way as Texas does. So, they  
10 would be ahead of us anyway.

11                   COMM. LEHMAN: Well, I -- I guess my --  
12 my point is, whether we quibble over whether we should  
13 be in 5th place, 10th place or 20th place, the fact is  
14 we have a reputation as a national leader. I got  
15 letters yesterday talking about Texas's national  
16 leadership. And right now in this regard we are not,  
17 and we should be.

18                   CHAIRMAN PAUKEN: Okay.

19                   MR. TEMPLE: We'll look at that.

20                   CHAIRMAN PAUKEN: All right.

21                   MR. TOWNSEND: Thank you, Commissioners.

22                   CHAIRMAN PAUKEN: Thank you,  
23 Mr. Townsend.

24                   AGENDA ITEM NO. 8

25                   CHAIRMAN PAUKEN: Okay. Mr. Leonard.

1 Discussion, consideration, and possible action  
2 regarding U.S. Department of Labor Veterans'  
3 Performance Measure, back again.

4 MR. LEONARD: For the final time this  
5 year, yes.

6 CHAIRMAN PAUKEN: All right.

7 MR. LEONARD: Good morning. For the  
8 record, Adam Leonard, Performance, Analysis, and  
9 Reporting.

10 As we've discussed over the last several  
11 meetings, the U.S. Department of Labor put out their  
12 guidelines for what measures they wanted states to be  
13 accountable for for the Veterans programs and for  
14 serving Veterans, in general. The measures are broken  
15 up into two groups, one group that the Texas Veterans  
16 Commission is primarily responsible for, and those are  
17 for the specific measures associated with DVOP and  
18 LVER performance.

19 And the remaining measures, which are  
20 the more general -- what we call ES Veterans Measures,  
21 those Veterans who are served directly in the  
22 Employment Services program, whether by DVOP/LVER  
23 staff or our staff or even self-service through the  
24 Work In Texas. Those measures are ours, and there are  
25 six specific measures down at the bottom of the

1 briefing document that show what the recommended  
2 targets are to you.

3                   When we proposed targets to the U.S.  
4 Department of Labor for them to review, they initially  
5 were comfortable with five of our six proposals, asked  
6 us to come up a -- a percentage point on one other.  
7 And in reviewing their request and our data and the  
8 trends, we feel comfortable coming to you with  
9 accepting their request for 66 percent on that target,  
10 rather than 65.

11                   And I'm happy to answer any questions  
12 you may have.

13                   CHAIRMAN PAUKEN: Commissioner  
14 Congleton.

15                   COMM. CONGLETON: I have no questions,  
16 and I'm fine with those measures.

17                   CHAIRMAN PAUKEN: Commissioner Lehman.

18                   COMM. LEHMAN: I would say I have no  
19 questions, or I've already had all my questions  
20 answered.

21                   CHAIRMAN PAUKEN: All right. Thank you,  
22 Mr. Leonard. Do we need a motion?

23                   MR. LEONARD: Motion to accept the  
24 targets, please.

25                   CHAIRMAN PAUKEN: Is there a motion?

1                   COMM. CONGLETON: Move that we approve  
2 the targets for the Program Year 2008 Veterans'  
3 Performance Measures as discussed by staff.

4                   COMM. LEHMAN: Second.

5                   CHAIRMAN PAUKEN: It's unanimous. Thank  
6 you, Mr. Leonard.

7                   MR. LEONARD: Thank you.

8                   AGENDA ITEM NO. 9

9                   CHAIRMAN PAUKEN: Okay. Discussion,  
10 consideration and possible action regarding the  
11 adoption of rules relating to Unemployment Insurance.  
12 Diane Parker and Chuck Ross.

13                   MS. PARKER: Thank you, Chairman Pauken,  
14 Commissioner Lehman, Commissioner Congleton,  
15 Mr. Temple. For the record, I'm Diane Parker with the  
16 Office of the General Counsel, and with me is Chuck  
17 Ross, Manager of the UI Workforce Integration Program.

18                   The item for your consideration today is  
19 the adoption of the UI Confidentiality Rules amending  
20 Chapter 815 to reflect the final federal rules. On  
21 April 29th of this year you authorized staff to  
22 publish for public comment proposed rules that  
23 implemented House Bill 2120 and Senate Bill 1619  
24 passed by the 80th Texas Legislature, as well as final  
25 rules issued by DOL revising confidentiality of

1 unemployment compensation information.

2                   Those proposed rules were published in  
3 the Texas Register for 30 days. We received no public  
4 comment.

5                   Staff is here today seeking approval to  
6 adopt these rules. As no public comment was received,  
7 no changes have been made to the version that you  
8 approved for publication in April.

9                   Historically, this Commission's  
10 practices have provided the greatest level of  
11 confidentiality to unemployment compensation  
12 information, in order to ensure a fair system in which  
13 all parties are willing and able to participate.  
14 These rules maintain the status quo on Commission  
15 operations relating to disclosure.

16                   We're happy to answer any questions you  
17 might have on this item.

18                   CHAIRMAN PAUKEN: Commissioner Lehman.

19                   COMM. LEHMAN: I have no questions. I  
20 appreciate staffs' commitment and follow through on  
21 getting this rule changed.

22                   CHAIRMAN PAUKEN: Commissioner  
23 Congleton.

24                   COMM. CONGLETON: I'm good, and I move  
25 that we will adopt the amendments of Chapter 815 UI

1 rules.

2 CHAIRMAN PAUKEN: Is there a second?

3 COMM. LEHMAN: Second.

4 CHAIRMAN PAUKEN: It's unanimous. Thank  
5 you very much.

6 MS. PARKER: Thank you.

7 AGENDA ITEM NO. 10

8 CHAIRMAN PAUKEN: Okay. Next item is  
9 No. 10. Discussion, consideration, and possible  
10 action regarding a -- a request for voluntary  
11 reduction and redistribution of State Fiscal Year 2008  
12 Transportation Funding to Local Workforce Development  
13 areas. Mr. Garcia.

14 MR. GARCIA: Good morning, Chairman  
15 Pauken, Commissioners, Mr. Temple. Juan Garcia with  
16 Contract Management. Excuse me. This morning we're  
17 bringing forth for your consideration a staff  
18 recommendation to approve a voluntary reduction and  
19 redistribution of State -- State Fiscal Year '08  
20 Transportation Funds.

21 Relative to the voluntary reduction, two  
22 boards -- the Coastal Bend and the Gulf Coast  
23 Workforce Boards -- have indicated that they will not  
24 be able to fully expend their contracts. Both boards  
25 have requested to reduce their contract amounts by

1 \$97,830 and \$295,000 respectively. These boards cite  
2 that the number of -- shall we just say -- eligible  
3 individuals in their areas have been declining, thus  
4 impacting their -- their -- the demand for  
5 transportation services.

6                   Staff recommends approval of the  
7 voluntary reductions as discussed.

8                   Relative to the redistribution of funds,  
9 voluntarily offered up by the Coastal Bend and the  
10 Gulf Coast Boards, staff approached boards that were  
11 expending at or above a 60 percent expenditure  
12 benchmark for April of 2008. Four boards requested  
13 additional funds as follows: South Plains, \$60,000,  
14 Dallas County, \$255,830, Concho Valley, 2,000 and the  
15 Capital Area at \$75,000.

16                   These boards are indicated that they  
17 will be able to fully utilize these funds. Staff  
18 recommends the distribution of Transportation Funds to  
19 these boards as discussed.

20                   At this point I'll answer any questions  
21 you might have.

22                   CHAIRMAN PAUKEN: Why is the -- you've  
23 got a -- I guess three of them are relatively speaking  
24 fairly substantial increases. Particular reasons for  
25 that?

1                   MR. GARCIA: They're -- they're just  
2 seeing a -- a -- a higher demand on the part of  
3 Choices participants. Many of these boards -- well,  
4 all the boards have received technical assistance  
5 relative to best practices on what to do with -- with  
6 the Transportation dollars. A lot of boards have also  
7 increased their outreach efforts through TANF Choices  
8 participants, and so this is creating a demand for  
9 Transportation services on their part.

10                   CHAIRMAN PAUKEN: Okay. Commissioner  
11 Congleton, any questions, comments?

12                   COMM. CONGLETON: I have no questions.

13                   CHAIRMAN PAUKEN: Commissioner Lehman.

14                   COMM. LEHMAN: No, I have no questions  
15 really. I -- I'm just -- I'm hoping that we've looked  
16 at the performance of the boards, in terms of whether  
17 these funds will actually enable them to achieve  
18 performance. And the ones that didn't ask for extra  
19 money have no fears about meeting their performance  
20 and -- and using this as a supplemental aid to helping  
21 them achieve performance. I think that's all been  
22 discussed.

23                   MR. GARCIA: Yeah. In -- in -- in terms  
24 of performance, the majority of boards are -- continue  
25 to -- to work very hard at -- at -- at meeting

1 their -- the -- the participation rates. Obviously,  
2 additional Transportation supportive services would be  
3 a help to get eligible folks, in addition to exempts,  
4 to participate and -- and that -- that we should see  
5 improvement, hopefully, in the long run.

6                   COMM. LEHMAN: Thank you. I have no  
7 further questions. No -- no problems with this.

8                   CHAIRMAN PAUKEN: Okay. You need a  
9 motion?

10                   MR. GARCIA: Yes, sir.

11                   CHAIRMAN PAUKEN: Is there a motion?

12                   COMM. CONGLETON: I move that we approve  
13 the reduction in Fiscal Year 2008 Transportation  
14 Funding from the Coastal Bend and Gulf Coast Workforce  
15 Development Boards and redistribution of those funds  
16 to the South Plains, Dallas, Concho Valley, Capital  
17 Area Workforce Development Boards as discussed by  
18 staff.

19                   COMM. LEHMAN: An excellent motion.  
20 I'll second it.

21                   CHAIRMAN PAUKEN: Okay. Thank you,  
22 Mr. Garcia. It passes.

23                   MR. GARCIA: Thank you.

24                   AGENDA ITEM NOS. 11 & 12

25                   CHAIRMAN PAUKEN: All right. The next

1 issue is discussion, consideration, and possible  
2 action regarding deobligation of Child Care, Choices,  
3 Employment Service, Food Stamp Employment and  
4 Training, Project Reintegration of Offenders, Trade  
5 Act Services, Workforce Investment Act Alternative  
6 Funding for Statewide Activities, and Workforce  
7 Investment Act Alternative Funding for One-Stop  
8 Enhancement Funds in accordance with Commission Rule  
9 Section 800.74.

10 MR. GARCIA: It's -- again, Juan Garcia  
11 for the record; Commissioners, Mr. Temple. With the  
12 item we're bringing forth for your consideration  
13 recommendations to deobligate funds in accordance with  
14 Commission Rules Section 800.74.

15 This section allows the Commission to  
16 deobligate funds in Months 5 through 8 of a given  
17 contract year if a board is underexpending its  
18 contracted funds. The recommendations before you are  
19 for April 2008 or the 7th month of the following  
20 program contracts: Child Care, Choices, Employment  
21 Service, Food Stamp Employment and Training, Project  
22 RIO, Trade Act Services, Workforce Investment Act  
23 Alternative Funds for Statewide Activities, and  
24 Workforce Investment Act Funds for One-Stop  
25 Enhancements.

1                   The programs where boards are subject to  
2 a deobligation are the Choices and the Trade programs.  
3 Relative to the Choices program -- and this is on Page  
4 2 of 8 in Tab 11 of your notebook -- the Cameron  
5 County Board is subject to a deobligation. After an  
6 analysis of its corrective action strategies to get  
7 services and expenditures back on track and after a  
8 conference call with the board executive director, the  
9 board agreed to voluntarily deobligate \$250,000.

10                   Relative to the Trade program -- and  
11 this would be on Page 6 of 8 in your notebook, Tab  
12 11 -- the Tarrant County Workforce Development Board  
13 has not experienced a high level of Trade-related  
14 layoff activity. Therefore, the board has requested  
15 to voluntarily deobligate \$347,343.

16                   And so staff recommends approval of the  
17 deobligation of \$250,000 in TANF dollars or Choices  
18 dollars from the Cameron County Board, as well as  
19 \$347,343 in Trade funds from the Tarrant County  
20 Workforce Development Board. At this point, I'll  
21 answer any questions you might have.

22                   CHAIRMAN PAUKEN: Any questions,  
23 Commissioner Congleton?

24                   COMM. CONGLETON: No questions.

25                   CHAIRMAN PAUKEN: Commissioner Lehman.

1                   COMM. LEHMAN: No questions.

2                   CHAIRMAN PAUKEN: Okay. Is there a  
3 motion required?

4                   MR. GARCIA: Yes, sir.

5                   CHAIRMAN PAUKEN: Okay. Is there a  
6 motion?

7                   COMM. CONGLETON: Move that we approve  
8 the deobligation of funds in the amount of \$250,000  
9 for TANF Choices from Cameron County Workforce  
10 Development area, \$347,343 for Trade Act Services  
11 funds for -- from the Tarrant County Workforce  
12 Development area, as recommended by staff.

13                   I move that we approve the reallocation  
14 of funds in the amount of \$250,000 for TANF Choices to  
15 be redistributed -- or distributed to the South  
16 Plains, Heart of Texas, Middle Rio Grande Workforce  
17 Development areas, \$347,343 for Trade Act Services to  
18 East Texas Workforce Development Board, as recommended  
19 by staff.

20                   COMM. LEHMAN: And I second both the  
21 deobligation components and the reobligation  
22 components of that motion.

23                   CHAIRMAN PAUKEN: All right.

24                   MR. GARCIA: Okay. I'm fine. Thank  
25 you.

1 CHAIRMAN PAUKEN: The motion passes.

2 COMM. CONGLETON: We took a little more  
3 than we should have, but we reobligated --

4 (Laughter)

5 CHAIRMAN PAUKEN: You got ahead of  
6 yourself, huh?

7 COMM. CONGLETON: Be reobligated --

8 CHAIRMAN PAUKEN: All right.

9 Anything else, Mr. Garcia?

10 MR. GARCIA: No, sir. That's it.

11 CHAIRMAN PAUKEN: All right.

12 MR. GARCIA: Thank you. Okay.

13 (Laughter)

14 AGENDA ITEM NO. 13

15 CHAIRMAN PAUKEN: Okay. Let's see.

16 Where are we, then? We're up to --

17 MR. TEMPLE: Nominees.

18 CHAIRMAN PAUKEN: -- 13?

19 MR. TEMPLE: Nominees.

20 CHAIRMAN PAUKEN: Nominees. All right.

21 (Brief pause)

22 CHAIRMAN PAUKEN: Mr. Fuller.

23 MR. FULLER: Good morning, Chairman

24 Pauken, Commissioner Congleton, Commissioner Lehman,

25 Mr. Temple.

1                   Before you today we have nominees from  
2 the Lower Rio Grande Workforce Development Board,  
3 Coastal Bend, and North Texas Workforce Development  
4 board. Staff recommend an approval. I'll answer any  
5 questions you may have.

6                   COMM. LEHMAN: I have no questions.

7                   COMM. CONGLETON: I have no questions.

8                   CHAIRMAN PAUKEN: Where are we with  
9 regard to the North Texas Workforce Board issues? You  
10 were -- I believe you and Mr. Jones were going to --

11                   MR. FULLER: John Moore and I went up to  
12 North Texas last Wednesday, met with their lead CEO  
13 and one of the other CEOs, as well as board chair and  
14 their executive director. While they're -- we  
15 impressed upon them the importance and the critical  
16 nature of them getting that board back into compliance  
17 by providing the necessary nominees that are required  
18 in that particular area, they indicated that they  
19 would make sure that they had with the -- in addition  
20 to this one nominee, there's two other private sector  
21 nominees that need to come.

22                   That board, the CEO board will be  
23 meeting on the 17th of this month. They said they  
24 will have those nominees for that particular meeting,  
25 get those approved.

1                   We also suggested that they might look  
2 at changing their process in reference to the CEOs in  
3 how they approve nominees. In some areas they've  
4 identified a lead CEO who has the authority to sign  
5 off on a nominee themselves, where it doesn't have to  
6 wait a month to back to a full group of nominees to  
7 get it approved.

8                   They like that idea, said they would go  
9 back on the 17th and try to get their policy changed  
10 so that they would be able to do that as well.

11                   CHAIRMAN PAUKEN: Okay. Any questions  
12 from Commissioner Lehman or Commissioner Congleton?

13                   COMM. LEHMAN: John, I guess what I'm  
14 hearing you say is you think most of this delay was  
15 due to process and understanding?

16                   MR. FULLER: Yeah. When we went there,  
17 one of the things -- one of the CEOs said, "Well, you  
18 know, I was really reluctant to come here because I  
19 knew we were in trouble."

20                   (Laughter)

21                   MR. FULLER: And then he said, "It's  
22 really not the executive director's fault. It's not  
23 the board's. It's our fault. It's our process. It's  
24 our inability to get the things done we needed to get  
25 done."

1                   We expressed to them the importance of  
2 that. We gave them some ideas and tips on how to move  
3 through that process more quickly. They were really  
4 appreciative of that and said that they would try to  
5 implement that at their next meeting.

6                   COMM. LEHMAN: One of the things -- and  
7 the reason I asked it that way, when you and I were in  
8 San Antonio recently and visited with the nominating  
9 bodies of chambers and industrial associations, they  
10 seemed surprised at the knowledge that the board  
11 members and the tenure of those board members was  
12 available, readily and easily and that they could get  
13 themselves as much a lead time as they wanted just by  
14 looking at -- at the source of the -- that  
15 information. They could start the process, not -- not  
16 90 days early. They could start it nine months early,  
17 if they wanted to.

18                   MR. FULLER: Most certainly could.

19                   COMM. LEHMAN: So -- so, are they clear  
20 on the fact that the process is really up to them, and  
21 they can start and be done in time?

22                   MR. FULLER: They -- they are -- we've  
23 made that very clear to them, that the process is up  
24 to them. They knew that there were certain things in  
25 their agreement as they had set it up.

1                   We informed them that those things could  
2 be changed. It was their agreement. All they needed  
3 to do was sit down and look at it and make whatever  
4 changes they needed to.

5                   We also talked about the fact that while  
6 there is 90 days to reappoint an individual,  
7 generally, we contact them even a month before that.  
8 So, they really have 120 days. Or as you said, if  
9 they pay attention to their slates and when they're  
10 coming available, they can pick any time they want to  
11 pick to start looking for those individuals.

12                  COMM. LEHMAN: Yes. Since this is being  
13 broadcast, I think it's really important to stress  
14 that matter, because chambers of commerce, in  
15 particular, have enormous insight and input into the  
16 nominations process. And if they start early enough,  
17 they'll have their candidates ferreted and vetted and  
18 ready for recommendation to the county judges.

19                  MR. FULLER: That's correct.

20                  CHAIRMAN PAUKEN: All right. Any other  
21 comments?

22                  (No response)

23                  CHAIRMAN PAUKEN: Is there a motion to  
24 approve the three members that have been nominated?

25                  COMM. CONGLETON: Move to approve the

1 nominees for Lower Rio Grande Valley, Coastal Bend and  
2 North Texas Workforce areas as presented by staff.

3 COMM. LEHMAN: Second.

4 CHAIRMAN PAUKEN: It's unanimous. Thank  
5 you, Mr. Fuller.

6 AGENDA ITEM NO. 14

7 CHAIRMAN PAUKEN: All right. Mr. Lewis.

8 MR. TEMPLE: Nothing on state/fed.

9 CHAIRMAN PAUKEN: Nothing on state/fed.  
10 Okay.

11 AGENDA ITEM NO. 15

12 CHAIRMAN PAUKEN: Mr. Temple.

13 MR. TEMPLE: No staff reports. I -- I  
14 would remind the Commissioners that we have the first  
15 training class -- oh, I'm sorry. Excuse me.

16 MR. FULLER: I was coming back to give a  
17 report --

18 MR. TEMPLE: Oh, I'm sorry.

19 MR. FULLER: -- on the question you had  
20 brought up last week about us making contact with  
21 Brazos Valley to see what plan they would put in place  
22 to address their -- their private sector needs on  
23 their board.

24 We did make contact with Brazos Valley.  
25 Currently, Brazos Valley has four terms that ended

1 June 30th. Three are being reappointed.

2                   One is also in our process now and  
3 will -- and will be coming up with the -- those three  
4 that you had deferred on at the June -- July 22nd  
5 meeting. They had already started a process on  
6 another individual in order to address their -- in  
7 order to address their ethnic requirements on the  
8 board. And so there's an individual that they had  
9 been working on, a black female from a large employer,  
10 to try to address that.

11                   Now, would cover the five, including the  
12 three reappointments and two vacancies they have. We  
13 said, "Well, that's a problem, because you need to get  
14 somebody who represents healthcare and/or  
15 construction."

16                   We were informed by the executive  
17 director that there is an individual on the board in  
18 the private sector who will be resigning in the next  
19 30 days. And they said that they will focus on  
20 filling that position with either somebody from  
21 Stylecraft, which is a large homebuilder in that  
22 particular area, or The Med, which is a large medical  
23 center in their workforce development area. So, their  
24 focus is to replace that individual with someone from  
25 either the construction trade or -- or the healthcare

1 industry.

2 CHAIRMAN PAUKEN: Okay. Thank you,  
3 Mr. Fuller.

4 MR. FULLER: You're welcome.

5 MR. TEMPLE: So, do we get another  
6 one --

7 MR. FULLER: Well, the last week we'll  
8 be coming back on the 22nd of this month, those three,  
9 for your consideration again, along with the other --  
10 one of the other individuals that is in the -- in the  
11 process right now.

12 CHAIRMAN PAUKEN: All right.

13 MR. TEMPLE: Good.

14 Commissioners, I just want to remind you  
15 we've got the first class going through training for  
16 the Texas Veterans Leadership Program in Room 501  
17 upstairs, impressive group of men and women, and  
18 they're getting fed with a fire hose right now. So,  
19 I'm sure they'd appreciate you stopping by. I know  
20 you're scheduled to address them.

21 CHAIRMAN PAUKEN: And I know that  
22 Commissioner Congleton and Commissioner Lehman are  
23 going to stop by after this meeting, as well.

24 I do believe we have, what, another  
25 Executive Session?

1                   COMM. CONGLETON: Executive Session.

2                   CHAIRMAN PAUKEN: Okay. So, there's  
3 another Executive Session. Is there a form,  
4 Mr. Moore, for that?

5                   MR. MOORE: Yes, sir, there is.

6                   CHAIRMAN PAUKEN: Okay. I just -- I  
7 have the one. Was there another?

8                   MR. MOORE: No, sir. It's -- it's  
9 listed -- it's on the same.

10                  CHAIRMAN PAUKEN: Oh, it's the same?

11 So --

12                  MR. MOORE: (Inaudible)

13                  CHAIRMAN PAUKEN: Okay. So, Executive  
14 Session 1 --

15                  (Brief pause)

16                  CHAIRMAN PAUKEN: Okay. Well, then,  
17 we'll go back into Executive Session --

18                  COMM. LEHMAN: If -- may I make a couple  
19 of comments?

20                  CHAIRMAN PAUKEN: Oh, yes.

21 Mr. Lehman, Commissioner Lehman.

22                  COMM. LEHMAN: Thank you, Chairman  
23 Pauken. Before we go into Executive Session, I  
24 thought it might be appropriate, if I could just  
25 reflect for just a moment with each of you. I think,

1 is there anybody that did not hear the rumor about my  
2 pending departure or has --

3 (Laughter)

4 COMM. LEHMAN: -- has not heard from --  
5 by now that the 18th of July will be my last official  
6 day as a Commissioner?

7 And I thought it might be appropriate  
8 not to -- not to spend a lot of time but, certainly,  
9 to express a few thanks. And it would be impossible  
10 for me to thank everybody, because there is so many  
11 people involved in this system that has worked -- that  
12 have worked so diligently and -- and with such great  
13 commitment to the system.

14 But, first, I think it's important that  
15 I -- let me start with saying thanks to the Governor,  
16 because while Governor Bush appointed me, it was  
17 actually Governor Perry whose vision I most identified  
18 with, embraced, and tried to advance. And when I look  
19 back on it, I actually served him 90 percent of the  
20 entire tenure. So, his allowing me the honor of  
21 serving employers was certainly that I -- something  
22 that I will always be humbled by and -- and  
23 appreciative of.

24 My colleagues, current colleagues, in  
25 particular, and former colleagues, as well, their

1 leadership and dedication to what we all stand for and  
2 the tough decisions we've had to make and the guidance  
3 we've had to provide has been significant. And I'm  
4 really proud to have been associated with a fine group  
5 of people with such strong sense of values and  
6 principals and wisdom.

7                   Because this is being broadcast, and  
8 that's probably the real reason I wanted to make  
9 the -- the observation, I think it's appropriate that  
10 I first thank the workforce board members and the  
11 staffs of the local workforce boards and certainly  
12 their partners, because I believe that, in general,  
13 they all embrace the vision and they work very, very  
14 diligently for all that we stand for, both the  
15 employer interest, work -- worker interest, system  
16 interest and community interest. And I will always  
17 value and cherish the fact that so many leaders, both  
18 from the private sector, non -- and nonprivate sector,  
19 nonprofit sector have agreed to serve.

20                   Many of served for many, many years.  
21 And I think their decisions have always been  
22 well-intentioned, and I am -- I applaud their  
23 leadership. And I think I want to encourage them to  
24 continue to challenge the status quo and to continue  
25 to push the envelope, because I believe this system is

1 good, and it will always have opportunities to get  
2 better.

3                   And, certainly, then, I'd like to thank  
4 the business industry associations and the economic  
5 development representatives all across the state. In  
6 one group alone, there's some 900 representatives that  
7 I've tried to establish relationships with at a  
8 personal level, as well as system level. And I  
9 believe it's those industry associations and economic  
10 development organizations and their willingness to  
11 work with us and the workforce system that has led to  
12 such great accomplishments as a state and the fact  
13 that our job creation picture and -- and direction is  
14 so positive.

15                   And then, last but not least, I'd like  
16 to thank Larry Temple and the entire TWC team. You  
17 folks have touched a real note in my heart. I've  
18 developed a -- a whole tremendous amount of respect  
19 for each and every one of you and all the colleagues  
20 that are not sitting in the audience today, but the --  
21 the dedication and the commitment and the hard work  
22 that we've all put in together toward what we've built  
23 and what we can continue to build has been just  
24 enormous and what a sense of accomplishment we should  
25 all feel.

1                   Sometimes being a change agent is  
2 somewhat difficult, because people think you're never  
3 satisfied. I, for one, reflect on that often, but I  
4 was raised in the school that if you're going to be  
5 the leader, you have to always put forth a -- a good,  
6 clear vision and a relentless pursuit of excellence.

7                   And so I think that collectively we've  
8 done that. We've achieved a great deal of which we  
9 can be proud, and I also would encourage each you to  
10 view to continue to challenge the status quo and push  
11 for ever greater accomplishments.

12                   But I know I leave here with a great  
13 deal of respect for all of you, a great deal of  
14 appreciation for what we've accomplished together, and  
15 a whole lot of friends that I'll never forget. Thank  
16 you very much.

17                   (Applause)

18                   CHAIRMAN PAUKEN: Thank you,  
19 Commissioner -- Commissioner Lehman. Thank you very  
20 much.

21                   (Applause)

22                   CHAIRMAN PAUKEN: Larry -- and we have a  
23 going-away party, I know, for Commissioner Lehman, and  
24 that -- would you give us the date on that?

25                   MR. TEMPLE: Yes, sir. Monday the

1 21st --

2 CHAIRMAN PAUKEN: Monday, the 21st --

3 MR. TEMPLE: -- in this room --

4 CHAIRMAN PAUKEN: -- in this room --

5 MR. TEMPLE: -- 2:00 to 4:00 --

6 CHAIRMAN PAUKEN: -- 2:00 to 4:00.

7 MR. TEMPLE: And those invitations will

8 be going out, as soon as somebody finishes his list.

9 (Laughter)

10 CHAIRMAN PAUKEN: All right. Good.

11 Thank you very much, Mr. Temple.

12 AGENDA ITEM NO. 16 (Continued)

13 CHAIRMAN PAUKEN: We'll now go into

14 Executive Session pursuant Government Code

15 551.074(a)(1) to discuss the appointment, employment,

16 evaluation, reassignment, duties, discipline, or

17 dismissal of the Internal Auditor.

18 (Executive Session: 10:19 a.m. to

19 10:48 a.m.)

20 CHAIRMAN PAUKEN: The second Executive

21 Session today ended at 10:48 a.m. We're back in

22 regular session of the Open Meeting of the Commission.

23 Is there a motion?

24 COMM. CONGLETON: I will make a motion

25 for -- to a one-time 5 percent merit increase for our

1 Auditor, Fran Carr.

2 CHAIRMAN PAUKEN: Second.

3 COMM. LEHMAN: And I will second it, as  
4 well, with gratitude.

5 CHAIRMAN PAUKEN: Okay. It's unanimous.

6 COMM. CONGLETON: Thank you for the job  
7 you do.

8 CHAIRMAN PAUKEN: Jan, can I visit with  
9 you just --

10 (Brief pause)

11 MR. MOORE: Do you want to go ahead and  
12 adjourn the meeting?

13 AGENDA ITEM NO. 18

14 CHAIRMAN PAUKEN: Oh, is there a motion  
15 to adjourn the meeting?

16 COMM. CONGLETON: So made.

17 COMM. LEHMAN: Second.

18 (Meeting adjourned: 10:49 a.m.)

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C E R T I F I C A T E

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, JANIS SIMON, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this            day of            2008.

JANIS SIMON  
Certified Shorthand Reporter  
CSR No. 7076 - Expires 12/31/09  
Firm No. 276  
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